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## Disaster Response Coverage

Comprehensive Report

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### ISSUE STATEMENT

LEOFF Plan 2 members who are called up to federal service to respond to natural disasters such as the Chelan wildfires or the Oso mudslide have different, and often less, pension protections than federal military members who respond to these disasters.

### OVERVIEW

The intent of this report is to provide benefit information for first responders when responding to natural disasters and wildfires. These responders are often a mix of wildland firefighters and federal military members. LEOFF Plan 2 members called into military service to respond to such events are not covered by certain benefits provided in LEOFF Plan 2 during times of peace.

### POLICY ISSUES & BACKGROUND

#### Policy Issues

Currently, no in-service death benefits are provided for LEOFF Plan 2 members killed while providing military service responding to natural disasters. The survivor of a member killed in military service responding to natural disasters has the same benefits as the survivor of a member who left employment for other reasons. Thus, a primary policy question is whether survivors of members who die while called to respond to natural disasters should receive the same benefits as members who die while serving in the military during a period of war.

If special consideration is provided to survivors of these members, then what level of benefit should be provided? The current benefit only provides a refund of accumulated contributions. Should this rise to the level of a line of duty death providing full earned benefits or does it only merit an enhanced survivor benefit that is more adequate than a lump sum refund of contributions? Further, is a lump sum payment the form the benefit should take, as most of the federal benefits are, or is an annuity a more adequate solution?

#### Washington State Benefits

A member who dies before retirement is entitled to a standard death benefit ranging from a refund of contributions, up to an actuarially reduced monthly benefit paid to a surviving spouse

or minor child. The monthly benefit received by the survivor is determined by the number of years the member has in the system at the time of death.

In addition to the monthly benefit, if a member dies in the line of duty, as of July 1, 2015 a \$236,443 death benefit will be paid to their designated beneficiary. This death benefit is not available to members who are called into military service and killed responding to natural disasters during a time of peace.

### **Washington State Legislative History**

The Select Committee on Pension Policy (SCPP) and LEOFF Plan 2 Retirement Board recommended joint legislation to the 2009 Legislature which provides an unreduced survivor annuity to qualifying survivors of members of all systems and plans who leave public employment due to service in the National Guard or military Reserves and die while service honorable during a *period of war*. This legislation passed.

The “period of war” language creates a gap where members who are called by the National Guard or other military agency to respond to natural disasters are not covered by that 2009 bill. Additional legislation with language tying natural disaster responders to the unreduced survivor annuity would be required.

### **Federal Benefits for Wildland Firefighters**

Federal wildland firefighter benefits are split into four tiers depending on classification. These tiers are:

- Permanent, full-time
- Permanent, part-time
- Permanent, career-seasonal
- Temporary, seasonal

The three permanent classifications are entitled to full benefits, including membership in the federal Employees Retirement System (FERS). Access to FERS membership includes the Basic Employee Death Benefit, which is equal to 50% of the employee’s final salary (average salary, if higher), plus \$15,000 (increased by Civil Service Retirement System cost-of-living adjustments beginning 12/1/87). The \$15,000 has increased to \$30,792.98 for deaths on/after December 1, 2011.<sup>1</sup> Temporary, seasonal fire fighters are granted federal health benefits only.

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<sup>1</sup> <https://www.opm.gov/retirement-services/fers-information/survivors/>

## **Federal Benefits Available to Survivors of Military Service Members**

Department of Defense (DoD) benefits for survivors of deceased members of the armed forces vary significantly in purpose and structure. The death gratuity benefit provides an immediate one-time payment of \$100,000 to assist these survivors in meeting their financial needs during the period immediately following a member's death.

Similarly, the Service Members' Group Life Insurance (SGLI) provides the life insurance policy value in a lump sum payment following the service member's death. Other benefits include the Veteran's Administration Dependency and Indemnity Compensation (DIC), which provides a \$1,215 monthly benefit and the Survivor Benefit Plan (SBP) which provides benefits calculated as if the member retired with a 100% disability.

Additional death benefits provided by the DoD for survivors and dependents include housing assistance, health care, commissary and exchange benefits, educational assistance, and burial, funeral, and related benefits. Survivors may also receive death benefits from Social Security.

## **Public Safety Officers Benefits Program**

The PSOB provides a \$339,310 lump sum death and total-disability benefit for eligible public safety officers. The PSOB definition of eligibility states that a public safety officer's death or total and permanent disability must result from injuries sustained in the line of duty. "Line of duty" means any action that the public safety officer is authorized or obligated to perform by law, rule, regulation or condition of employment or service. If law enforcement, fire suppression, rescue or ambulance service is not a person's primary function, then, to be covered by the Act, that person must be engaged in his or her authorized law enforcement, fire suppression, rescue or ambulance duties when the fatal or disabling injury is sustained.

This lump-sum death benefit does not apply to any wildland firefighters, or to member of LEOFF Plan 2 if they were called into federal service. federal legislation, proposed in the 113<sup>th</sup> Congress (2013-2015), titled the *Fallen Wildland Firefighters Fair Compensation Act* would have provided federal death and disability benefits (including PSOB benefits) for contractors who serve as fire fighters of the Forest Service, Department of the Interior agencies, or any State or local entity. This legislation was not enacted.

The table below lists the benefits available for first responders to natural disasters and wildfires:

	Employees Fighting Wildfires		
	Permanent federal wildland firefighters	LEOFF 2 member assigned by employer	LEOFF 2 member called up for military service
LEOFF 2 duty death benefit		X	
LEOFF 2 disability benefit		X	
Federal military benefits	X		X
Federal death & disability benefits	X	X	X
PSOB benefits		X	

### Fire Fighter Fatalities

The U.S Fire Administration published data for on-duty fire fighters fatalities while responding to natural disasters for the period of Jan. 2004 to Oct. 2013. They reported 127 fatalities, with 20 of those being career fire fighters. Broken down by state, Washington had six fatalities with one of those being a career fire fighter.

Currently in 2015 alone, there have been 60 fire fighter fatalities while responding to natural disasters reported.<sup>2</sup> Washington is also currently in the midst of the largest wildfire outbreak in state history.<sup>3</sup>

### POLICY OPTIONS

1. Provide full death and disability benefits under LEOFF Plan 2 for members who are called up to military service to respond to natural disasters and wildfires.
2. Take no further action.

<sup>2</sup> <http://apps.usfa.fema.gov/firefighter-fatalities/>

<sup>3</sup> <http://www.usatoday.com/story/news/2015/08/24/washington-wildfires-largest/32302927/>



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# Issue

- **LEOFF Plan 2 members who are called up to federal service to respond to natural disasters such as the Chelan wildfires or the Oso mudslide have different, and often less, pension protections than federal military members who respond to these disasters.**

# Issue

- **LEOFF Plan 2 members killed while providing military service to respond to natural disasters receive only non-duty death benefits, i.e. refund of contributions.**
- **Should a higher level of benefits be provided?**

# Overview

**This presentation provides benefit information for first responders to natural disasters and wildfires. Responders include:**

- Federal wildland firefighters
- Military personnel
- LEOFF Plan 2 members “on loan” from LEOFF employers
- National guard and military reserve members called into military service who are also LEOFF Plan 2 members

# LEOFF Plan 2 Benefits for Federal Service

- **2009 Legislation**
  - Improved survivor benefits
  - Unreduced survivor annuity
  - Jointly proposed by the SCPP and the LEOFF Plan 2 Retirement Board

# Coverage Gap

- **The enhanced survivor benefit does not apply to members called into military service to respond to natural disasters because natural disasters are not a “period of war”**
- **Additional legislation would be required to provide this benefit**

# Wildland Firefighter Benefits

**Federal wildland firefighter benefits are split into four tiers depending on classification. These tiers are:**

- Permanent, full-time
- Permanent, part-time
- Permanent, career-seasonal
- Temporary, seasonal

# Wildland Firefighter Benefits

- **Permanent classifications**
  - Full benefits, including membership in the Federal Employees Retirement System (FERS)
- **FERS Basic Employee Death Benefit**
  - 50% of the employee's final salary (average salary, if higher), plus
  - \$30,792.98 indexed to Civil Service Retirement System cost-of-living adjustments

# Military Death Benefits

- **Death gratuity**
- **Service Members' Group Life Insurance (SGLI)**
- **Veteran's Administration Dependency and Indemnity Compensation (DIC)**
- **Survivor Benefit Plan (SBP)**

# PSOB

- **\$339,310 lump sum death benefit provided by the Public Safety Officers Benefits Program (PSOB)**
  - Does not cover wildland firefighters or LEOFF Plan 2 members called into federal service
  - Federal proposal to include wildland firefighters into the PSOB
    - Proposed in 113<sup>th</sup> (2013-2015) Congress ~ Not Enacted

# Benefits

	Employees Fighting Wildfires		
	Permanent federal wildland firefighters	LEOFF 2 member assigned by employer	LEOFF 2 member called up for military service
LEOFF 2 duty death benefit		X	
LEOFF 2 disability benefit		X	
Federal military benefits	X		X
Federal death & disability benefits	X	X	X
PSOB benefits		X	

# Firefighter Fatalities

- **127 wildland firefighter fatalities from 2004 to 2013**
  - 6 in Washington; 1 was career
  - 20 of the 127 were career fire fighters
- **60 nationwide fire fighter fatalities to date in 2015**
- **Current wildfire season is largest in state history**

# Options

- 1. Provide full death and disability benefits under LEOFF Plan 2 for members who are called up to military service to respond to natural disasters and wildfires**
- 2. Take no further action**

# Questions?

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