



November 15, 2017

## Interruptive Military Service Credit

### COMPREHENSIVE REPORT FOLLOW-UP

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### ISSUE STATEMENT

Veterans who served during a designated conflict period but did not earn a campaign badge or medal must pay member contributions to receive LEOFF<sup>1</sup> Plan 2 credit for periods of interruptive military service credit.

### OVERVIEW

LEOFF Plan 2 members may establish up to 5 years<sup>2</sup> of service credit for military service interrupting their LEOFF service. To establish service credit, many LEOFF Plan 2 members must submit the member contributions that would have been paid during that period. However, member contributions are waived for LEOFF 2 members who served in the military: 1) during a period of war; or 2) during a specified conflict for which they earned a campaign badge or medal.

The Legislature directed the LEOFF Plan 2 Retirement Board to study extending the waiver of member contributions to LEOFF Plan 2 members whose interruptive military service occurred during a specified military operation, but who did not earn a campaign badge or medal.

### BACKGROUND

Service credit is one of the factors used in computing your retirement benefit, thus increasing your service credit would increase your future monthly benefit.

A member can purchase interruptive military service credit if:

- The member leaves LEOFF Plan 2 covered employment to render military service in one of the armed or uniformed services of the United States;
- Upon termination of military service, the member initiates LEOFF Plan 2 covered reemployment within defined time limits, usually 90 days; and

<sup>1</sup> Law enforcement and firefighters' retirement system, chapter 41.26 RCW.

<sup>2</sup> Exceptions to the 5 year limit are listed in Appendix A under the subheading "maximum service credit".

- The member pays the required member contributions within the required timeframe.

The qualified military service credit and initiation of reemployment requirements are discussed in Appendix A. The contribution requirement is discussed in further detail below.

### **Required Contributions**

The member and employer contributions that would have been paid had the member not gone on military leave, must be paid to establish service credit for the period of leave. Contributions are based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to the military leave. *See RCW 41.26.520(7)(c).*

The member must make the required payment within five years of resuming employment or prior to retirement, whichever comes first. Once the member pays their member contribution, the employer and the state are billed for their share of the total required contribution. Members who miss the deadline can purchase service credit prior to retirement by paying the full actuarial value of the additional benefit. This is significantly more expensive.

Responsibility for payment varies by the dates of service. If the military service was completed:

- Between October 1, 1977, and March 31, 1992, the member pays both the employer and member contributions plus interest;
- After March 31, 1992, and before October 6, 1994, the member pays the member contributions plus interest and the employer and state pay their contributions plus interest;
- After October 6, 1994, a member pays the member contributions (no interest) and the employer and state pays their contribution plus interest.

### **Waiver of Member Contributions**

Member contributions are waived if the member is a “veteran” under RCW 41.04.005. The statute limits veterans to persons serving during a “period of war” defined as:

- World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and any future period of war declared by Congress, *See RCW 41.04.005.* Any service during one of these conflicts specified above qualifies one as a veteran.

- Specified military operations where the member earned a campaign badge or medal<sup>3</sup>. The department of defense awards a campaign badge or medal to service members who:
  - Served during a specified conflict<sup>4</sup> ; and
  - Were stationed in a designated war zone.

Campaign medals, as defined by the Department of Defense manual 1348.33 Volume 2, are medals which “recognize Service members who are deployed to the geographic area where the combat is actually occurring. Members awarded campaign medals have the highest degree of personal risk and hardship as they are conducting the combat operations and are deployed to the area where the combat is actually occurring.”

Members who served during a specified operation but were not stationed in a war zone did not earn a campaign badge or medal. Because they do not meet the definition of “veteran” those members must pay member contributions for LEOFF Plan 2 interruptive military service credit.

## **LEOFF 2 Data**

Since June 2012, 187 LEOFF 2 members have taken advantage of interruptive military service credit. The average service credit bought by those members was 9.3 months.

Some data still needs to be researched. If the waiver of member contributions were expanded:

- How many additional members would become eligible for the waiver?
  - Members who served in a defined conflict, outside of the combat zone, would receive free service credit.
- How many members who already paid contributions for these periods would be eligible for a refund?
  - Of the 187 members who took advantage of military service credit, how many of them paid member contributions for it and would receive a refund?
- What will be the cost to LEOFF Plan 2?
  - This bill will have a cost because the system would absorb the value of the portion of interruptive military service credit that is free to the affected members.

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<sup>3</sup> Approved campaign badges or medals include: the Afghanistan Campaign Medal, Southwest Asia Service Medal, Armed Forces Expeditionary Medal, Iraq Campaign Medal, Vietnam Service Medal and Kosovo Campaign Medal.

<sup>4</sup> Defined conflicts include: the crisis in Lebanon, the invasion of Grenada, Operation Just Cause in Panama, Operation Restore Hope in Somalia, Operation Uphold Democracy in Haiti, Operation Joint Endeavor in Bosnia, Operation Noble Eagle, Operation Enduring Freedom in Southern or Central Asia, Operation Iraqi Freedom.

## Definition of Veteran Issues

- If a member goes on multiple deployments to the same conflict, they only get a badge or medal for the first deployment to that conflict. This is reflected on their DD 214, which is their certificate of release or discharge from active duty. It needs to be clear that all deployments to a defined conflict are eligible for interruptive military service credit.
- There is no end date in statute for the end of the Gulf War. A ceasefire was called, but no presidential proclamation was ever made. DRS is administering the end date of the Gulf War to be the date of the ceasefire as it pertains to military service credit purchases. Adding an end date for the Gulf War in statute would be prudent.
- Operation Noble Eagle is listed under the definition, but no badges or medals were ever awarded. This is an ongoing military operation to protect potential infrastructure terrorism targets that began in response to the 9/11 attacks. National Guard and reserve personnel were mobilized.
- There are current combat operations for which DRS cannot award free interruptive military service credit even though campaign medals were awarded, because they are not listed in statute:
  - Inherent Resolve, Iraq and Syria
  - Freedom’s Sentinel, Afghanistan

## POLICY OPTIONS

SB 5661 directs the Board to study extending the waiver of member contributions to LEOFF Plan 2 members whose interruptive military service occurred during a specified military operation but who did not earn a campaign badge or medal.

1. Should the current policy continue, where free interruptive military service credit is only granted to those members who served in combat?
2. Should the Board make corrections to the current definition of “veteran”?

## SUPPORTING INFORMATION

Appendix A: Additional Background Information

Appendix B: Comparison to Other Washington State Systems

Appendix C: Comparison to Other States

## APPENDIX A - ADDITIONAL BACKGROUND INFORMATION

The federal Uniform Services Employment and Re-employment Rights Act (USERRA) requires State retirement systems to allow members to establish service credit for interruptive military service. USERRA sets baseline requirements, some of which Washington State law exceeds. The state law requires the Department of Retirement Systems to administer the state interruptive military service credit law consistent with USERRA.

### Qualifying for Interruptive Military Service Credit

To earn LEOFF Plan 2 credit for periods of interruptive military service credit, the member must perform qualifying military service, reenter public employment within a specified time following military discharge, and make required member contributions. The contribution requirement is discussed in the body of the report. The two remaining requirements are discussed below:

#### Qualified Military Service

Nearly all types of military service qualify as service in either an armed force or in a uniformed service for the purposes of interruptive military service credit. The following types of military service qualify:

- Service in the army, navy, air force, marine corps, or their reserve units (including two-week annual training for reservists);
- Full-time service in the United States Coast Guard;
- Service in the Public Health Service; and
- Service in the Army or Air National Guard provided to the federal government, but not including service provided to a state.

#### Initiation of Reemployment

Upon termination of military service, a member must initiate reemployment within certain defined time limits. The member must also be reemployed in a position covered by the retirement system the member was participating in at the time of interruption.

USERRA provides varying reemployment timeframes which are determined by the duration or type of military service that the person was engaged in. However, the state law generally is longer than the provisions in USERRA. State law provides that a member must initiate reemployment within ninety days to qualify for interruptive military service credit.

There are two notable exceptions to the ninety-day reemployment requirement that would allow a member to still purchase service credit. The state law provides that if a person fails to

initiate reemployment within the required timeframe, that person can still purchase the service credit by paying the full actuarial value of the increase to their benefit from the additional service credit.

USERRA provides that the timeframe for initiation of reemployment can be extended for up to two years for a person who is hospitalized or convalescing because of a disability incurred or aggravated during the period of military service. The two-year period can be further extended by the minimum time required to accommodate a circumstance beyond an individual's control that would make reporting within the two-year period impossible or unreasonable. Employers are required under USERRA to make reasonable efforts to accommodate reemployment of a person with a disability incurred or aggravated while in Military Service. However, employers are exempt from such efforts if such accommodation would be of such difficulty or expenses as to cause "undue hardship".

### **Maximum Service Credit**

USERRA provides for a maximum of five years of interruptive military service credit. The state law matches this maximum. There are some exceptions to the five-year maximum that are provided by USERRA as describe in 38 USC, 4312. These exceptions include:

- Obligated services incurred beyond five years, usually by individuals with special skills, (such as an electronics expert)
- Inability to obtain release (needs to be documented on a case by case basis)
- Training requirements
- Specific active duty provisions
- War or a declared national emergency
- Certain operational missions
- Critical missions or requirements (such as Grenada or Panama in the 1980's, when provisions for involuntary activation of Reserves were not exercised)
- Specific National Guard provisions

If a member has over five years of interruptive military service and the excess falls into one of these exceptions then the member may be entitled to additional military service credit.

## APPENDIX B - COMPARISON TO OTHER WASHINGTON STATE SYSTEMS

The following plans allow members to purchase retirement service credit for interruptive military service in the same manner as allowed for LEOFF Plan 2:

- Washington State Patrol Retirement System (WSPRS) Plan 2,
- Public Employees' Retirement System (PERS) Plan 2,
- School Employees' Retirement System (SERS) Plan 2, and
- Teachers' Retirement System (TRS) Plan 2.

While the **Plan 1** systems allow interruptive military service credit, the members in PERS Plan 1, LEOFF Plan 1, and WSPRS Plan 1 are not required to pay any cost for the service credit. A TRS Plan 1 member is required to pay the contributions that would have been paid had the member not gone on a military leave of absence.

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## APPENDIX C - COMPARISON TO OTHER STATES

The Select Committee on Pension Policy (SCPP) staff at their July 2017 meeting presented data on 8 “peer States” to see what level of interruptive military service benefits they offered. These States were chosen as peer’s due to their similar numbers of military members. Their findings are as follows:

Interruptive Military Service Credit									
States	Washington	Alaska	California	Florida	Georgia	Hawaii	Maryland	Texas	Virginia
<b>Eligibility</b>									
Active Duty	✓	✓	✓	✓	✓	✓	✓	✓	✓
Honorable Discharge	✓	✓	✓	✓	✓	✓	✓	✓	✓
Discharge Date		✓			✓		✓		✓
Period of War	✓			✓	✓				
Campaign Medal/Badge	✓								
Plan Vesting		✓		✓					
Reserves & National Guard	✓ <sup>1</sup>	✓ <sup>1</sup>	✓ <sup>1</sup>	✓ <sup>1</sup>	✗ <sup>2</sup>	✓ <sup>3</sup>	✓ <sup>1</sup>	✓ <sup>1</sup>	✓ <sup>1</sup>
State Service						✓			
Training	✓	✓	✓	✓	✓	✓	✓	✓	✓
USERRA <sup>4</sup>	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Cost</b>									
No Cost <sup>5</sup>	✓ <sup>6</sup>	✓ <sup>7</sup>	✓				✓		✓ <sup>8</sup>
Cost	✓	✓	✓ <sup>9</sup>		✓	✓		✓	✓
<b>Credit Amount</b>									
Up to 4 Years				✓		✓			
Up to 5 Years		✓			✓		✓		
Up to 10 Years	✓								
No Restrictions									✓ <sup>10</sup>
Leave Specific			✓					✓	

<sup>1</sup>Active and inactive Reservists and National Guard are eligible.

<sup>2</sup>Members of Georgia Air or Army National Guard qualify under Georgia's Military Pension Fund.

<sup>3</sup>Reservists and National Guard are eligible only if service took place during a wartime period, national or state emergency.

<sup>4</sup>A check denotes that the state complies with USERRA.

<sup>5</sup>A check denotes that there is no member cost.

<sup>6</sup>No cost for up to 5 years; cost for additional 5 years.

<sup>7</sup>No cost for PERS members who return within 90 days of discharge.

<sup>8</sup>Active duty service is eligible if a member was granted leave of absence, returned within a year of discharge or release and discharge was honorable.

<sup>9</sup>If a member does not qualify for no-cost interruptive, a member may be eligible to pay member contributions.

<sup>10</sup>Recovery of this service credit is unlimited if a member qualifies.



# Interruptive Military Service Credit

Comprehensive Report Follow-Up – November 15, 2017

# Issue

- Veterans who served during a designated conflict period but did not earn a campaign badge or medal must pay member contributions to receive LEOFF Plan 2 credit for periods of interruptive military service credit.

# Overview

- LEOFF Plan 2 members may establish up to 5 years of service credit for military service interrupting their LEOFF service.
- Member contributions are waived for LEOFF 2 members who served in the military:
  - 1) During wartime; or
  - 2) During a specified conflict for which they earned a campaign badge or medal.
- **SB 5661**
  - Should members of LEOFF 2 who are veterans of specified conflicts not during a period of war, and where they were not awarded a campaign badge or medal, also receive up to 5 years of free service credit?

# Background

## **Waiver of Employee Contributions for Purchasing Military Service Credit**

- Period of War
- Specified Military Operations

# Campaign Medals

- As defined by the Department of Defense manual 1348.33 Volume 2, campaign medals are medals which “recognize Service members who are deployed to the geographic area where the combat is actually occurring. Members awarded campaign medals have the highest degree of personal risk and hardship as they are conducting the combat operations and are deployed to the area where the combat is actually occurring.”

# LEOFF 2 Data

## Since June 2012:

- 187 LEOFF 2 members have taken advantage of interruptive military service credit.
- Average service credit bought by those members was 9.3 months.

## Some data still needs to be researched. If the waiver of member contributions were expanded:

- How many additional members would become eligible for the waiver?
- How many members who already paid contributions for these periods would be eligible for a refund?
- What will be the cost to LEOFF Plan 2?

# Definition of Veteran Issues

- If a member goes on multiple deployments to the same conflict, they only get a badge or medal for the first deployment to that conflict.
- There is no end date in statute for the end of the Gulf War.
- Operation Noble Eagle is listed under the definition, but no badges or medals were ever awarded.
- There are current combat operations for which DRS cannot award free interruptive military service credit even though campaign medals were awarded, because they are not listed in statute:
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# Policy Issues

SB 5661 directs the Board to study the following questions:

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# Questions?

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