

BOARD MEETING AGENDA

November 15, 2017 - 9:30 AM



LOCATION

DoubleTree by Hilton Olympia
415 Capitol Way N.
Olympia, Washington 98501
Phone: 360.586.2320
Fax: 360.586.2329
recep@leoff.wa.gov

- | | |
|---|----------|
| 1. Approval of Minutes | 9:35 AM |
| 2. DRS Annual Update
Tracey Guerin, Executive Director | 9:40 AM |
| 3. WSIB Annual Update
Theresa Whitmarsh, Executive Director | 10:15 AM |
| 4. LEOFF 2 Actuarial Valuation Report
Lisa Won, Deputy State Actuary | 11:00 AM |
| 5. Economic Assumption Adoption
Ryan Frost, Research and Policy Manager | 11:40 AM |
| 6. Administrative Update <ul style="list-style-type: none">• Public Records Request Update• Outreach Activities• Member Correspondence | 12:00 PM |
| 7. Annual Trustee Training
Tor Jernudd, AGO | 12:30 PM |
| 8. Interruptive Military Service Credit Study
Ryan Frost, Research and Policy Manager | 1:00 PM |
| 9. Benefit Improvement Pricing
Ryan Frost, Research and Policy Manager | 1:15 PM |
| 10. Catastrophic Disability Medical Insurance
Paul Neal, Senior Research and Policy Manager | 1:30 PM |
| 11. Off Duty LEOFF Employment
Paul Neal, Senior Research and Policy Manager | |
| 12. Disabled Members Return to Work
Ryan Frost, Research and Policy Manager | 2:30 PM |
| 13. 2018 Calendar Adoption | 3:00 PM |
| 14. Possible Executive Session | 3:30 PM |

15. Agenda Items for Future Meetings

4:00 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.



DRS Annual Update

Date Presented:

11/15/2017

Presenter Name and Title:

Tracey Guerin, Executive Director

Summary:

A Year in Review from Executive Director Tracy Guerin

ATTACHMENTS:

Description	Type
▣ DRS Year in Review	Presentation
▣ Benefits by County	Report

Department of Retirement Systems

Year in Review

Tracy Guerin, Director

LEOFF 2 Retirement Board

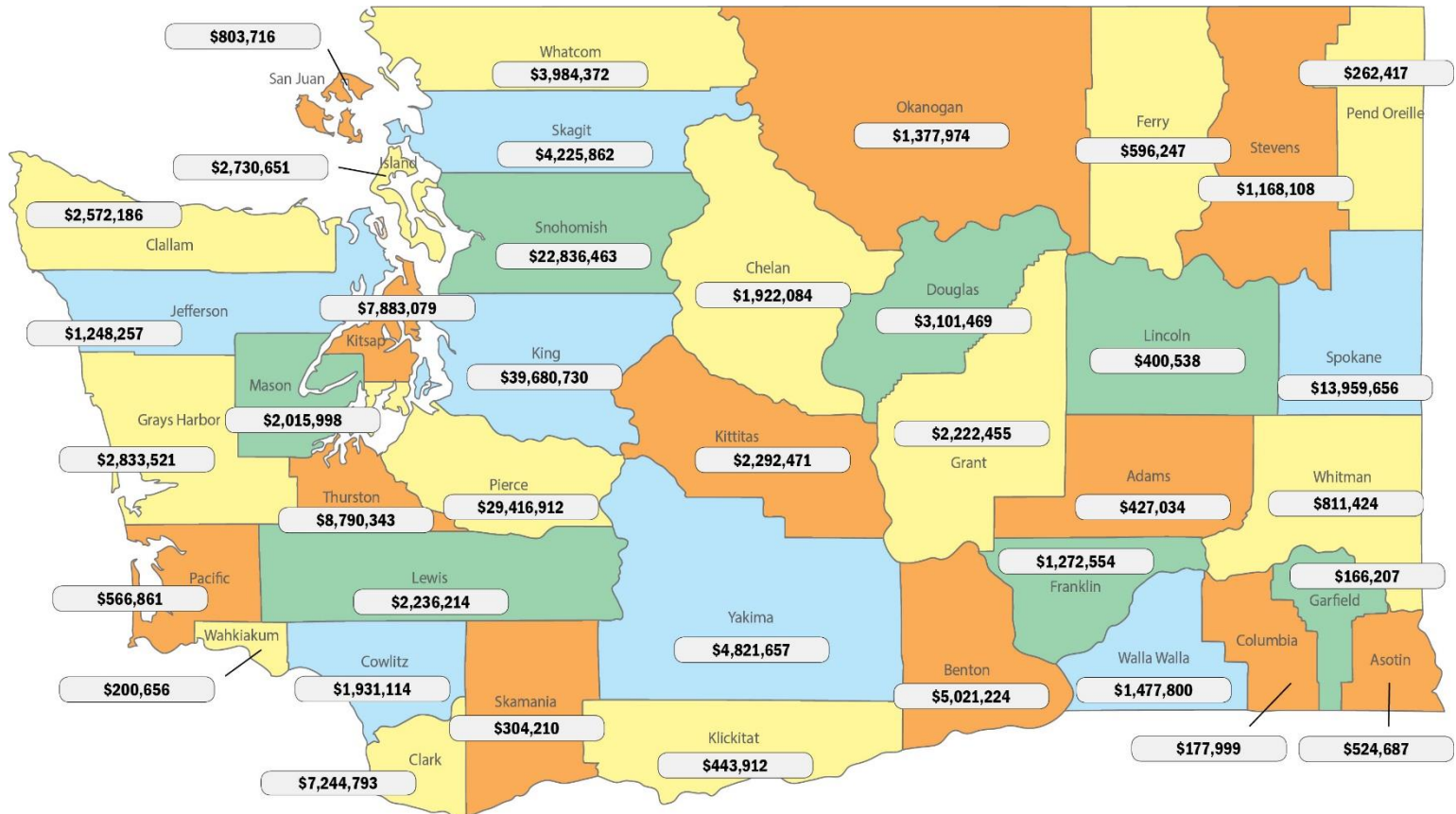
November 15, 2017



Pensions at a Glance – FY 2017

- ❑ 758,791 Plan Members
 - Active – 318,224
 - Annuitants – 178,586
 - Inactive – 261,981
- ❑ 1,345 Employers
 - State & Higher Ed
 - Counties, most cities
 - Local districts
- ❑ \$105.6B held in Retirement Trust Funds
- ❑ \$3.6B in Contributions
 - Members – \$1.4B
 - Employers – \$2.2B
- ❑ \$3.98B in Benefits Paid
 - About 88% paid in-state
- ❑ \$214M in LEOFF 2 Benefits Paid
 - About 86% paid in-state

LEOFF 2 Benefits - FY 2017



DRS at a Glance – FY 2017

❑ Operations

- 244 Team Members
- Located in one facility
- \$34M annual budget
- Consistently ranked low-cost, high service by independent benchmarking

❑ Volume

- Phone calls – 96,952
- Walk-ins – 6,500
- Emails – 20,700
- Estimates – 19,143
- Calculations – 11,340
- Recalculations – 10,153
- Website visits – 1.3M

DRS at a Glance – FY 2017

❑ Education and Outreach

	Sessions	Attendees
Seminars	23	4023
Benefit Summits	20	1344
Pension Workshops	367	9957
Benefit Fairs	171	8935
Webinars	136	5410

Strategic Initiatives 2016-17

KEY GOAL	July 2015-June 2016	July 2016-June 2017	July 2017-June 2018
Elated Customers	Recalc Black Belt Project (Seth)	Autocalc Pilot (Seth)	
	Online Service Enhancements (Rose)	EFT Withdrawals (Mike)	
		Online Withdrawal (Shawn)	
	Recordkeeper Enhancements (Shawn)		
	DCP Auto-Enroll for New Hires (Shawn)		
Engaged Team Members	Facility Planning (Mike)		
	"DRS U" (Chris)		
		Enterprise Change Mgmt (Shawn)	
Vigilant Resource Steward or Best Practice Leader			
	System Modernization Planning – Phase 2 (Rose)		
Reliable Partner	Employer Reporting Application (Shawn)		
	Hosting Environment (Rose)		
		Implement 2016 Legislative Projects (mix)	

Strategic Highlights

❑ Legislation Implemented

- DCP Automatic Enrollment w/ Opt-Out
- Annuity purchase window for certain LEOFF/WSPRS retirees
- WSPRS voluntary overtime
- PERS service credit into PSERS
- LEOFF 2 Non-LEOFF Employer Compensation

❑ Clarifying Rules

- Separation from service/employment
- Eligibility requirements in PSERS

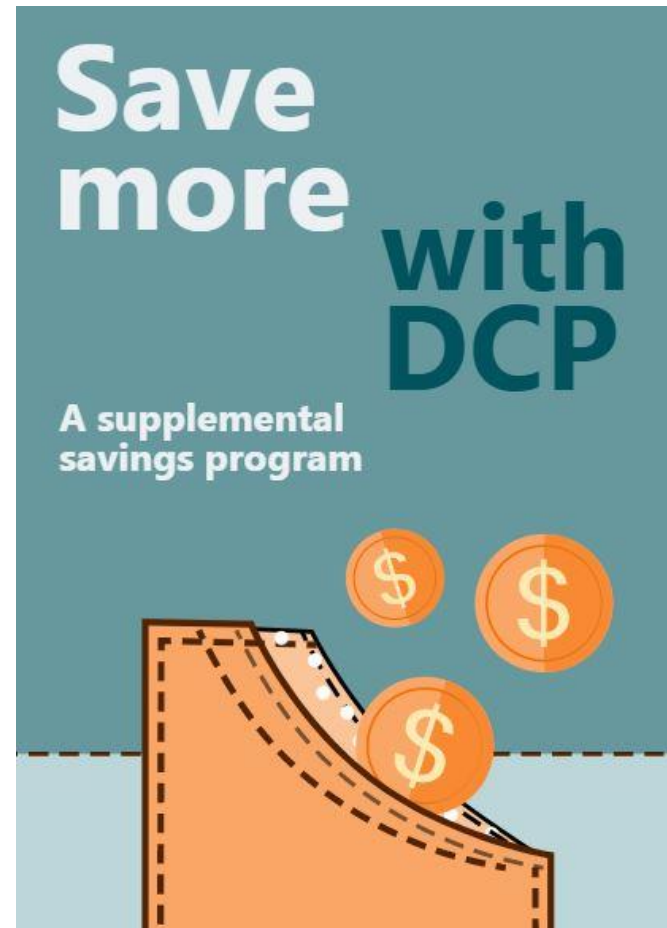
Strategic Highlights

❑ Petitions and Appeals

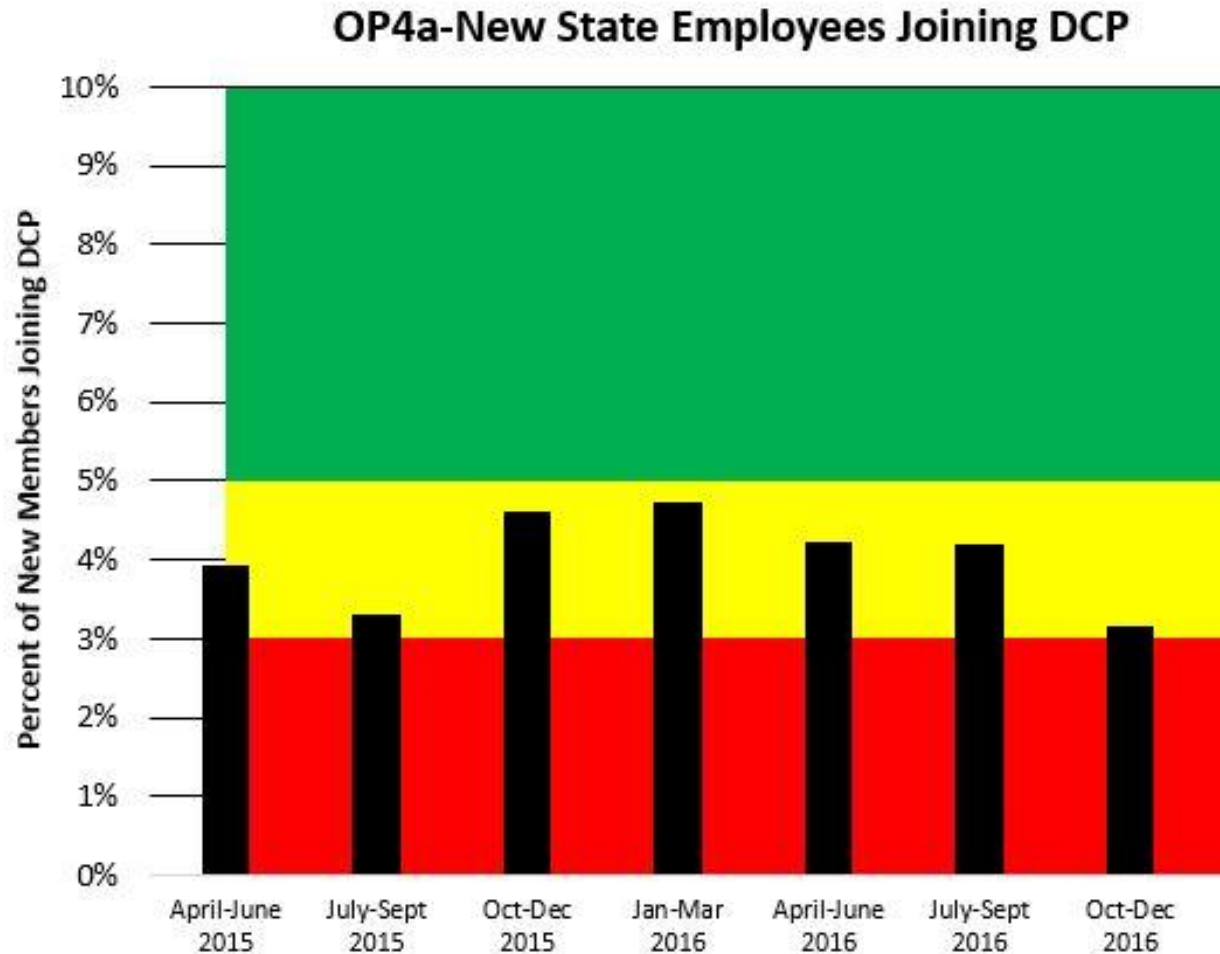
- Concerned about the length of time to resolve petitions and appeals
- Increased emphasis on reducing backlog and issuing timely petition decisions

DCP Automatic Enrollment

- ❑ Since January 1, all newly hired state and higher education employees are automatically enrolled in the state's Deferred Compensation Program

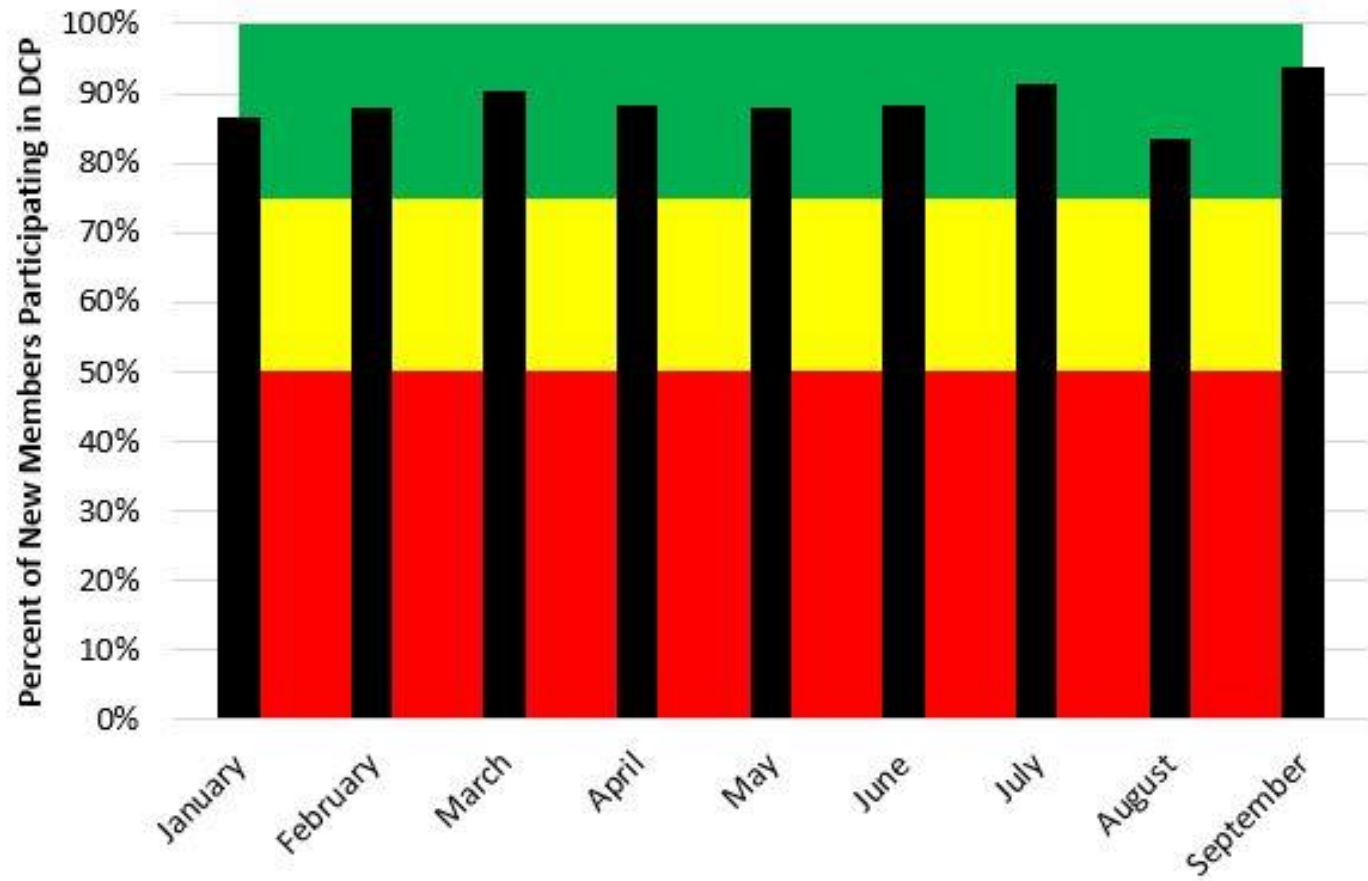


DCP – Pre-2017 Enrollment

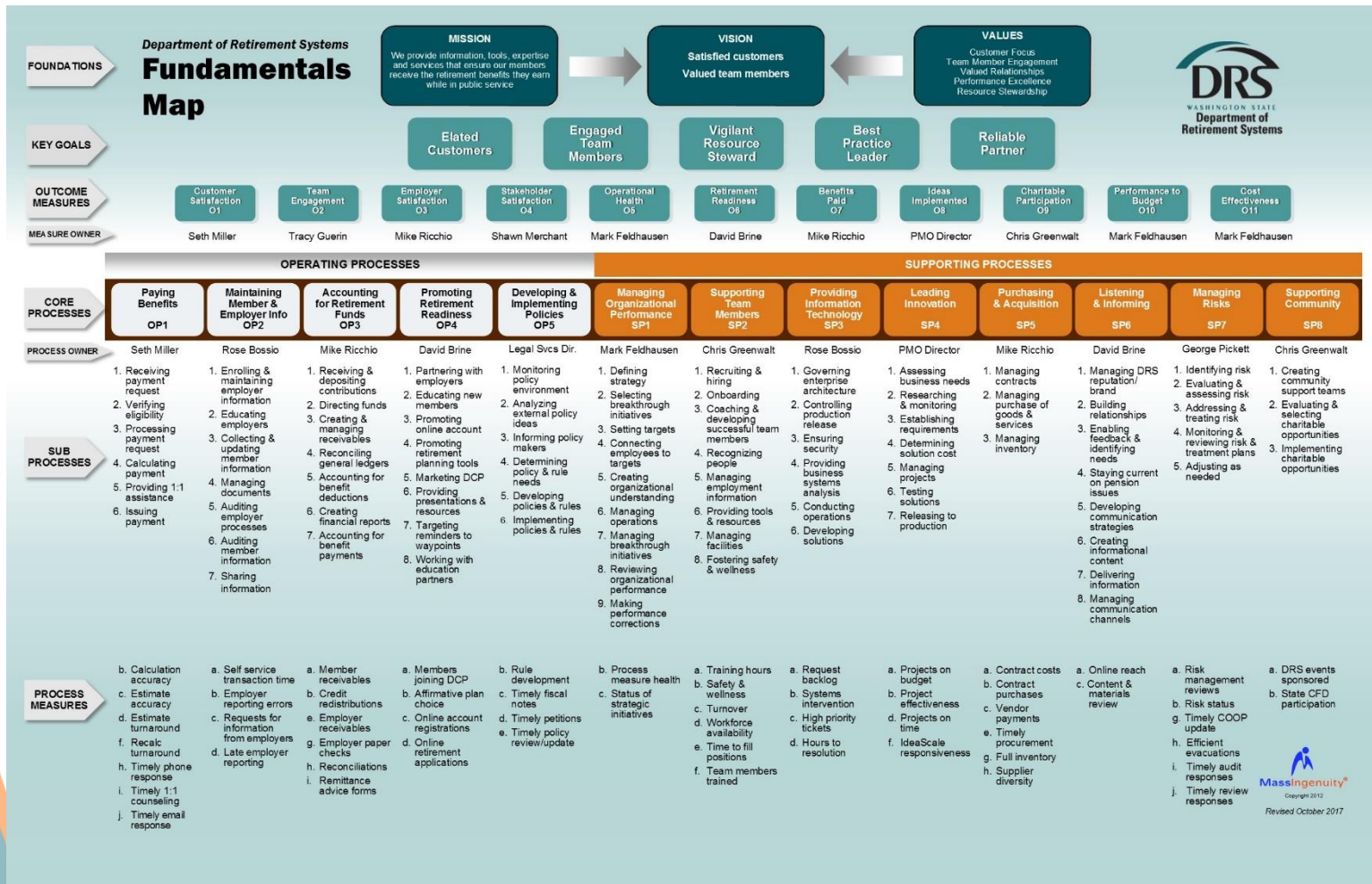


DCP Automatic Enrollment

OP4a-New State Employees Joining DCP



DRS Performance Management



2017-19 Strategic Initiatives

KEY GOAL	July 2017-June 2018	July 2018-June 2019	July 2019-June 2020
Elated Customers			
Engaged Team Members	Facility Planning (George/Chris)	Facility Renovation – the next phase (George/Chris)	
		Enterprise Change Mgmt (PMD AD)	
Vigilant Resource Steward or Best Practice Leader	System Modernization Planning (LT)	Legacy System Modernization – the next phase (LT)	
	Dolan Implementation (Legal Services Director)		
Reliable Partner	ERA Build and Roll Out (PMD AD)		
	Hosting Environment (Rose)		
	Implement 2017 Legislative Projects (mix)		

In Progress – 2017 Legislation

- ❑ Eligibility of EMTs in LEOFF 2
 - Public corporations providing emergency medical services now considered LEOFF 2 employers
 - Definition of EMTs has been narrowed
 - Open window for EMTs to establish credit in LEOFF 2 for prior service
 - DRS reaching out to affected public hospital districts and employees to advise of the new provisions
- ❑ Interruptive military service credit – LEOFF 2
 - Directs LEOFF 2 Board to conduct a study

Legacy System Modernization

- ❑ Employer Reporting Application (ERA)
 - Replacing 23-year-old system to provide a one-stop portal for real-time reporting
 - New tools for checking member eligibility and validating information before submittal
 - Anticipate first early adopters to begin using system in 2018
 - Full rollout to all 1300+ employers will begin 3-6 months after early adopters

Legacy System Modernization

❑ Next steps

- DRS is creating a plan for transitioning from ERA to modernizing other legacy systems
- A “roadmap” will identify specific technology solutions for replacing or addressing gaps in our systems
- The roadmap will document how systems relate to one another – and establish a phased implementation with target dates

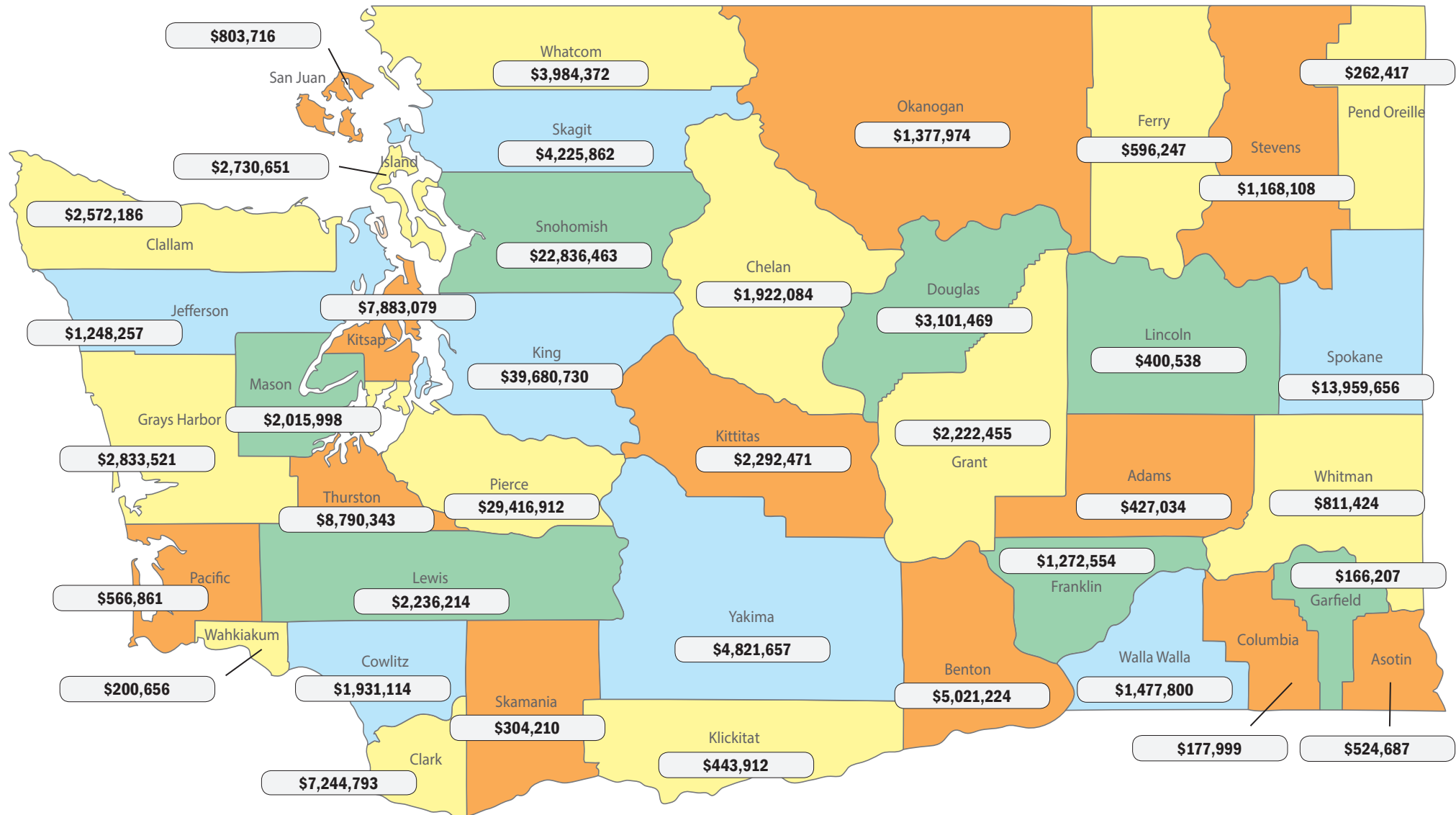
Thank you

- ❑ We work with partners, stakeholders and policymakers to deliver the best possible service to our members
- ❑ LEOFF 2 Board, Select Committee, Investment Board, State Actuary, PFC, OFM, 1300+ employers and more
- ❑ Our unique governance structure positions Washington with one of the best public pension systems in the country

Questions?



Benefit Payments to LEOFF 2 Annuitants in Washington – FY 2017



Source: Washington State Department of Retirement Systems

Benefit Payments to LEOFF 2 Annuitants in Washington – FY 2017

Adams..... \$427,034	Island \$2,730,651	Skagit \$4,225,862
Asotin \$524,687	Jefferson \$1,248,257	Skamania \$304,210
Benton..... \$5,021,224	King..... \$39,680,730	Snohomish..... \$22,836,463
Chelan \$1,922,084	Kitsap..... \$7,883,079	Spokane \$13,959,656
Clallam..... \$2,572,186	Kittitas \$2,292,471	Stevens \$1,168,108
Clark \$7,244,793	Klickitat..... \$443,912	Thurston \$8,790,343
Columbia \$177,999	Lewis..... \$2,236,214	Wahkiakum..... \$200,656
Cowlitz..... \$1,931,114	Lincoln \$400,538	Walla Walla..... \$1,477,800
Douglas..... \$3,101,469	Mason..... \$2,015,998	Whatcom..... \$3,984,372
Ferry \$596,247	Okanogan \$1,377,974	Whitman..... \$811,424
Franklin..... \$1,272,554	Pacific \$566,861	Yakima \$4,821,657
Garfield..... \$166,207	Pend Oreille..... \$262,417	Out of State \$30,039,309
Grant \$2,222,455	Pierce..... \$29,416,912	Foreign Country \$230,479
Grays Harbor \$2,833,521	San Juan..... \$803,716	TOTAL..... \$214,223,644



WSIB Annual Update

Date Presented:

11/15/2017

Presenter Name and Title:

Theresa Whitmarsh, Executive Director

ATTACHMENTS:

Description	Type
▫ WSIB Annual Update	Presentation



**Washington State
Investment Board**

Washington State Investment Board: Focusing on Long-Term Results in a World of Discord and Distractions



**Theresa Whitmarsh, Executive Director
November 15, 2017**



Our Purpose – Overview of the WSIB



Asset Management

- ❑ Created by the Legislature in 1981 to manage retirement and public trust assets
- ❑ One of the largest and most diversified institutional investment managers in the United States
- ❑ \$120 billion assets under management as of September 30, 2017
- ❑ 17 pension funds
- ❑ 5 Labor and Industries' insurance funds
- ❑ 13 Permanent and other trust funds

Success Benchmarks

- ❑ Meet or exceed the financial objectives of those we serve
- ❑ Maximize investment returns at a prudent level of risk
- ❑ Generate sustainable, long-term results for our beneficiaries

Global Implementation

- ❑ Investing in 74 different countries, across 6 continents
- ❑ More than 12,000 investment holdings
- ❑ Large scale allows both access and cost-efficiency



Our Investment Mandates

Retirement Funds

17

- ❑ Public Employees' Plans 1, 2, 3 *
- ❑ School Employees' Plans 2, 3 *
- ❑ Teachers' Plans 1, 2, 3 *
- ❑ Law Enforcement Officers' and Firefighters' Plans 1, 2
- ❑ Judicial Retirement Account – Defined Contribution
- ❑ Washington State Patrol Plans 1, 2
- ❑ Volunteer Firefighters' Relief and Pension Fund
- ❑ Deferred Compensation Program
- ❑ Public Service Employees' Plan 2
- ❑ Higher Education Retirement Plan Supplemental Benefit Fund

Labor and Industries' Funds

5

- ❑ Accident
- ❑ Medical Aid
- ❑ Pension Reserve
- ❑ Supplemental Pension
- ❑ Industrial Insurance Rainy Day Fund (unfunded)

Permanent Funds

7

- ❑ Agricultural College
- ❑ Common School
- ❑ Normal School
- ❑ Scientific
- ❑ State University
- ❑ American Indian Endowed Scholarship
- ❑ Foster Care Endowed Scholarship

Other Funds

6

- ❑ Guaranteed Education Tuition
- ❑ Developmental Disabilities Endowment
 - ❑ Private
 - ❑ State
- ❑ Washington State Opportunity Scholarship Fund
 - ❑ Scholarship
 - ❑ Endowment
- ❑ Family and Medical Leave Insurance Fund (unfunded)

* All Plan 1s are closed to new participants. The Plan 3s are hybrid plans with both defined benefit and defined contribution assets.



Market Value of Retirement Plans

September 30, 2017

- Multiple plan types with investments structured in a commingled trust fund

Defined Benefit and Hybrid Defined Benefit/Defined Contribution Plans	Market Value
Public Employees' Retirement System Plan 1 (PERS)	\$7,328,539,674
Public Employees' Retirement System Plan 2/3	\$36,019,810,405
Teachers' Retirement System Plan 1 (TRS)	\$5,630,588,813
Teachers' Retirement System Plan 2/3	\$17,367,472,722
Volunteer Fire Fighters' Relief & Pension Fund (VOLFF)	\$206,103,138
Washington State Patrol Retirement System Plan 1 (WSPRS)	\$1,133,766,846
Washington State Patrol Retirement System Plan 2	\$54,453,851
Law Enforcement Officers' & Fire Fighters' Plan 1 (LEOFF)	\$5,638,430,679
Law Enforcement Officers' & Fire Fighters' Plan 2	\$11,553,553,165
School Employees' Retirement System Plan 2/3 (SERS)	\$6,168,765,042
Public Safety Employees' Retirement System Plan 2 (PSERS)	\$489,582,526
Total	\$91,591,066,861

Defined Contribution Plans	Market Value
Deferred Compensation Program (DCP)	\$4,222,522,840
Judicial Retirement Account (JRA)	\$10,294,455
Total	\$4,232,817,295



Our Governance – WSIB Board Members



- Board comprised of 15 members
 - 10 voting members - elected/appointed
 - 5 non-voting members – investment professionals

	Appointment Authority	Name	Position
10 Voting	Ex-Officio	Duane Davidson	State Treasurer
		Tracy Guerin	Director, DRS
		Joel Sacks	Director, Labor & Industries
	Senate President	Sen. Mark Mullet	State Senator
	House Speaker	Rep. Timm Ormsby	State Representative
	Governor	Judy Kuschel, Vice Chair	Active Member, PERS
		Yona Makowski	Retired Member, State Pension System
		Greg Markley	Active Member, LEOFF
	Superintendent of Public Instruction	Arlista D. Holman	Active Member, SERS
		Stephen Miller	Active Member, TRS
5 Investment Professionals	Selected by the Board	David Nierenberg	President, Nierenberg Investment Management Co.
		William A. Longbrake	Retired CFO; member of Governor's Council of Economic Advisors
		Richard Muhlebach	Real Estate Executive; past president Institute of Real Estate Management
		Mary Pugh	Founder and CEO, of Pugh Capital
		George Zinn	Vice President and Treasurer, Microsoft



Our Distinctions – What Makes WSIB Different?



Our Investment Strategy

- ❑ Leader in institutional private markets investing in U.S.
 - ❑ 23 percent private equity; 18 percent real estate; 5 percent tangible assets
- ❑ Fixed income is internally managed and 100% actively managed program
- ❑ Public equity is externally managed and a blend of active/passive strategies

Our Focus

- ❑ Diversification globally and across all major asset classes
- ❑ Use discriminating approach to find quality managers with cultural fit
- ❑ Long-term discipline to avoid behavioral whipsaw during volatile markets
- ❑ Use scale to achieve cost-effective implementation

Our People

- ❑ Highly skilled investment team with multi-asset class experience
- ❑ 40+ Investment Officers and Senior Investment Officers
 - ❑ 20 Certified Financial Analysts (CFAs)
 - ❑ 31 with advanced degrees
- ❑ 400+ years of combined tenure with the WSIB
- ❑ Average experience of 20+ years in the investment industry



The Investment Environment – No Shortage of Mixed Messages



Capital Markets

- ❑ Unexpectedly strong performance across all asset classes
- ❑ Valuations not always supported by fundamentals
- ❑ Markets awash in cheap capital; capacity constraints for private markets
- ❑ Corporations favoring share buybacks rather than growth capitalization

Monetary Policy

- ❑ Divergent central banks; U.S. tightens while Europe continues easing
- ❑ Interest rates finally on the move upward in U.S.
- ❑ Modest inflation despite strong markets

Fiscal Policy

- ❑ U.S. tax policy changes in play
- ❑ Worldwide debt levels of governments highest ever seen

Social/Political/Technology Tensions


- ❑ Divisive populist movements (U.S., Brexit, France, Spain)
- ❑ Geopolitical tensions in SE Asia, Russia, Middle East
- ❑ Cyber “war” threatens commerce and politics



Our Updated Capital Market Assumptions



- ▣ Modest adjustments to reflect current market expectations

	2015 Geometric Return	2017 Geometric Return	Standard Deviation
Fixed Income	3.8	3.8	5.3
Tangible Assets	6.3	6.4 	8.6
Real Estate	6.9	7.1 	15.7
Global Equity	7.2	7.0 	18.9
U.S. Equity	6.7	6.4 	18.0
Non-U.S. Equity	7.3	7.7 	20.7
Private Equity	9.0	8.8 	25.0
Cash	2.3	2.3	2.0
Inflation	2.2	2.2	1.5

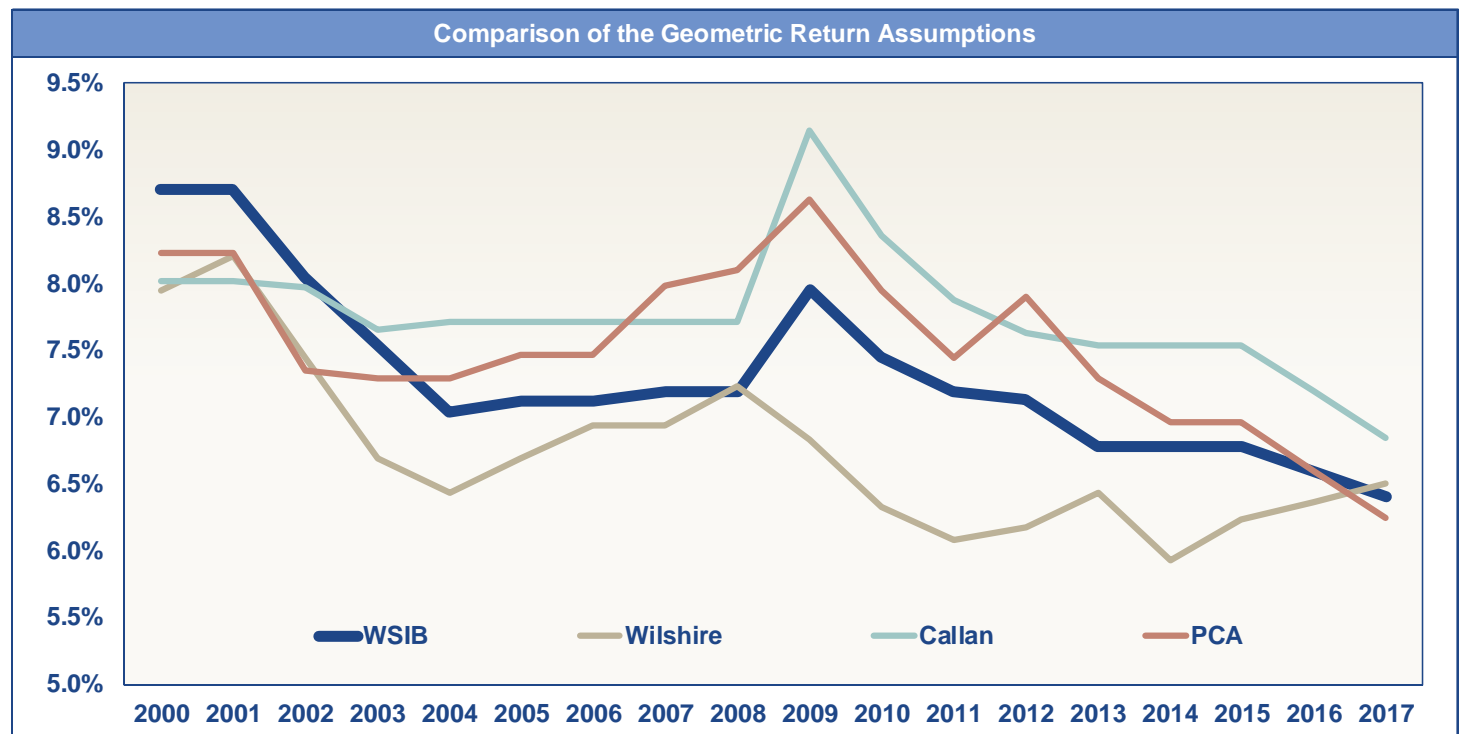


U.S. Equity Market Assumptions Over Time



- Consistent downward trend in return assumptions for past decade

WSIB U.S. Equity Arithmetic Return Assumptions																		
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Return	10.0%	10.0%	9.5%	9.0%	8.5%	8.5%	8.5%	8.5%	8.5%	9.3%	8.8%	8.5%	8.6%	8.2%	--	8.3%	--	7.8%
Risk	17.0%	17.0%	18.0%	18.0%	18.0%	17.5%	17.5%	17.0%	17.0%	17.0%	17.0%	17.0%	18.0%	18.8%	--	18.0%	--	17.5%

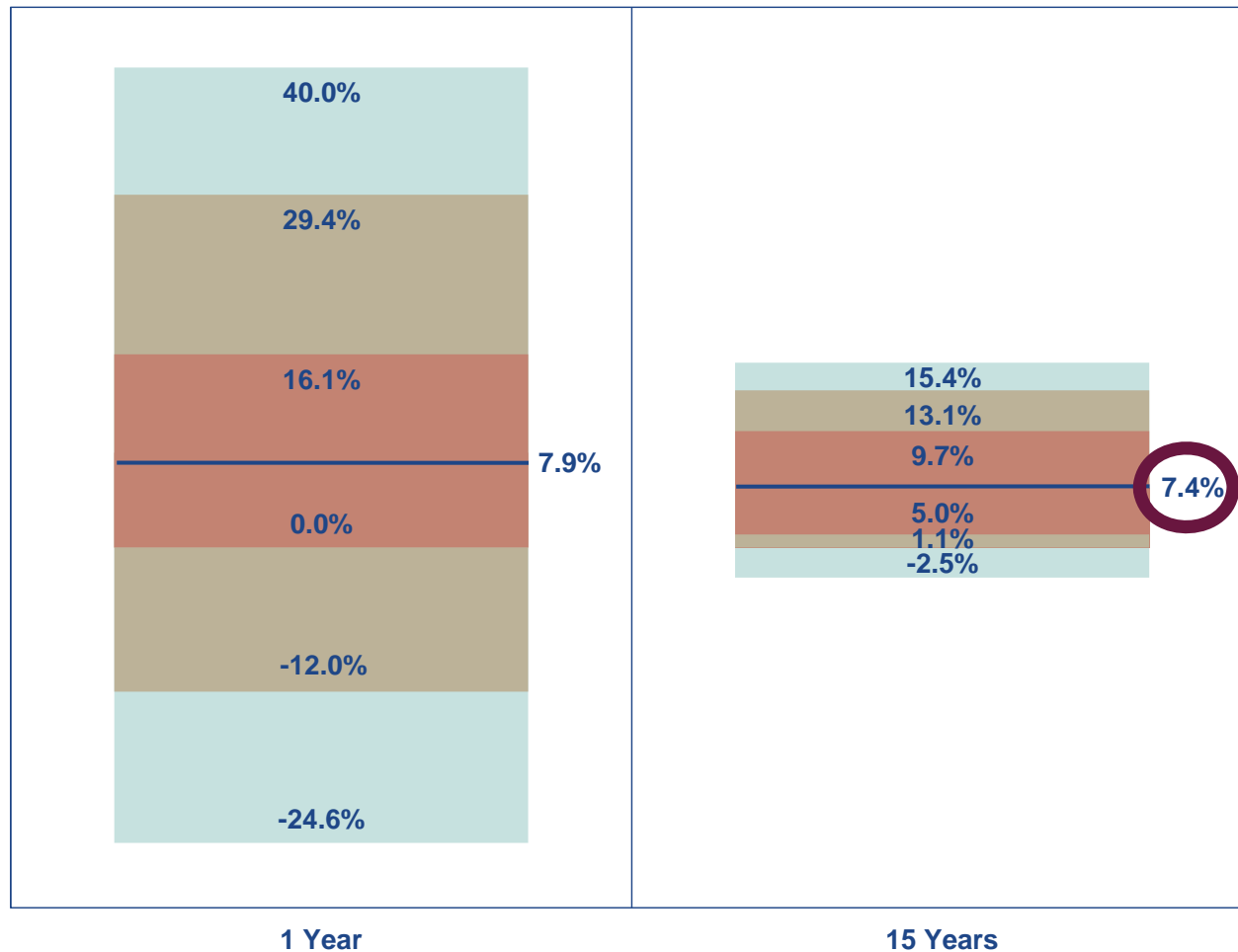




Calculating Realistic Return Assumptions for Retirement Plans



- 7.9 percent is median assumption for 1 year period
- 50 percent chance of earning actuarial assumption of 7.7 percent in any 1 year
- 7.4 percent is a realistic assumption for a 15-year time horizon





Maintaining Our Competitive Advantages

As a Fiduciary

Independent
Transparent
Impeccable integrity

As an Asset Manager

Global

- ▣ International relationships
- ▣ Expertise in multiple markets

Cost Effective

- ▣ Lean operation

Scale

- ▣ Access to attractive investments, managers, and negotiating leverage

Multi Asset Class Expertise

- ▣ Customized asset allocation
- ▣ Custom portfolio construction

As an Organization

Mission driven

- ▣ Singularity of purpose across entire organization

Strong Culture

- ▣ Committed to excellence
- ▣ Open and honest
- ▣ Long-term focus
- ▣ Rigorous analysis
- ▣ Commitment to continuous learning

Best in class systems and processes

- ▣ Investment
- ▣ Internal controls
- ▣ Data and analytics
- ▣ Risk and compliance
- ▣ Financial management and reporting

Skilled professional staff

- ▣ Workforce development focus



Our Latest Initiatives



Successful transition in Board membership

- ▣ 7 of our 15 members joined the Board since mid-2016
- ▣ Highly engaged, fresh insight, proven experience

Real Estate investments added to Labor and Industries' insurance funds

- ▣ Culmination of an independent analysis
- ▣ Leverages WSIB's experienced staff and approach
- ▣ Potential for incremental long-term returns at lower overall risk levels

Asset allocation updated for all retirement funds

- ▣ Comprehensive study done every 4 years
- ▣ Maintaining firm commitment to private market investments
- ▣ Modest increases to real estate and tangible assets

Support for healthy, fully functional capital markets

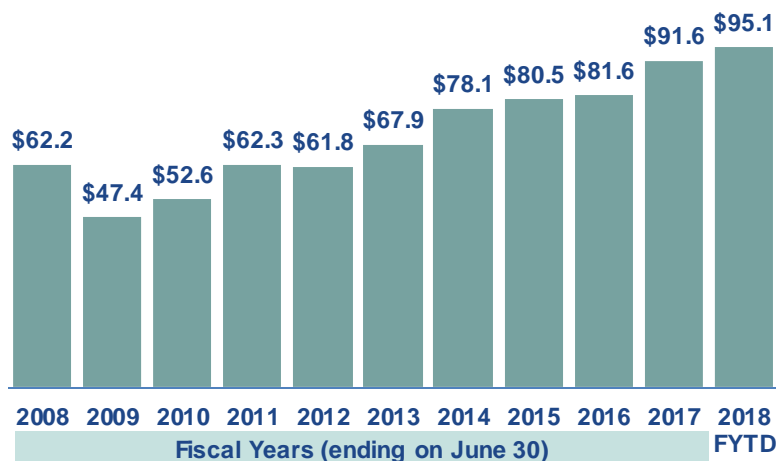
- ▣ Advocating long-term investment practices across the value chain
- ▣ Level playing field for investors (opposing dual-class share structures)
- ▣ Favoring greater diversity within industry and on company boards



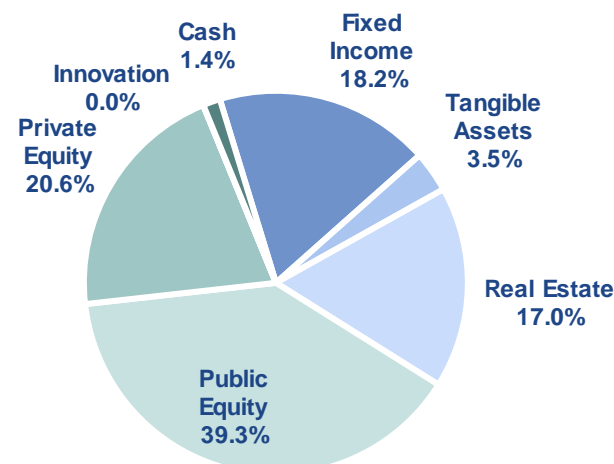
Commingled Trust Fund Performance and Market Values

September 30, 2017

Historical Market Value (billions)



Actual Allocation



Historical Fund Returns

**Return Since Inception of the
Commingled Trust Fund (CTF)**
(Since June 1992):

8.81%

Market Values and Returns

Commingled Trust Fund (CTF) Market Values and Returns

	Market Value (000s)	1 Year	3 Year	5 Year	10 Year
Total CTF	\$95,119,873,209	14.11%	8.25%	9.91%	5.45%
Fixed Income	\$17,276,566,721	2.56%	3.15%	2.53%	5.23%
Tangible Assets	\$3,289,651,512	9.60%	3.91%	4.40%	N/A
Real Estate	\$16,179,908,233	12.78%	12.11%	13.00%	5.92%
Public Equity	\$37,392,972,165	19.02%	8.29%	11.10%	4.46%
Private Equity	\$19,584,345,916	18.48%	11.05%	13.82%	7.48%
Innovation	\$21,418,719	-12.39%	-10.38%	4.78%	-0.04%
Cash	\$1,375,009,943	0.95%	0.50%	0.35%	0.65%



Our Peer Comparison – Performance and Costs



Our Investment Strategies

- ❑ Public Equity – passive public equity provides market-level returns at lower cost than active management
- ❑ Private Equity – above-average allocation and deep relationships generate consistent return advantage
- ❑ Fixed Income – 100 percent internal management allows the WSIB to tailor its portfolio in distinct areas (e.g., emerging market debt)
- ❑ Tangible Assets – customized investment in non-financial real assets
- ❑ Real Estate – direct ownership; close ties to global operating companies

Investment Performance vs. Pension Plan Peers*

	WSIB	Peer Median	U.S. Public Pension Median
5 Year Net Return	9.5%	8.4%	8.7%
20 Year Net Return	8.1%	7.4%	7.3%

Total Investment Costs*

WSIB Costs	Peer Group Costs	Total Savings
55.6 basis points	67.6 basis points	12.1 basis points (\$99.3 million per year)

*CEM Investment Benchmarking Analysis for WSIB, September 21, 2017

Performance data are for periods ending December 31, 2016

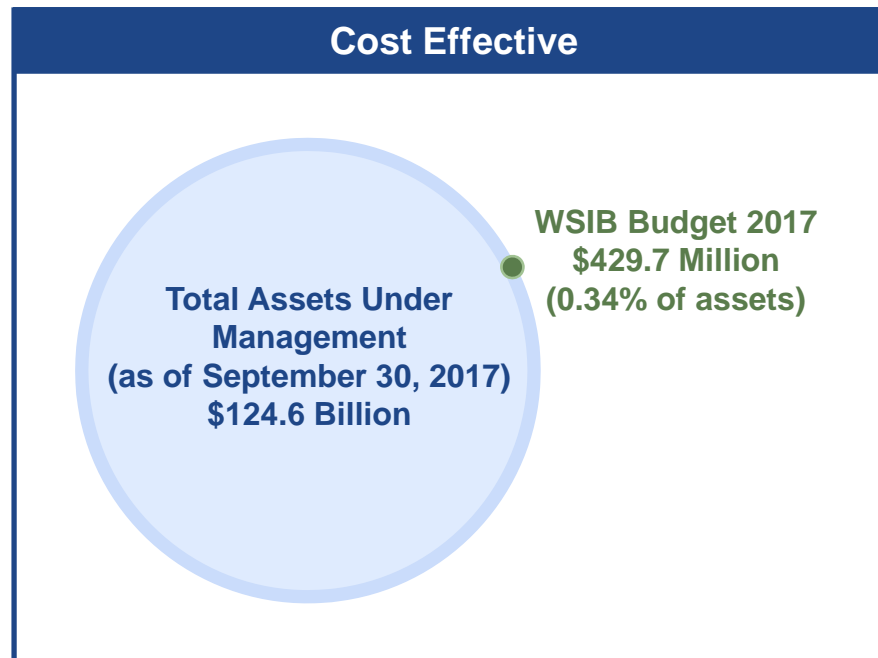
Peer Group includes 19 U.S. public pensions ranging in asset size from \$24 billion to \$188 billion



Keeping Costs Low via Investment Style and Implementation



- ❑ WSIB's expenses are funded from investment earnings
- ❑ WSIB ranked as low-cost, high-performing institutional investor by CEM Benchmarking
- ❑ WSIB's excellent investment performance dramatically contributes to the state's bottom line by earning the lion's share of money needed to cover state pension benefits



“Your fund was low cost because you had lower cost implementation style and you paid less than peers for similar services.”

***CEM Benchmarking Report,
September 15, 2016***



Conclusion – Our Plan for Continued Success



Retain a mission focus

- ❑ Fiduciary role comes first
- ❑ Maximize returns at a prudent level of risk
- ❑ Build on longstanding trust relationships
- ❑ Ensure transparency; address the uncomfortable questions
- ❑ It's about the beneficiaries

Expect the unexpected

- ❑ Markets don't grow to the sky
- ❑ Stay in tune with changing risk factors (climate, corporate governance)
- ❑ Respond rather than react to market trauma or exuberance
- ❑ Continue building and recruiting talent

Diversify for risk; discriminate for quality

- ❑ Focus on what we know and understand
- ❑ Walk away from strategies that do not fit
- ❑ Negotiate acceptable terms and conditions
- ❑ Get paid for risks taken
- ❑ Engage to advocate for long-term investment disciplines



LEOFF 2 Actuarial Valuation Report

Date Presented:

11/15/2017

Presenter Name and Title:

Lisa Won, Deputy State Actuary

ATTACHMENTS:

Description	Type
▣ LAVR Update	Report
▣ LAVR Update	Presentation

LEOFF 2 Actuarial Valuation Results

Mitch DeCamp
Actuarial Analyst

Graham Dyer
Actuarial Analyst

Presentation to: LEOFF Plan 2 Retirement Board



Office of the State Actuary
Supporting financial security for generations.

November 15, 2017

Today's Presentation

- 2016 Actuarial Valuation Highlights
- OSA Interactive Web Reports
- Informational - no Board action needed today



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Office of the State Actuary

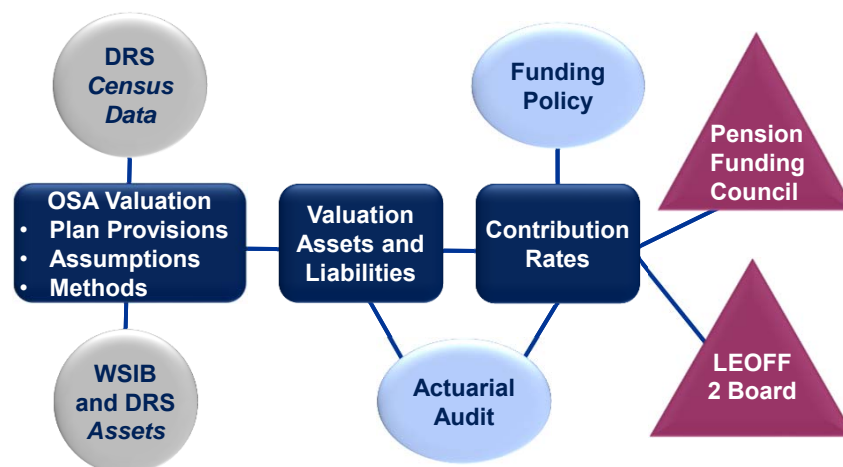
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Purpose Of The 2016 Actuarial Valuation

- “Off-cycle” valuation - not used for contribution rate-setting
 - Current rates adopted through 2019-21 Biennium
- Update contribution rates with new data, assets, and legislation
- Check funding progress
 - Are we on track with systematic actuarial funding plan?
- Certify the underlying data, assumptions, and methods are reasonable and conform with current actuarial standards of practice

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The Actuarial Valuation Process: How We Get From Participant Data To Contribution Rates



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Highlights Of The 2016 Valuation Results

Assets

- 2.48% return on Market Value of Assets (MVA)
- Actuarial Value of Assets (AVA) includes deferred asset loss of \$414 million from lower than expected returns in 2016
- AVA still smoothing asset gains from past years of higher than expected returns

Funded Status

- Funded status remains unchanged at 105% from prior valuation

Contribution Rates

- Contribution rates increased from the prior valuation under Entry Age Normal method (Board's current funding policy) and Aggregate (statutory funding method)

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Change In Participant Data From Last Valuation

LEOFF 2			
	2015	2016	Difference
Number of Actives	17,019	17,186	167
Average Annual Salary	\$102,411	\$103,947	\$1,536
Average Attained Age	43.6	43.5	(0.1)
Average Service	14.7	14.5	(0.2)
Number of Annuitants	3,710	4,259	549

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Change In Assets From Last Valuation

LEOFF 2			
(Dollars in Millions)	2015	2016	Difference
Market Value (MV)	\$9,833	\$10,194	\$361
Contributions Less Disbursements*	\$151	\$118	(\$33)
Investment Return	\$430	\$244	(\$186)
Return on Assets**	4.64%	2.48%	(2.16%)

*Includes transfers, restorations, and payables.

**Dollar-weighted return on MVA.

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Update Asset Values

- MVA reported by WSIB
- Calculate 2016 asset gain (or loss) based on 7.5% expected return
- Develop AVA by smoothing past and current asset gains (or losses)
 - Smooth gain (or loss) over a period up to eight years
 - AVA limited to 30% "corridor" around MVA
 - Smoothing method reduces contribution rate and funded status volatility

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Actuarial Value Of Assets

Calculation of Actuarial Value of Assets				
LEOFF 2				
(Dollars in Millions)				2016
Market Value of Assets				
Deferred Gains and (Losses)				\$10,194
Plan Year Ending	Return on Assets*	Years Deferred	Years Remaining	Amount Deferred**
6/30/2016	2.48%	6	5	(414)
6/30/2015	4.64%	3	1	(89)
6/30/2014	18.93%	8	5	548
6/30/2013	12.31%	5	1	64
6/30/2012	1.45%	7	2	(111)
6/30/2011	21.08%	8	2	175
Total Deferral				173
Actuarial Value of Assets***				\$10,021

*Dollar-weighted rate of return.

**Amount of asset gains and (losses) left to recognize, or apply, in future valuations.

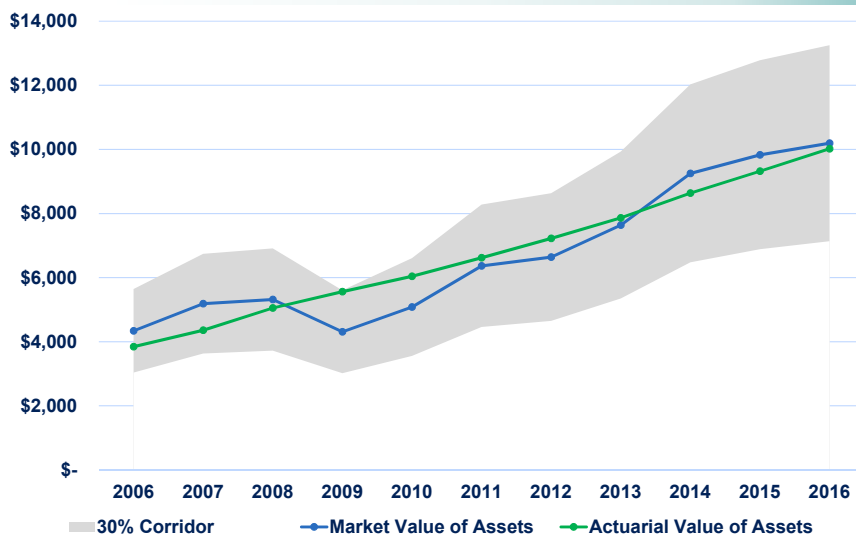
***Actuarial Value of Assets can never be less than 70% or greater than 130% of the Market Value of Assets.

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Actuarial Value Of Assets Less Volatile Than Market Value



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9

Change In Liabilities From Last Valuation

LEOFF 2			
(Dollars in Millions)	2015	2016	Difference
Present Value of Future Benefits	\$12,152	\$13,013	\$861
Accrued Liability	\$8,838	\$9,571	\$733
Valuation Interest Rate	7.50%	7.50%	--

- Present Value of Future Benefits
 - Today's value of all future expected benefits for current members
- Accrued Liability
 - Today's value of all future plan benefits that have been accrued or "earned" as of the valuation date by current plan members

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Funded Status Is A Measure Of Plan Health

- Funded status =

$$\frac{\$ \text{ Actuarial Value of Assets}}{\$ \text{ Accrued Liabilities}}$$

 Divided By
- Point in time measurement
- If the funded status exceeds 100%, the plan has more than \$1 of assets for every \$1 of accrued benefits
- Plan greater/less than 100% funded status not necessarily overfunded/at-risk

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Change In Funded Status From Last Valuation

LEOFF 2			
(Dollars in Millions)	2015	2016	Difference
a. Accrued Liability	\$8,838	\$9,571	\$733
b. Actuarial Value of Assets	\$9,320	\$10,021	\$701
c. Unfunded Liability (a-b)	(\$482)	(\$450)	\$32
Funded Status (b/a)	105%	105%	0%

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Change In Member Contribution Rates From Last Valuation

LEOFF 2			
Member Rates	2015	2016	Difference
Aggregate Rate	7.46%	7.62%	0.16%
90% EANC Rate	7.88%	7.91%	0.03%
100% EANC Rate	8.75%	8.79%	0.04%

**Adopted
2017-21**

- Current contribution rates adopted for 2017-2021 biennia equal to 2015 100% EANC rates
- Aggregate method represents statutory funding method
- EANC method represents the Board's current policy

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Summary Of 2016 Actuarial Valuation

- Aggregate (statutory method) contribution rates below current adopted rates
 - Both rates remain reasonable
- Current funded status exceeds 100% and is considered healthy
- Actuarial valuation is snap-shot in time
- AVA recognizing asset gains

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Interactive Web Reports

- OSA has moved some elements from the actuarial valuation report to our website
- Provides the ability to use different inputs to see how the results change
- Current reports include:
 - [Funded Status](#)
 - [Future Value and Present Value of Benefit Payments](#)
 - [Contribution Rates](#) (NEW)

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Funded Status

Valuation Year: 2016

Discount Rate: Statutory Rate for Funding

Asset Valuation Method: Actuarial Value of Assets

[View Report](#)

1 of 1
100%
Find | Next

Funded Ratio as of 6/30/2016
 Based on Actuarial Value of Assets and
 Liabilities Discounted @ Statutory Rate for Funding*

(Dollars in Millions)	PERS Plan 1	PERS Plan 2/3	TRS Plan 1	TRS Plan 2/3	SERS Plan 2/3	PSERS Plan 2	LEOFF Plan 1	LEOFF Plan 2	WSPRS Plan 1/2	Total
Accrued Liability	\$12,323	\$34,759	\$8,900	\$11,983	\$4,826	\$425	\$4,197	\$9,571	\$1,186	\$88,170
Actuarial Value of Assets	\$6,958	\$30,262	\$5,440	\$10,722	\$4,181	\$402	\$5,275	\$10,021	\$1,084	\$74,345
Unfunded Liability	\$5,365	\$4,497	\$3,460	\$1,261	\$644	\$24	(\$1,078)	(\$450)	\$102	\$13,825
Funded Ratio	56%	87%	61%	89%	87%	94%	126%	105%	91%	84%


*Discount Rates for 2016: Statutory = 7.7% (7.5% in LEOFF 2)

Note: Please see the [Actuarial Valuation Report \(AVR\)](#) on the Office of the State Actuary's website for the data, assumptions, and methods used to produce these results. The AVR also includes other information on the intended use and purpose of this information. Distribution or reliance on this information without consideration of the intended use and purpose could result in its misuse and may mislead others. Totals may not add due to rounding. Starting in 2014, the Entry Age Normal cost method is used to determine Accrued Liability; prior to 2014, the Projected Unit Credit cost method was used.

Source: leg.wa.gov/osa
11/7/2017

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Funded Status

Valuation Year: 2016

Discount Rate: Statutory Rate for Funding

Asset Valuation Method: Actuarial Value of Assets

[View Report](#)

1 of 1
100%
Find | Next

Funded Ratio as of 6/30/2016
 Based on Actuarial Value of Assets and
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(Dollars in Millions)	PERS Plan 1	PERS Plan 2/3	TRS Plan 1	TRS Plan 2/3	SERS Plan 2/3	PSERS Plan 2	LEOFF Plan 1	LEOFF Plan 2	WSPRS Plan 1/2	Total
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11/7/2017

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Funded Status

Valuation Year: 2016

Asset Valuation Method: Actuarial Value of Assets

[View Report](#)

Discount Rate: Statutory Rate for Funding

1 of 1
100%
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Funded Ratio as of 6/30/2016

Based on Actuarial Value of Assets and
Liabilities Discounted @ Statutory Rate for Funding*

(Dollars in Millions)	PERS Plan 1	PERS Plan 2/3	TRS Plan 1	TRS Plan 2/3	SERS Plan 2/3	PSERS Plan 2	LEOFF Plan 1	LEOFF Plan 2	WSPRS Plan 1/2	Total
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11/7/2017

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Questions

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LEOFF 2 Actuarial Valuation Results

Mitch DeCamp
Actuarial Analyst

Graham Dyer
Actuarial Analyst

Presentation to: LEOFF Plan 2 Retirement Board



Today's Presentation

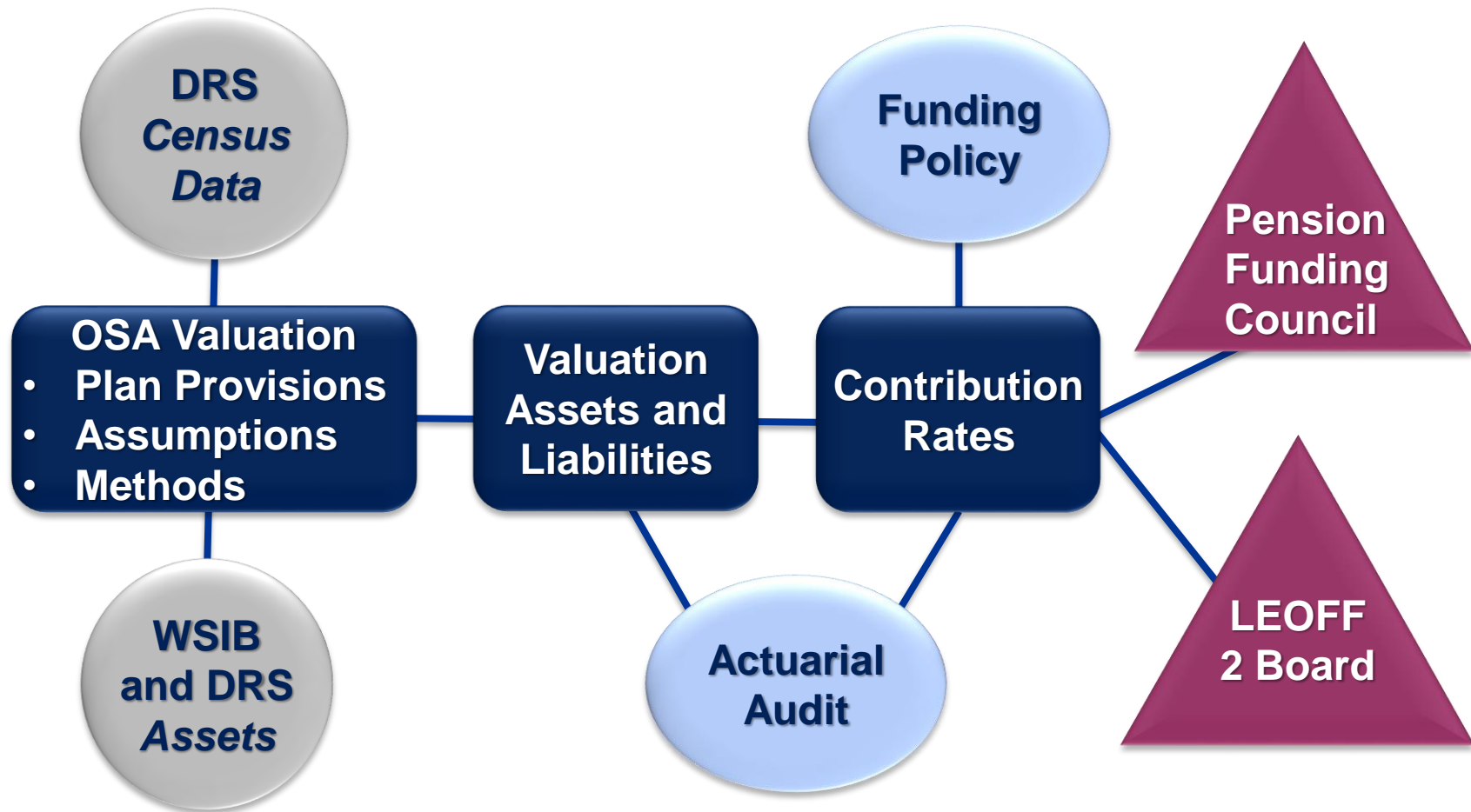
- 2016 Actuarial Valuation Highlights
- OSA Interactive Web Reports
- Informational - no Board action needed today



Purpose Of The 2016 Actuarial Valuation

- “Off-cycle” valuation - not used for contribution rate-setting
 - Current rates adopted through 2019-21 Biennium
- Update contribution rates with new data, assets, and legislation
- Check funding progress
 - Are we on track with systematic actuarial funding plan?
- Certify the underlying data, assumptions, and methods are reasonable and conform with current actuarial standards of practice

The Actuarial Valuation Process: How We Get From Participant Data To Contribution Rates



Highlights Of The 2016 Valuation Results

Assets

- 2.48% return on Market Value of Assets (MVA)
- Actuarial Value of Assets (AVA) includes deferred asset loss of \$414 million from lower than expected returns in 2016
- AVA still smoothing asset gains from past years of higher than expected returns

Funded Status

- Funded status remains unchanged at 105% from prior valuation

Contribution Rates

- Contribution rates increased from the prior valuation under Entry Age Normal method (Board's current funding policy) and Aggregate (statutory funding method)

Change In Participant Data From Last Valuation

LEOFF 2			
	2015	2016	Difference
Number of Actives	17,019	17,186	167
Average Annual Salary	\$102,411	\$103,947	\$1,536
Average Attained Age	43.6	43.5	(0.1)
Average Service	14.7	14.5	(0.2)
Number of Annuitants	3,710	4,259	549

Change In Assets From Last Valuation

	LEOFF 2		
<i>(Dollars in Millions)</i>	2015	2016	Difference
Market Value (MV)	\$9,833	\$10,194	\$361
Contributions Less Disbursements*	\$151	\$118	(\$33)
Investment Return	\$430	\$244	(\$186)
Return on Assets**	4.64%	2.48%	(2.16%)

**Includes transfers, restorations, and payables.*

***Dollar-weighted return on MVA.*

Update Asset Values

- MVA reported by WSIB
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Actuarial Value Of Assets

Calculation of Actuarial Value of Assets

LEOFF 2

(Dollars in Millions)

2016

Market Value of Assets

\$10,194

Deferred Gains and (Losses)

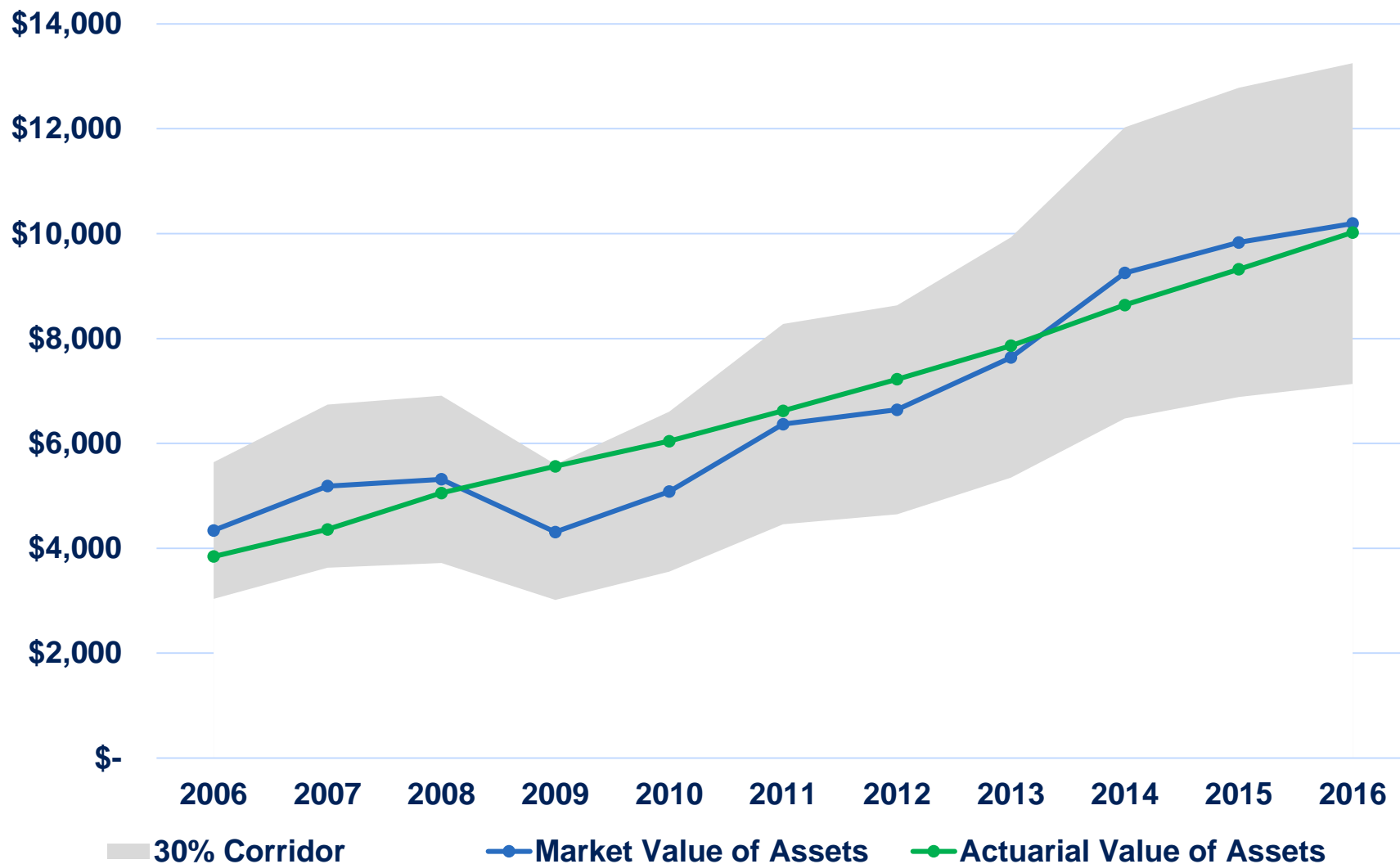
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Total Deferral				173
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Actuarial Value Of Assets Less Volatile Than Market Value



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<i>(Dollars in Millions)</i>	2015	2016	Difference
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- Today's value of all future plan benefits that have been accrued or "earned" as of the valuation date by current plan members

Funded Status Is A Measure Of Plan Health

- Funded status =
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Change In Funded Status From Last Valuation

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Funded Status (b/a)	105%	105%	0%

Change In Member Contribution Rates From Last Valuation

LEOFF 2				
Member Rates	2015	2016	Difference	Adopted 2017-21
Aggregate Rate	7.46%	7.62%	0.16%	
90% EANC Rate	7.88%	7.91%	0.03%	
100% EANC Rate	8.75%	8.79%	0.04%	8.75%

- Current contribution rates adopted for 2017-2021 biennia equal to 2015 100% EANC rates
- Aggregate method represents statutory funding method
- EANC method represents the Board's current policy

Summary Of 2016 Actuarial Valuation

- Aggregate (statutory method) contribution rates below current adopted rates
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 - Contribution Rates (NEW)



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Funded Status

Valuation Year: **2016** Asset Valuation Method: Actuarial Value of Assets View Report

Discount Rate: Statutory Rate for Funding

1 of 1 100% Find | Next

Funded Ratio as of 6/30/2016 Based on Actuarial Value of Assets and Liabilities Discounted @ Statutory Rate for Funding*

(Dollars in Millions)	PERS Plan 1	PERS Plan 2/3	TRS Plan 1	TRS Plan 2/3	SERS Plan 2/3	PSERS Plan 2	LEOFF Plan 1	LEOFF Plan 2	WSPRS Plan 1/2	Total
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Note: Please see the [Actuarial Valuation Report \(AVR\)](#) on the Office of the State Actuary's website for the data, assumptions, and methods used to produce these results. The AVR also includes other information on the intended use and purpose of this information. Distribution or reliance on this information without consideration of the intended use and purpose could result in its misuse and may mislead others. Totals may not add due to rounding. Starting in 2014, the Entry Age Normal cost method is used to determine Accrued Liability; prior to 2014, the Projected Unit Credit cost method was used.



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Funded Status

Valuation Year: Asset Valuation Method:

Discount Rate:

1 of 1 100% Find | Next

Funded Ratio as of 6/30/2016
Based on Actuarial Value of Assets and
Liabilities Discounted @ Statutory Rate for Funding*

(Dollars in Millions)	PERS Plan 1	PERS Plan 2/3	TRS Plan 1	TRS Plan 2/3	SERS Plan 2/3	PSERS Plan 2	LEOFF Plan 1	LEOFF Plan 2	WSPRS Plan 1/2	Total
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Funded Status

Valuation Year: Asset Valuation Method:

Discount Rate:

1 of 1 100% Find | Next

Funded Ratio as of 6/30/2016
Based on Actuarial Value of Assets and
Liabilities Discounted @ Statutory Rate for Funding*

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Questions





Economic Assumption Adoption

Date Presented:

11/15/2017

Presenter Name and Title:

Ryan Frost, Research and Policy Manager

Summary:

The Board is tasked with adopting economic assumptions every 2 years. The last adoption occurred in 2011. Recommendations to economic assumptions are before the Board for possible adoption.

ATTACHMENTS:

Description	Type
 Economic Assumptions	Presentation



Economic Assumptions Adoption

November 15, 2017

Issue

The Board is tasked with adopting economic assumptions every 2 years

- Any changes subject to revision by the Legislature

The last adopted changes to economic assumptions occurred in 2011

- Inflation 3.50% to 3.00%
- Salary Growth 4.50% to 3.75%
- Annual Investment Return 8.00% to 7.50%
 - Only plan in WA currently assuming 7.50%

Assumption Change Recommendations

Current

- Inflation - 3.00%
- General Salary Growth - 3.75%
- Annual Investment Return - 7.50%

Recommended

- Inflation - 2.75% (0.25%)
- General Salary Growth - 3.50% (0.25%)
- Annual Investment Return - 7.40% (0.10%)

Estimated Contribution Rate Impact - Adopting All Assumption Changes

- Employee - **(0.27%)**
 - Current - 8.75%
 - If adopted - 8.48%
- Employer – **(0.16%)**
 - Current - 5.25%
 - If adopted - 5.09%
- State – **(0.11%)**
 - Current - 3.50%
 - If adopted - 3.39%

Increase in Contributions from Adopting Full Recommendations

LEOFF 2 Total for 2019-2021 (Dollars in Millions)

- Total State - (\$11.4)
 - General Fund - (\$11.4)
 - Non-General - 0.0
- Local Government - (\$17.1)
- Total Employer (\$28.6)
- Total Employee (\$28.6)

Options

1. Do not adopt assumptions.
2. Adopt the assumption changes, with the rate change to begin July 1, 2019. This is the current statutory process.
3. Adopt the assumption changes, and adopt the rate reductions effective January 2018.
4. Adopt other economic assumptions, specifically lowering the investment return assumption to 7.3%. This would result is no rate reductions.

Economic Assumptions		
	Current	Recommended
Inflation	3.00%	2.75%
General Salary Growth	3.75%	3.50%
Assumed Investment Return	7.50%	7.40%

Contribution Rates		
	Current	If EA Adopted
Member	8.75%	8.48%
Employer	5.25%	5.09%
State	3.50%	3.39%

Questions?

Ryan Frost

Research and Policy Manager

ryan.frost@leoff.wa.gov

360-586-2325



Member Correspondence

Date Presented:

11/15/2017

ATTACHMENTS:

Description	Type
▣ Correspondence from Katharine Boreen	Correspondence
▣ Memo from Paul Neal to Steve Nelsen	Correspondence

From: Kate Boreen <boreenpk@tctwest.net>
Sent: Thursday, October 26, 2017 10:01 AM
To: Kate Boreen
Cc: To: Aaron Gutierrez; McDonald, Joyce; Hayes, Dave; Holy, Jeff; Rivers, Ann; Manweller, Matt; Pedersen, Jamie; Angel, Jan; Bailey, Barbara; Schoesler, Mark; Conway, Steve; Fitzgibbon, Joe; Ormsby, Timm; Hobbs, Steve; Volz, Mike; governor.inslee@gov.wa.gov; Owen, Brad; pres@wscff.org; Nelsen, Steve (LEOFF); votejeffholy@gmail.com; Joyce Willms; Dave Peery; Tyson DePoe; joanna@iaff27.org; Andy; Valencia, Tim (LEOFF); Neal, Paul (LEOFF); Frost, Ryan (LEOFF); Harman, Tammy (LEOFF); Bergquist, Steve; Warnick, Judy
Subject: Correction
Attachments: Boreen DRS Petition Decision_Redacted.pdf; Boreen DRS Petition Decision_Redacted.pdf; RCW 41.26.030 Eligibility Discrimination language.pdf; Ltr. to Select Legislators re- Discrimination 22017.pdf; RCW Titles 11 & 26 AdoptiveHeirs.pdf

The e-packet of information sent yesterday did not contain the redacted version of the DRS opinion on Title 41 Eligibility definition affecting adopted children of disability-retired LEOFF 1 and LEOFF 2 Plan members.

Below is the redacted version of the opinion meant to be included in yesterday's 11 a.m./noon mailing, as a protection of minor children's privacy.

Please delete yesterday's communication and use this version instead.

Thank you.

Katharine S. Boreen

Per our conversation, Aaron, what follows in this email packet is the version that should be published on the Pension Policy Committee website. I would like the Committee on Pension Policy to know that all of this information is also in the hands of: The Washington State Council of Fire Fighters, the LEOFF 2 Retirement Board, Seattle Fire Fighters Union/IAFF Local 27 Board, along with more than several interested Washington State Legislators. Because it also involves law enforcement professionals in both LEOFF 1 and LEOFF 2 plans, I would hope it would be an issue for those law enforcement affiliated organizations and boards as well.

The discriminatory statute in question affects disability fire and law of any age from BOTH LEOFF 2 and LEOFF 1 systems. According to the LEOFF Plan 2 Retirement Board website.... as of June 30, 2014, 8.9% of retirees have retired from a LEOFF 2 position due to a duty-related disability. 12.2% of duty-related disabilities have been classified catastrophic.

It is hoped that the Committee on Pension Policy will be able to perhaps address a policy change or steer a bill to change this language for the good of our LEOFF 2 and LEOFF 1 disability-retired members and their families. If you can find a way to support such a policy change or a bill, it would be appreciated by more than just the Boreen family. Thank you, Kate

October 17, 2017

Dear Governor, Lt. Governor, Select Committee on Pension Policy, and Seattle Firefighters Local 27 Board Members:

My husband was a retired Seattle fireman who died late last summer, leaving me to raise our minor children alone. Lt. Phillip Neill Boreen was born and raised in Lewis County and fought fires for the City of Seattle for 28 years. His entire family was from Cowlitz and Lewis Counties. Many of them still reside there, and in Tacoma. At the time of his passing I was made painfully aware of a **blatantly discriminatory statute** in Washington law that prevents his minor children from receiving benefits because they are adopted.

The purpose of this communication is to inform you of language in RCW 41.26.030 that pertains to both LEOFF 2 and LEOFF 1 members and their families, disability-retired OF ANY AGE, singling out and **discriminating** against adopted children of both firefighters and law enforcement. This law as it currently exists can affect disability retired members and their children that are not “naturally” born i.e., if you choose to conceive a child naturally after your disability retirement date... your children will receive benefits If you adopt your children, your children will not receive benefits. I am hoping that once educated, people will do what they can to change this statute. This is a blemish on two very honorable professions.

Included with this email you will find:

- (1) a copy of the **discriminatory portion** of the statute (re: contained in the definitions section, “eligibility” of children to receive benefits upon the death of a disability-retired LEOFF 2 or LEOFF 1 member),
- (2) legal opinion concerning this matter rendered earlier this year by Washington Department of Retirement Systems attorney,
- (3) copy of my letter sent February 2017 to select members of the WA legislature explaining the situation, and
- (4) language from other RCW statutes that directly conflict with RCW 41.26.030.

Further, I would emphasize the following:

- The language in RCW 41.26 directly applies to **BOTH** LEOFF 2 and LEOFF 1 plans. (Page 3 of Ms. Buddeke’s decision specifically addresses this fact. Don’t be lulled into thinking that only one plan or the other is involved here.
- There is currently a limitation (cap) of two children “naturally born” per disability-retired members’ family.
- LEOFF 1, and perhaps LEOFF 2, members need to understand that there are more benefits being denied than a nominal monthly death benefit until they turn of age. “Natural children” born after the disability retirement date are entitled to the lifetime survivor benefit (should the surviving spouse also die before the LEOFF children come of age) to be received until the child or children come of age. As it currently stands, this statute makes sure that the fire or law enforcement pension check is denied to adopted children should both their parents die before they come of age.
- It is unclear whether this issue also affects the ability of the deceased members’ adopted children to receive health insurance coverage through either LEOFF plans.
- Please note that the DRS opinion was very well written, so that a bill can be sponsored or action can be taken with comparatively little effort to rectify the issue.
- I have been asked how this very subtle and almost hidden language affects other portions of the LEOFF 2 or LEOFF 1 plans. I do not know.

In including the February DRS decision for review, I ask everyone to please, please try to keep our children’s names out of this. They do not know that the entire State of Washington considers them a lesser form of human being when it comes to their existence and the legitimacy of firefighter Boreen as their father. My concern is that if one of them does an internet search (or one of their friends do) of our last name and they see all of this, they will be crushed. They don’t deserve it. They were little when we became a family, and the youngest was 9 when his father was diagnosed with cancer. We were his hospice. He is the only father they will ever have.

The list of legislators who have contacted me by phone or email regarding this statute following last February’s letter is found below. I hope that you will choose to take action against the **discrimination of adopted children** of disability-retired firefighters and law enforcement personnel. It is the right thing to do.

Senator Jan Angel, District 26 (Kitsap and Pierce Counties)

Senator Barbara Bailey, District 10 (Island, Skagit, Snohomish)

Senator Jamie Pedersen, District 43 (King County)

Ann Rivers, District 18 (Clark & Cowlitz Counties)

Rep. Dave Hayes. District 10 (Island, Skagit, Snohomish)

Representative Joyce McDonald – District 25 (Tacoma)

Thank you,

Katharine S. Boreen

Wife of deceased SFD FF, Lt. Phillip Neill Boreen

Phone: (307) 272-4208 or (307) 272-6640.

**WASHINGTON STATE
DEPARTMENT OF RETIREMENT SYSTEMS
PETITION DECISION**

DATE: February 1, 2017
PETITIONER: Katharine Boreen
MEMBER: Phillip Boreen
SYSTEM: LEOFF Plan 1 (LEOFF1)
ISSUE: Minor children eligibility for LEOFF1 death and survivor benefits

BACKGROUND

1. Phillip Boreen, who is now deceased, was a member of the Law Enforcement Officers' and Firefighters' Retirement System, Plan 1 (LEOFF1). At the time of his death,¹ he was a LEOFF1 disability retiree who regularly received a disability retirement benefit.²

Katherine Boreen, the Petitioner, is Mr. Boreen's widow.

2. Mr. and Mrs. Boreen had four children, who they adopted on July 18, 2008: [REDACTED]; (born [REDACTED]); [REDACTED] (born [REDACTED]); [REDACTED] (born [REDACTED]); and [REDACTED] (born [REDACTED]).³
3. The question here is whether [REDACTED], [REDACTED], [REDACTED] and [REDACTED] are eligible for LEOFF1 death and/or disability benefits. However, we should make one thing clear at the outset: those "child benefits" are not benefits paid to children.
 - o In LEOFF1, as with public pensions generally, a child *disability benefit* is actually a percentage increase in a disabled parent's benefit. It is the parent (the LEOFF member) who receives the disability benefit. That benefit is calculated by

¹ Mr. Boreen died on August 6, 2016.

² Mr. Boreen's local disability board determined that his disability was duty-related.

³ In this decision, we refer to [REDACTED], [REDACTED] and [REDACTED] by their first names, or as the "Boreen children." Mr. Boreen had a fifth child ([REDACTED] born [REDACTED]). Because of her age, [REDACTED] was not eligible for an eligible child for purposes of calculating a disability retirement or death benefit under Mr. Boreen's retirement account. Consequently, her interests are not at issue here.

reference to his final average salary,⁴ and may be increased by an additional percentage for each eligible child (up to a maximum amount).

- A child *death benefit* is actually a percentage increase in a surviving spouse's benefit (also up to a maximum amount). It is the surviving spouse (of the deceased LEOFF member) who receives the death benefit—usually for the survivor's life.

4. In this decision, we frequently refer to Mr. Boreen's disability benefit and Mrs. Boreen's survivor benefit as "child benefits." For the sake of simplicity and readability:
 - When we refer to the Boreen children's eligibility for a disability benefit, that eligibility would have the practical effect of retroactively increasing Mr. Boreen's disability benefit.
 - When we refer to the Boreen children's eligibility for a death benefit, that eligibility would have the practical effect of retroactively increasing Mrs. Boreen's survivor benefit.

LEOFF, GENERALLY

5. The Legislature created the LEOFF system to provide death, disability, and retirement benefits to LEOFF members and their beneficiaries.⁵ LEOFF benefits are limited to those who meet the requirements of the LEOFF Act.⁶ The disability and death benefits at the heart of this petition are two examples of frequently-administered LEOFF benefits.
6. DRS is responsible for LEOFF administration. As the statutory LEOFF administrator, we manage the LEOFF trust fund for the benefit of its intended beneficiaries.⁷ In fulfilling that responsibility, our primary point of reference is the LEOFF Act—the most direct indicator of the intent of the Washington Legislature.

LEOFF BENEFITS, GENERALLY

7. There are two LEOFF plans: LEOFF1 and LEOFF2.⁸

⁴ "Final average salary," like dozens of other terms applied in LEOFF administration, is defined by statute. See RCW 41.26.030(15)(a). Mr. Boreen's final average salary is not at issue in this petition.

⁵ RCW 41.26.020. See also *Auto Drivers v. Retirement System*, 92 Wn.2d 415, 422-23 (1979).

⁶ The LEOFF Act is codified at Ch. 41.26 RCW.

⁷ RCW 41.26.020. See *Fire Fighters v. DRS*, 97 Wn. App. 715, 718 (1999).

⁸ LEOFF1 covers those who established LEOFF membership before October 1, 1977. LEOFF2 covers those who established LEOFF membership on and after that date. See RCW 41.26.030(21) and (22).

8. In many respects, there are critical differences in the benefits payable under LEOFF1 and LEOFF2. Disability and death benefits are good examples of those differences. The disability and death benefit statutes discussed in this decision are specific to LEOFF1.
9. In other important respects, however, LEOFF1 and LEOFF2 are the same: they derive generally from the same public pension policy, and they share many common definitional terms. This decision hinges on one such definition: "child." That word carries the same meaning in both LEOFF1 and LEOFF2.

LEOFF 1 DISABILITY BENEFITS

10. A LEOFF1 member who retires for disability is entitled to receive a correctly calculated disability benefit, payable until his death or recovery from the disability. That benefit is calculated by reference to two factors: (a) his final average salary; and (b) the number of children he had at the time of his disability retirement. The relevant LEOFF1 disability benefit statute is RCW 41.26.130:

Allowance on retirement for disability.

(1) Upon retirement for disability a member shall be entitled to receive a monthly retirement allowance computed as follows:

- (a) A basic amount of 50% of final average salary at time of disability retirement, and
- (b) An additional 5% of final average salary for each child as defined in [RCW 41.26.030(6)]....
- (c) The combined total of (a) and (b) of this subsection shall not exceed a maximum of 60% of final average salary....⁹

LEOFF 1 DEATH BENEFITS

11. When a LEOFF1 disability retiree dies, that member's surviving spouse is entitled to receive a lifetime survivor benefit equal to the benefit the member received while he was alive.¹⁰ The relevant LEOFF1 death benefit statute is RCW 41.26.161(1):

⁹ Both the disability retirement benefit and the death benefit grant a 5% benefit increase per eligible child. Because both benefits are capped at a total of 60%, however, the practical result for a 4-child increase would be a total benefit increase of only 10%. See RCW 41.26.130(1)(c)(the disability benefit cap) and RCW 41.26.161(1)(the death benefit cap).

¹⁰ Under some circumstances, a surviving spouse may not be eligible for a survivor benefit—but none of those circumstances apply here. Mrs. Boreen receives a lifetime survivor benefit; it became payable on the day after Mr. Boreen's death.

Death benefits—Nonduty connected death

(1) In the event of the nonduty connected death of any member who is...retired, [whether for disability or service], the surviving spouse shall become entitled...to receive a monthly allowance equal to...the amount of the retirement allowance such retired member was receiving at the time of death....

The amount of this allowance will be increased 5% of final average salary for each child as defined in [RCW 41.26.030(6)], subject to a maximum combined allowance of 60% of final average salary....¹¹

THE LEOFF DEFINITION OF "CHILD"

12. This petition concerns the 5% additional benefit per eligible child. As applied to Mr. Boreen's retirement account, those "child benefits" would add 10% to the benefit Mr. Boreen received while he was alive, as well as to the survivor benefit Mrs. Boreen has received since his death.

13. In LEOFF, the Legislature defined "child" by reference to five categories of children, as follows:

"Child or children" means an unmarried person who is under [age 18] who is:

- (i) A natural born child;¹²
- (ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;
- (iii) A posthumous child;
- (iv) *A child legally adopted...prior to the date benefits are payable under this chapter*; or
- (v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter....¹³

14. The "child" categories, in turn, are organized into two groups: those children who must meet a condition precedent in order to be eligible for LEOFF beneficiary status, and those who need not meet that condition precedent. That is:

¹¹ RCW 41.26.030(6)(a). This is the benefit that applies to a LEOFF1 member who retired for duty-related disability, but whose death was not connected to his LEOFF duty. For the law that applies to a LEOFF1 member who was retired for duty-related disability, and whose death was connected to his LEOFF duty, *see* RCW 41.26.160. Both statutes apply the same disability benefit calculation formula.

¹² The statutory LEOFF "child" definition uses the term "natural born" child. Because we think it more properly descriptive, for the remainder of this decision we will use the term "biological child." For the same reason, we refer to a "legitimized child" as an "extramarital child."

¹³ RCW 41.26.030(6)(a)(emphasis added). These are the provisions of the LEOFF "child" definition that apply to this petition. The full LEOFF definition of "child," for benefit eligibility purposes, is broader than the language we have selectively quoted above. The issue here is whether the Boreen children are eligible LEOFF beneficiaries, and our analysis limited accordingly.

CONDITION PRECEDENT:

- Adopted child
- Stepchild
- Extramarital child

NO CONDITION PRECEDENT:

- Biological child
- Posthumous child

The condition precedent requires a child to have met the “child” definition on or before the date when the LEOFF member’s benefit became payable.¹⁴

15. Mrs. Boreen reasons that the LEOFF “child” definition is unfair to [REDACTED] and [REDACTED] because it treats adopted children less favorably than biological (including posthumous) children. That is: a biological (including posthumous) child can receive a LEOFF benefit at any time, without meeting any condition precedent, but an adopted child can only receive a that benefit if he/she was adopted when his/her parent began receiving a LEOFF benefit. The biological child need not meet any condition precedent, but the adopted child must.

PAYMENT OF LEOFF BENEFITS TO CHILD BENEFICIARIES

16. Mr. Boreen's disability benefit became payable on March 31, 2000, when he retired for disability and began receiving LEOFF benefits. Any (otherwise eligible) child¹⁵ he had at that time would have been benefit-eligible, whether that child was biological, posthumous, adopted, stepchild, or (acknowledged) non-marital.¹⁶

Because Mr. Boreen had no benefit-eligible children when he retired, no child was eligible for a disability benefit.

17. When Mr. Boreen died on August 6, 2016, he had been receiving LEOFF benefits since 2000. His death benefit (that is, Mrs. Boreen’s survivor benefit) was also determined as of the date of his retirement, because that was the point at which he first began receiving LEOFF benefits.

¹⁴ For the sake of readability, we use the phrases “when the member’s benefit becomes payable” and “when the member receives his benefit” interchangeably.

¹⁵ As mentioned above, Mr. Boreen's daughter [REDACTED] was his biological child, but she was not “otherwise eligible” because she was older than 18 when he retired.

¹⁶ In particular, a posthumous child would have been Mr. Boreen's beneficiary because that child would have already been conceived when he retired for disability. A posthumous child is not simply any biological child—it is a child who was conceived while a parent was alive, but born after that parent died.¹⁶ See Black’s Law Dictionary 1167 (7th ed. 1999)(A posthumous child is a child “born after the death of his or her father.”) In the administration of LEOFF benefits, a posthumous child can only be a child who was *in utero* when LEOFF benefits first became payable.

Because [REDACTED] [REDACTED] [REDACTED] and [REDACTED] were not Mr. Boreen's children when he retired, they were not eligible for a death benefit. But that was not because they are adopted.

18. Without question, [REDACTED] [REDACTED] [REDACTED] and [REDACTED] were Mr. Boreen's children when he died—actually, practically, and legally. They became his children when they were adopted on July 18, 2008. Under Washington State probate law, they are his lawful issue and lineal descendants.¹⁷ Under Washington State adoption law, they are in all respects his children.¹⁸ But under Washington State LEOFF pension law, they are not his beneficiaries.

THE CONSTITUTIONAL CLAIM

19. Finally, we understand Mrs. Boreen's concern that the LEOFF Act appears to unconstitutionally treat biological children more favorably than adopted children. This appears to be, at heart, a claim that the LEOFF Act sanctions the unconstitutionally disparate treatment of adopted children. We do not address that claim here.
20. DRS is an administrative agency. It has no authority to determine the constitutionality of the LEOFF Act; only the courts have the authority to adjudicate that question.¹⁹ As we are obliged to do, we presume that RCW 41.26.030(6) is constitutional.²⁰

THE SCOPE OF DRS' AUTHORITY

21. As the statutory LEOFF administrator, DRS is required to correctly administer the LEOFF Act—including the definition of "child" codified at RCW 41.26.030(6)(a). We have no authority to pay a child benefit increase to any minor who does not meet the

¹⁷ See RCW 11.02.005(8): "Issue" means all the lineal descendants of an individual. An adopted individual is a lineal descendant of each of his or her adoptive parents....A child conceived prior to the death of a parent but born after the death of the deceased parent is considered to be the surviving issue of the deceased parent...."

¹⁸ RCW 26.33.260(1): "The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent."

¹⁹ *Bare v. Gorton*, 84 Wn.2d 380, 383 (1974), citing *U.S. v. Kissinger*, 250 F.2d 940 (3d Cir. 1958) and 3 K. DAVIS, ADMINISTRATIVE LAW TREATISE § 20.04 at 74 (1958).

²⁰ See *Auto Drivers v. Retirement System*, *supra* at 422 ("The wisdom of a legislative classification is not subject to our review. [A] statute is presumed to be constitutionally valid and the burden is on the challenger to prove that a classification does not rest on a reasonable basis.")(citation omitted).

Legislature's definition of "child." We cannot disregard the wording of that definition, or read into it a meaning that was not intended by the Legislature.²¹ We have no authority to grant LEOFF1 disability or death benefits to the Boreen children.

CONCLUSION

22. We would like to conclude that [REDACTED] [REDACTED] [REDACTED] and [REDACTED] are beneficiaries under Mr. Boreen's LEOFF account. But we cannot.

23. In the calculation and payment of statutory disability/death/injury benefits for children, the Legislature has in some other respects used the same language that is so problematic in this case (that is, determining a child's beneficiary status by reference to a specific point in time).²² But it has not done so in the LEOFF Act.

24. We can discern no ambiguity in RCW 41.26.030(6), and we do not have the authority to creatively interpret an unambiguous statute.²³ We are required to administer the LEOFF Act as the Legislature has written it, not as we might prefer it to have been written.²⁴

25. Mr. Boreen's LEOFF benefits—including "child" benefits—are established by the Legislature. They exist only in LEOFF statute, and are defined solely by the LEOFF Act.

²¹ See *Water Power v. Human Rights Commission*, 91 Wn.2d 62, 65 (1978) ("An administrative agency is limited in its powers and authority to those which have been specifically granted by the legislature."), citing *Cole v. Transportation Commission*, 79 Wn.2d 302, 306 (1971) ("An administrative agency must be strictly limited in its operations to those powers granted by the legislature.") (additional citations omitted).

²² For example, worker's compensation benefits are determined by the worker's circumstances (and number of children) on the date of his industrial injury. They are payable to an adopted, step, or non-marital child, but only if that child held that status at the time of the parent's injury. They are payable to a posthumous child, but only if that child had been conceived before the injury. See RCW 51.08.030. See also, for example, *Foster v. L&I*, 161 Wash. 54, 57 (1931) (denying beneficiary status for both a biological child and a stepchild of an injured worker who had neither at the time of his industrial injury) ("The [law] is clear and unambiguous. It denies to an injured workman the right to recover for an illegitimate child, unless legitimated prior to injury, and for a child not legally adopted. Respondent cannot recover on behalf of his stepchild, for the reason that its status, as such, did not become established until February 27, 1929, the date of the marriage, which was two years subsequent to the date of injury....").

The Legislature embraced the same approach in the payment of crime victim compensation benefits. Those benefit amounts are also determined by the victim's circumstances (and number of children) on the date of his injury. See RCW 7.68.020(4).

²³ See *Roza Irrigation Dist. v. State*, 80 Wn.2d 633, 635 (1972) ("Of course the basic rule [of statutory construction] is that, where the language of a statute is clear and unambiguous, there is no room for judicial interpretation.") (citation omitted).

²⁴ See *Auto Drivers v. Retirement System*, *supra* at 421 ("This court cannot read into a statute that which it may believe the legislature has omitted, be it an intentional or inadvertent omission.") (citation omitted).

They are payable only because the Legislature has allowed them to be paid. They are payable only when, and in the amount, allowed under the LEOFF Act.

The LEOFF Act requires DRS to determine Mr. Boreen's death and disability benefits as of his disability retirement date: March 31, 2000. Because [REDACTED] [REDACTED] [REDACTED] and [REDACTED] were not his children at that point in time, they are not eligible for those benefits.

26. In the end, we are obliged to deny Mrs. Boreen's petition because of the language the Legislature chose to use when it enacted the "child" definition in RCW 41.26.030(6)(a). Her concerns are perhaps best directed to the Legislature's attention.

DECISION

DRS correctly determined that [REDACTED] [REDACTED] [REDACTED] and [REDACTED] Boreen are not eligible for LEOFF1 disability or death benefits.



Ceil Buddeke
Petition Examiner
Department of Retirement Systems

YOU HAVE A RIGHT TO APPEAL THIS PETITION DECISION: You may appeal by filing a written appeal notice within **60 days** of the date of this decision. File any appeal notice TO THE ATTENTION OF THE DRS APPEALS UNIT, using one of the following methods:

- By mail: **Department of Retirement Systems / P.O. Box 48380 / Olympia, WA 98504-8380**
- By delivery: **Department of Retirement Systems / 6835 Capitol Blvd / Tumwater, WA 98504.**
- By FAX: **Department of Retirement Systems / 360.586.4225.** (Follow with a hard copy by U.S. Mail or delivery).

You can find the appeal rules at **Ch. 415-08 WAC**. If you have any questions about the appeal process, you may contact the DRS Appeals Unit at rebekahc@drs.wa.gov or 360.664.7294.

Existing language from Washington Code in LEOFF PLANS 2 and 1 Definitions.

Re: eligibility RCW 41.26.030 (6)(a)

Very discriminatory language in reference to "legally adopted children" in RCW 41.26.030 (6)(a) STIPULATING AGAINST any child adopted after the disability retirement date

While "naturally born" children born after the disability retirement date DO receive benefits.

Further, it is very upsetting that because of this wrongful and discriminatory language, Lt. Boreen's minor children are not eligible for even survivor benefits that I now receive, should I die before they reach the age of 18 . Where as other children that are biologically born after the disability retirement date would receive benefits until their 18th birthday. What can be more discriminatory than that?

EXCERPT – RCW 41.26.030. Definitions Section

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

- (i) A natural born child;
- (ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;
- (iii) A posthumous child;
- (iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or
- (v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(6)(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

Subject: Discrimination of Adopted Children

Honorable (select Legislators last spring).

I am writing to you concerning what would be considered by most people to be a deplorable situation, in which minor children of disabled Seattle fireman, and LEOFF 1 member Phillip Neill Boreen are denied benefits simply because they are adopted, versus “naturally” born. It is hard to believe. But it is true. Having gone through all the channels necessary, I find myself at your doorstep. Not only on behalf of our own minor children, but on behalf of children throughout the State of Washington who may be subjected to discrimination under any situation because of antiquated laws or ignorance.

I beg forgiveness in approaching you at this late date. In 2016, I began working diligently with the WA Dept. of Retirement Systems (DRS) regarding benefits for my children following the death of their father. I finally received a definitive decision the appeal process from DRS on February 1. Unfortunately, my children, or any adopted child, cannot receive benefit unless the language in the statute is changed. This discrimination of adopted children is inconsistent with other parts of Washington Code, but non-the-less, still rears its’ ugly head in this particular section of state law.

As progressive and sensitive to human rights as Washington seeks to be recognized for, I fervently hope that you will see this situation as something that can and should be remedied as quickly as possible. It appears that it is possible to remedy the discriminatory and unjust language in the existing statute, given the efforts and language provided by the Dept. of Retirement Systems recent decision. I’ve included in here for you to read.

I am asking for your intervention to change the language in RCW 41.26.030 (6)(a) and prevent discrimination against children by nature of the advent of their birth. Children, that through no fault of their own, are being considered lesser human beings by statute in the State of Washington, because of the language in RCW 41.26.030 (6)(a) I respectfully submit my plea as an advocate for our own and the future of other very loved children and their families in the State of Washington, and seek your help to correct this wrong. These children should not be separated out.

Sincerely,

Mrs. Katharine S. Boreen
Wife of Lt. P.N. Boreen, Seattle Fire Dept., deceased
(307) 272-4208 or (307) 272-6640

Title 11 - Probate and Trust Law

RCW 11.02.005

(3) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse or surviving domestic partner, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(8) "Issue" means all the lineal descendants of an individual. **An adopted individual is a lineal descendant of each of his or her adoptive parents and of all individuals with regard to which each adoptive parent is a lineal descendant.** A child conceived prior to the death of a parent but born after the death of the deceased parent is considered to be the surviving issue of the deceased parent for purposes of this title.

Title 26 - Domestic Relations

RCW 26.33.260

Decree of adoption—Effect—Accelerated appeal—Limited grounds to challenge—Intent.

(1) The entry of a decree of adoption divests any parent or alleged father who is not married to the adoptive parent or who has not joined in the petition for adoption of all legal rights and obligations in respect to the adoptee, except past-due child support obligations. **The adoptee shall be free from all legal obligations of obedience and maintenance in respect to the parent. The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent.**

(2) Any appeal of an adoption decree shall be decided on an accelerated review basis.

(3) Except as otherwise provided in RCW [26.33.160](#) (3) and (4)(h), no person may challenge an adoption decree on the grounds of:

(a) A person claiming or alleging paternity subsequently appears and alleges lack of prior notice of the proceeding; or

(b) The adoption proceedings were in any other manner defective.

(4) It is the intent of the legislature that this section provide finality for adoptive placements and stable homes for children.



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

October 19, 2017

TO: Steve Nelsen, Executive Director

FROM: Paul Neal, Senior Research and Policy Manager

SUBJECT: Survivor rights of adopted children of LEOFF Plan 2 members.

Question

Does the LEOFF definition of “child”, which excludes children adopted after retirement, apply to LEOFF Plan 2? If so, what benefits exclude such children?

Answer

Yes. RCW 41.26.030(6)(a)’s definition of child applies to both LEOFF Plan 1 and LEOFF Plan 2. It includes adopted children only if the adoption occurred “prior to the date benefits are payable under this chapter” thus excluding children adopted after retirement. Children adopted after the member’s retirement do not qualify for the following LEOFF Plan 2 benefits:

- Death in service benefit, including
 - Retirement allowance either:
 - Selected by child if no surviving spouse or domestic partner; or
 - Survivor benefit if surviving spouse or domestic partner dies while child under age of majority; *RCW 41.26.510(2)(a)*or
 - 150% contribution refund; *RCW 41.26.510(2)(b)* or
 - Duty death benefit:
 - Unreduced survivor allowance; *RCW 41.26.510(4)*
 - Reimbursement of premiums; *RCW 41.26.510(5)*
 - Tuition Waiver; *RCW 28B.15.380*
 - *Note: children not eligible for lump sum death benefit; RCW 41.26.048*
- Establishing service credit for interruptive military service credit where member dies before establishing leave, *RCW 41.26.520(7)(d)*.



Annual Trustee Training

Date Presented:

11/15/2017

Presenter Name and Title:

Tor Jernudd, AGO

Summary:

Annual training for Trustees presented by Tor Jernudd, AAG

ATTACHMENTS:

Description	Type
▢ Social Media and Open Government Laws	Presentation

Social Media and Open Government Laws



**LEOFF 2 Board Meeting
November 15, 2017 – Olympia, WA**

**Presented by Tor Jernudd / AAG.
Slides and Training developed by Nancy Krier
Assistant Attorney General for Open Government
Office of the Attorney General**

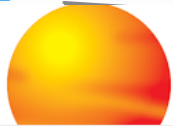


Some Headlines - Washington

BUSINESS JULY 27, 2016 5:34 PM

Three Tacoma groups take exception to PDC executive director's social media comments

BY KATE MARTIN
kmartin@thenewtribune.com



DAILY SUN

Your Lower Yakima Valley News Leader

Home News Sports Opinion Lifestyle Obituaries and Births Events Media Classified

Prosser librarian on leave

Teacher also under fire for Facebook post on immigrants

By Roger Harnack

Wednesday, Fe



BY CANDICE RUUD
cruid@thenewtribune.com
OCTOBER 06, 2017 11:00 AM

Nextdoor flap has Seattle scrutinizing how it handles social media

Originally published March 14, 2016 at 6:00 am | Updated March 17, 2016 at 10:16 am

goskagit.com
powered by SKAGIT VALLEY HERALD

Social media lights up after sheriff's Facebook post

By KERA WANIELISTA @Kera_SVH Jul 14, 2016 (28)

Nissen : Open records advocate suing Clark County over Madore's Facebook



NEY MARKET 08/11/2016 | 09:24pm EST

DuPont planning commissioner fired after Facebooking about controversial zoning changes



Some Headlines – Other States



Spokane, Wash. (The Spokesman-Review) — A federal judge has ruled that public officials' Facebook pages are public record in Pa.

Updated on August 17, 2017 at 5:07 PM, Posted on August 17, 2017 at 4:50 PM

Burlington Free Press
PART OF THE USA TODAY NETWORK

Condos: Social media discussions can be public meetings

MINNPOST

Social media chatter is not an 'open meeting'

ars

TECHNICA

BIZ & IT

TECH

SCIENCE

POLICY

CARS

GAMING & CULTURE

FORUMS

POLICY —

Politicians' social media pages can be 1st Amendment forums, judge says

Officials retain right to moderate comments to combat online trolls, judge says.

DAVID KRAVETS - 7/28/2017, 10:18 AM

Now there's some legal precedent on the matter. It comes from a federal judge in Virginia who said that a local politician had violated the First Amendment rights of a constituent because the politician briefly banned the constituent from the politician's personal Facebook account.

USA TODAY

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OPINION

40°

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Obama-bashing Facebook posts cost N.J. public records lawyer his job

USA TODAY NETWORK

Erik Larsen, Asbury Park (N.J.) Press

4:23 p.m. ET Dec. 9, 2015

f

218

Some Headlines - Federal



News » Opinion Photos Video Best Countries Best States The Report

NEWS / NATIONAL NEWS



Donald Trump's Tweets Are Now Presidential Records

The law says official presidential records must be preserved, and that includes tweets.

By [The Conversation](#), Contributor | Feb. 1, 2017, at 3:00 p.m.

POLITICS 03/09/2017 04:38 pm ET



Congress Warns Donald Trump: Stop Deleting Your Tweets

By doing so, Trump and his staff may be violating federal record keeping laws.



Hatch Act Protects Freedom of Political Speech on Social Media... to a Point

by [Mathew B. Tully, Esq.](#) March 26, 2017 Human Resources Comments (16)

THE WALL STREET JOURNAL.

WASHINGTON WIRE | WHITE HOUSE

Senator Seeks Probe Into White House Official's Tweet

Tom Carper suggests Trump social media director violated prohibition on political activity by federal workers



Comment

Social confusion: Looming records mandates and social media

By [Austin Adams](#) Jun 03, 2016

Congressman Introduces 'COVFEFE Act' to Make Social Media Posts Part of Presidential Records

POSTED 5:39 AM, JUNE 13, 2017, BY [CNN WIRE](#)

Quigley's bill turns the buzz word into an

acronym standing for the Communications Over Various Feeds Electronically for Engagement Act, which would broaden the scope of the Presidential Records Act of 1978 by including the term "social media" as documentary material.

On May 31, President Donald Trump declared at 12:06 a.m. on Twitter: "Despite the constant negative press covfefe."



Social Media

Lawsuit challenges Trump's Twitter blocks

By Adam Mazmanian Jul 11, 2017

Is it unconstitutional for the president of the United States to block a Twitter follower?

That's the question raised by a lawsuit filed July 11 by the Knight First Amendment Institute at Columbia University on behalf of several individuals who say they've been blocked by President Donald Trump's Twitter account.

The suit, filed in the U.S. District Court for the Southern District of New York, also names White House Press Secretary Sean Spicer and Social Media Director Dan Scavino as defendants.



Your attention please

Examples of Public Records Act penalty orders, judgments and settlements following lawsuits by requesters alleging PRA violations by a public agency.
(Does NOT include attorneys fees and costs in all cases).

- **\$600,000** – Snohomish County
- **\$575,000** – Snohomish County
- **\$550,000** – Clallam County
- **\$502,827** – L & I (*upheld by State Supreme Court*)
- **\$500,000** – Board of Accountancy (*global settlement of 7 lawsuits and 15 PRA disputes*)
- **\$488,000** – Bainbridge Island (*\$350,000 penalty, remainder is attorneys fees/costs*)
- **\$371,340** – King County
- **\$192,000** – LCB (*included other open government claims*)
- **\$187,000** – Port of Olympia
- **\$175,000** – Mesa (*reduced from \$353,000 - possible appeal*)
- **\$174,000** – Seattle
- **\$164,000** – Port of Kingston
- **\$100,000** – Shoreline (*with attorneys fees, total amount was more than \$500,000*)
- **\$100,000** – Spokane County
- **\$85,000** – San Juan County
- **\$50,000** – Tacoma
- **\$45,000** – Kennewick
- **\$45,000** – Everett
- **\$45,000** – Port of Vancouver

-
- **\$723,290** – UW (*reversed on appeal*)
 - **\$649,896** – DSHS (*reversed on appeal*)

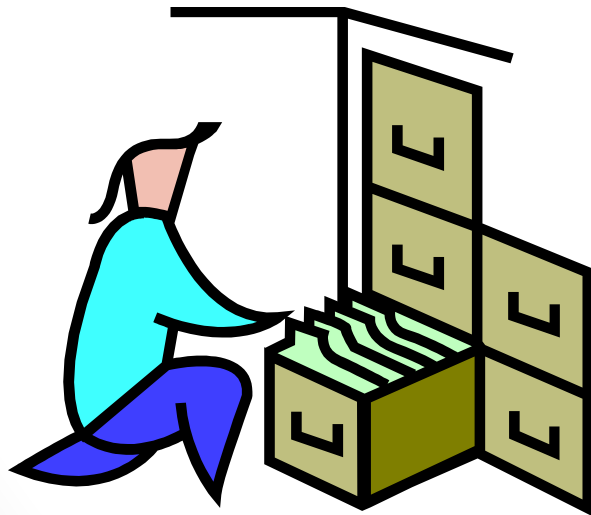


Washington - Two Sunshine Laws

Open Public Records

RCW 42.56

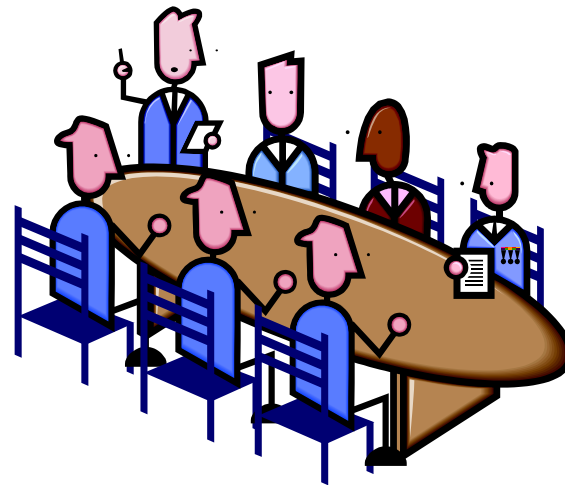
Public Records Act
(PRA)



Open Public Meetings

RCW 42.30

Open Public Meetings Act
(OPMA)





Open Public Records

- “The people of this state do not yield their sovereignty to the agencies that serve them.”
- “The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.”
- “The people insist on remaining informed so that they may maintain control over the instruments that they have created.”
- The “free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others.”
- Liberal construction.

Open Public Meetings

- “The people of this state do not yield their sovereignty to the agencies which serve them.”
- “The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.”
- “The people insist on remaining informed so that they may retain control over the instruments they have created.”
- Liberal construction.



Scope & Penalties

Open Public Records

- PRA applies to “any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”
- Includes paper records, **electronic records**, emails, overheads, photographs, CDs, microfiche, etc.
- **Location of record does not matter for PRA purposes.**
- **Agency must conduct reasonable search where public records are likely to be found.**
- Court can impose penalties & attorneys fees for agency violations of PRA, such as not producing responsive records.

Open Public Meetings

- OPMA applies to **multi-member public state and local agency governing boards.**
- Applies to **quorum of such a board or commission transacting the agency’s business (‘action’), including “discussion.”**
- **Location of meeting does not matter for OPMA purposes.**
Case law: could be via email.
- Court can impose penalties & attorneys fees for knowing violations of OPMA.

Court Cases



Open Public Records

- PRA case law provides that “public records” must be provided by a public agency, even if located in an employee or official’s private account or device.
- See upcoming slides.

Open Public Meetings

- OPMA case law provides that a meeting can occur via email, phone.
- While no current case, same principles presumably apply to social media.
- See upcoming slide.

Social Media Use – PRA & OPMA

Possible Issues

Open Public Records

- “**Public records**” include agency Facebook posts, Tweets, YouTube videos, etc.
- Those agency social media records responsive to a PRA request must be **searched, retained and produced** – does the agency have the tools to do that?
- Are agency officials/employees using personal social media accounts to business?



Open Public Meetings

- A “**meeting**” could occur if a quorum collectively participates in a **discussion of agency business on a Facebook page or through other social media.**
- But the agency is required to do certain advance public notices before meetings, maintain minutes, and permit the public to observe (with no conditions on attendance), so without those, OPMA would not be satisfied.



You May Recall...PRA Case of *Nissen v. Pierce County* (Aug. 2015)

- Text Messages

- **Text messages sent and received by a public employee in the employee's official capacity are public records of the employer, regardless of the public or private nature of the device used to create them; thus, even if the employee uses a private cell phone.**
- A record that an agency employee prepares, owns, uses, or retains ***within the scope of employment*** is a record "prepared, owned, used or retained by a state or local agency" under the PRA.
 - An employee's communication is "within the scope of employment" ***when the job requires it, the employer directs it, or it furthers the employer's interests.***
 - This inquiry is always case- and record-specific.



Nissen v. Pierce County

- Call and Text Logs

- For a record to be “**used**” by an agency it must bear a nexus with the agency’s decision-making process.
- A record held by a third party, without more, is not a “public record”, unless the agency “uses” it. In this case, that applied to **call and text logs** at the phone service provider which **were not used by the agency** (“the county did nothing with them”).

Call Log (104)

* These details are cross-referenced from this device's contacts

Incoming (23)

#	Country code	Network code	Party	Time
1	310	410	[Redacted] Pedro*	7/29/2012 7:30:13 AM(UTC+0)
2	310	410	[Redacted] Pedro*	7/30/2012 1:36:51 AM(UTC+0)
3	310	410	[Redacted] Dad*	7/30/2012 2:34:08 AM(UTC+0)
4	310	410	[Redacted] Dad*	7/30/2012 5:38:54 PM(UTC+0)
5	310	410	[Redacted] Cesar*	7/30/2012 5:44:59 PM(UTC+0)
6	310	410	[Redacted] Beto*	7/30/2012 5:49:11 PM(UTC+0)

Nissen: “Mechanics” of Searching/Producing Public Records Controlled by Employee

- The public **employee** must **obtain, segregate and produce** to the employer those public records that are responsive to a PRA request from the employee’s **personal accounts, files, and devices**.

~ *Nissen v. Pierce County*



Mechanics (cont.) - Affidavit



- The **employee's reasonably detailed, nonconclusory affidavit** submitted in good faith attesting to the nature and extent of the **search** can provide the requester, the agency, and the trial court with sufficient information.
 - The trial court can resolve the nature of the record based solely on affidavits without an in camera review and without searching for records itself.
 - So long as the affidavit gives the requester and trial court a sufficient factual basis to determine information withheld is nonresponsive, the agency has performed an adequate search under the PRA.
- Where an employee **withholds personal records** from an employer, he or she must submit an **affidavit** with facts sufficient to show the information is not a “public record” under the PRA.

~ *Nissen v. Pierce County*

Comments from the Supreme Court in *Nissen v. Pierce County*



- “One characteristic of a public record is that it is “prepared, owned, used, or retained by any state or local agency.” RCW 42.56.010(3). The County is correct that every agency the PRA identifies is a political body arising under law (e.g., a county). But those bodies lack an innate ability to prepare, own, use, or retain any record. They instead **act exclusively through their employees and other agents**, and when an employee acts within the scope of his or her employment, the employee's actions are tantamount to “the actions of the [body] itself.” ...Integrating this basic common law concept into the PRA, **a record that an agency employee prepares, owns, uses, or retains in the scope of employment is necessarily a record “prepared, owned, used, or retained by [a] state or local agency.”** RCW 42.56.010(3).

Social Media Use – Developing Law - Examples of Pending and Recent Public Records Act Cases

West v. Vermillion, Puyallup. Issue: Access to an elected official's personal website records. Court of Appeals – Division II. (Next slide).

West v. Clark County. Issue: Access to an elected local official's personal Facebook page records. Official's search affidavit is also being contested. Cowlitz County Superior Court. (Pending) (Official dismissed; county is still a party).

West v. Puyallup. Issue: Access to local official's Facebook page records. Pierce County Superior Court. (Pending)



West v. Vermillion, Puyallup (Nov. 8, 2016)

- PRA request for public records in a **local elected official's personal residence, on a personal computer, and in a personal email account & website.**
- *Official's position:* Refused to provide records. Official said he had an expectation of **privacy** under state and federal constitutions.
- *Court of Appeals:* Official's arguments rejected.
 - Public records must be disclosed. The constitutions do not provide an individual a privacy interest in those public records.
 - Case remanded to have superior court amend its order and conform the procedures to *Nissen*.
- Petition for review denied by State Supreme Court.
- Petition for certiorari denied by U.S. Supreme Court.

Reminder: PRA & Privacy



- **There is no general “privacy” statutory exemption in the PRA.**
- If privacy is an express element of another exemption, privacy is invaded only if disclosure about the person would be:
 1. **“Highly offensive to the reasonable person” and**
 2. **“Not of legitimate concern to the public.”**

~ RCW 42.56.050

This means that if information does not satisfy both these factors, it cannot be withheld as “private” information under other statutes.

PRA & Privacy (cont.)

- **Nissen:**

- “Because an individual has no constitutional privacy interest in a public record, Lindquist's challenge is necessarily grounded in the constitutional rights he has in personal information comingled with those public records.”
- “The people enacted the PRA “mindful of the right of individuals to privacy,” Laws of 1973, ch. 1, § 1(11), and individuals do not sacrifice all constitutional protection by accepting public employment... Agencies are in the best position to implement policies that fulfill their obligations under the PRA yet also preserve the privacy rights of their employees.”

- ***Predisik v. Spokane School Dist. No. 81:***

- A person “has a right to privacy under the PRA only in ‘matter[s] concerning the private life.’” Those are “private facts” fairly comparable to these:
 - “Every individual has some phases of his life and his activities and some facts about himself that he does not expose to the public eye, but keeps entirely to himself or at most reveals only to his family or to close personal friends. Sexual relations, for example, are normally entirely private matters, as are family quarrels, many unpleasant or disgraceful or humiliating illnesses, most intimate personal letters, most details of a man's life in his home, and some of his past history that he would rather forget.”

So, Query:

- Is it “private” information if you are conducting **official agency business** on your own Facebook page, or Tweeted it from your own Twitter account, or shared it via your Instagram account, or maybe even on Nextdoor.com?



Reminder: OPMA Case – *Wood v. Battle Ground School District*

- Court of Appeals:
 - “Admittedly, unlike Washington, some states have explicitly addressed the use of electronic or other technological means of evading these [open meeting] laws. But unlike those states, Washington broadly defines “meeting” as “meetings at which action is taken,” regardless of the particular means used to conduct it.”
 - “Thus, in light of the OPMA's broad definition of “meeting” and its broad purpose, and considering the mandate to liberally construe this statute in favor of coverage, we conclude that the exchange of e-mails can constitute a “meeting.”
 - In doing so, we also recognize the need for balance between the right of the public to have its business conducted in the open and the need for members of governing bodies to obtain information and communicate in order to function effectively. Thus, we emphasize that the mere use or passive receipt of e-mail does not automatically constitute a “meeting.”

Examples of Board Policies

- **Cities of Cheney, Seattle:** City councilmembers are strongly discouraged from “friending” each other on Facebook.
- **Port Angeles:** City councilmembers are not permitted to comment on the agency’s Facebook page.
- **Bonney Lake:** “Participation in online discussions by elected or appointed officials may constitute a meeting under the [OPMA]. Councilmembers, Commissioners, and other officials and appointed volunteers...should, in general, not comment or otherwise communicate on the City’s Social Media site(s).”



Other Social Media Law Developments – 2013 Statute, FYI



RCW 49.44.200

Personal social networking accounts—Restrictions on employer access—Definitions.

(1) An employer may not:

(a) Request, require, or otherwise coerce an employee or applicant to disclose login information for the employee's or applicant's personal social networking account;

...

(Certain other requirements and exceptions apply. See statute, and Municipal Research and Services Center article on this legislation - "Use of Social Networking in Employment Decisions" – July 5, 2013)

Some Resources – Municipal Research & Services Center

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Social Media

On this Page ▼

Social Media and Local Government Webinar

MRSC hosted a webinar, [Social Media: Harnessing the Power While Managing the Risks](#), on September 17, 2014. This webinar featured Bronlea Mishler, Deputy Director of Communications for Snohomish County, and Jim Doherty, MRSC Legal Consultant, going over the basics of how and why social media is important to local government as well as social media's legal relationship with public records and the open public meetings act.

MRSC hosted a live webcast, [Local Government Use of Social Media](#), on June 11, 2010. The webcast featured Bruce Blood, Citywide Web Manager, City of Seattle; Brenda Cooper, Chief Information Officer, City of Kirkland; and Marlene Feist, Communications Director, City of Spokane. The PowerPoint presentation is below:

- [Social Media: Local Government Uses and Policies](#)

Related Materials

 **BLOG**

[The Exciting Possibilities of Crowdsourcing](#)

[Addressing Free Speech in your Social Media Comment Policy](#)

 **IN FOCUS**

[Strategies for Making Government Social Media Awesome in 2016](#)

[#CityHall is Trending: How to Take Advantage of All the Tools](#)

 **WEBINARS**

[Social Media for Government: Harnessing the Power While Managing the Risks](#)



Establishing Effective Social Media Policies for your Agency

February 24, 2015 by Josh Mahar
Category: Social Media





The PRA and Nextdoor.com: 3 Things Public Officials Should Know Before They Log On

March 16, 2016 by [Robert Sepler](#)
Category: [Public Records Act](#)





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[November 2014](#) >
[Four Tools for Retaining Records of Your Social Media Content](#)

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Four Tools for Retaining Records of Your Social Media Content

November 3, 2014 by Josh Mahar
Category: Social Media



A little while ago MRSC hosted a webinar on [social media for governments](#). We gave people some great information on best practices in social media and also highlighted some of the common public records issues that agencies need to be aware of. But one thing we could have addressed a bit better was what tools are out there for actually archiving

your social media content to comply with the [PRA](#).

Well, never fear, we're back with some more information. I've done a little sleuthing through phone apps, web research, and sitting through some overly long demos and sales



Addressing Free Speech in your Social Media Comment Policy

August 9, 2016 by Josh Mahar
Category: Social Media





Use of Social Networking in Employment Decisions

July 5, 2013 by [Paul Sullivan](#)
Category: [Selection and Recruitment](#)

Legislation has been enacted that will prohibit an employer's ability to require that job applicants and current employees provide social media passwords or other account information as a condition of employment or continued employment. The legislation, [chapter 330, Laws of 2013](#), goes into effect July 28, 2013.{C}

Here is an excerpt from the [Final Bill Report](#) for the legislation:

An employer cannot:

- request, require, or otherwise coerce an employee or applicant to: (1) disclose login information for personal social networking accounts; or (2) access their account in the presence in a manner that enables the employer to observe the contents of



Electronic Communications and Social Media: Managing Employer Risks with Clear Policies

March 1, 2012 by [Mark Busto](#)
Category: [HR Advisor](#)

This Advisor column was originally published in March 2010.

For many of us, it is hard to remember a time when conducting our work duties did not involve extensive use of email communications and the internet. For this reason, most employers long ago recognized the need to implement email and internet use policies for their employees. Nonetheless, internet use has rapidly changed as a result of the proliferation of interactive social media, with sites like Facebook, LinkedIn, and Twitter. When employees engage in such internet social networking, the line between workplace and personal conduct can be easily blurred. The expansion of such internet use serves as an important reminder to employers to: (1) revisit existing electronic communication policies covering internet and email usage generally; and (2) formulate policy language

Association of Washington Cities

(Handout)



Guidelines for elected and appointed officials using social media

Social media is a tool growing in popularity for developing direct communications with your community and creating informal opportunities to reach out beyond official publications. City policies should cover the “official” city account, employee use of social media inside and outside of work, and elected official use of social media.

The extent to which a jurisdiction or individual uses social media varies. Before engaging you should assess your risk tolerance and make sure certain laws – such as the Public Records Act and Open Public Meetings Act – are followed.

A few clarifying definitions...

Social media can include websites and applications that enable users to create and share content or to participate in social networking.

A social platform is a web-based technology that enables the development, deployment and management of social media solutions and

Make a clear distinction between official accounts, campaign accounts, and personal accounts

One way elected officials and staff can clearly distinguish private social media accounts is by adding disclaimers on election and personal accounts, and not using the account for city business. *City-sponsored accounts may not be used for campaign-related purposes.*

To keep a personal account from becoming subject to public records, consider some basic precautions.

Do:

- Post a disclaimer on your personal account that identifies the account purpose and that the opinions you express are your own.
- Limit the account content to personal use.
- Understand and use privacy settings to manage the account.
- Have a plan in place to respond to or forward city-related comments to the city including how

State Archives

(Handout)



WA State Archives

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Managing Social Media

- [Blogs, Wikis, Facebook, Twitter & Managing Public Records](#)
- [Keep Electronic Records in Electronic Format](#)

Agency Policies

- Information about creating agency policies on social media (including examples) is available from the Municipal Research and Services Center (MRSC):
 - [MRSC - Establishing Effective Social Media Policies for your Agency \(February 2015\) \(External Link\)](#)

Capture/Retention Tools and Services

- Reviews of some of the different social media retention tools are available from the Municipal Research and Services Center (MRSC):
 - [MRSC - Four Tools for Retaining Records of Your Social Media Content \(November 2014\) \(External Link\)](#)

Training...

Self-Service

- [Lions and Tigers and Twitter Oh My! - Records Management for Blogs, Texts, Social Media, Cloud Computing and more! \(Recorded Webinar - July 2015 - 33mins\)](#)

In-Person / Live Webinars

Records Retention Schedules

[State Government Agencies](#)[Local Government Entities](#)

Laws and Rules

[Preservation and Destruction of Public Records \(chapter 40.14 RCW\)](#)[Penal Provisions \(chapter 40.16 RCW\)](#)[Preservation of Electronic Records \(WAC 434-662\)](#)

Questions?

recordsmanagement@sos.wa.gov

Phone: (360) 586-4901

Social Media Use and Risk Management Tips

Open Public Records

- Agencies should think about the records they are creating, and what laws apply, BEFORE engaging in social media.
- Agencies should have clear policies.
- Agencies should keep updated on changes in law and social media technology.
- Agencies should review available resources – look at best practices; be aware of penalties.
- Agency employees/officials should understand issues of conducting agency business in non-agency accounts.



Open Public Meetings

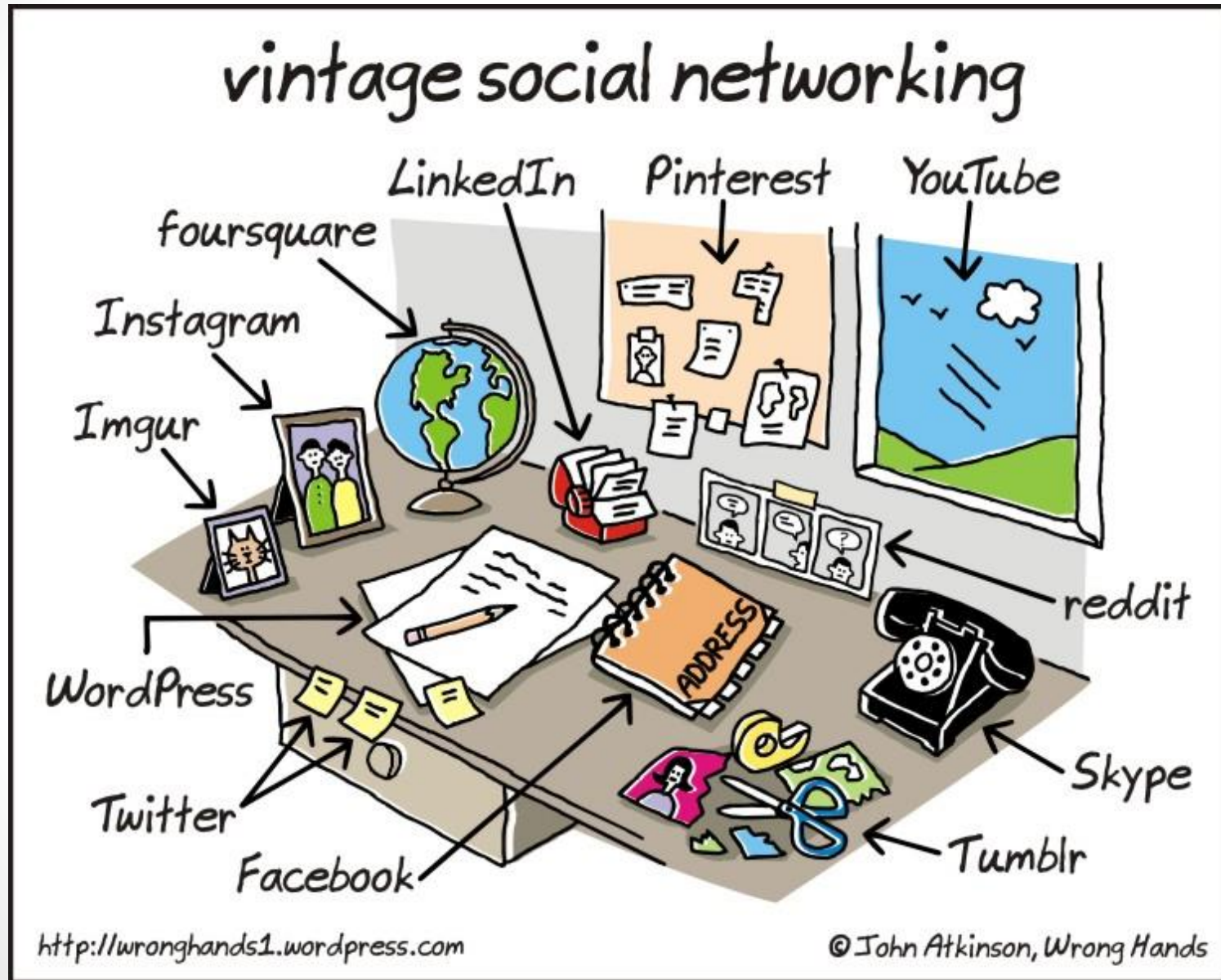
- Agencies subject to OPMA should be aware that quorum discussions of agency business – including postings on social media --- can trigger OPMA requirements and possible penalties if requirements not followed.
- May need to adopt agency/board policies.

Examples:

Cheney, Bonnie Lake,
Seattle, Vancouver,
Shoreline, Bothell, Others
(see MRSC)



Thank you! Questions?





Interruptive Military Service Credit Study

Date Presented:

11/15/2017

Presenter Name and Title:

Ryan Frost, Research and Policy Manager

ATTACHMENTS:

Description	Type
▣ Interruptive Military Service Credit Study	Report
▣ Interruptive Military Service Credit Study	Presentation



November 15, 2017

Interruptive Military Service Credit

COMPREHENSIVE REPORT FOLLOW-UP

By Ryan Frost

Research and Policy Manager

360-586-2325

ryan.frost@leoff.wa.gov

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 LEOFF¹ Plan 2 credit for periods of interruptive military service credit.

OVERVIEW

LEOFF Plan 2 members may establish up to 5 years² 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

¹ Law enforcement and firefighters' retirement system, chapter 41.26 RCW.

² 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 medal³. The department of defense awards a campaign badge or medal to service members who:
 - Served during a specified conflict⁴ ; 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.

³ 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.

⁴ 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
									
Eligibility									
Active Duty	✓	✓	✓	✓	✓	✓	✓	✓	✓
Honorable Discharge	✓	✓	✓	✓	✓	✓	✓	✓	✓
Discharge Date		✓			✓		✓		✓
Period of War	✓			✓	✓				
Campaign Medal/Badge	✓								
Plan Vesting		✓		✓					
Reserves & National Guard	✓ ¹	✓ ¹	✓ ¹	✓ ¹	✗ ²	✓ ³	✓ ¹	✓ ¹	✓ ¹
State Service						✓			
Training	✓	✓	✓	✓	✓	✓	✓	✓	✓
USERRA ⁴	✓	✓	✓	✓	✓	✓	✓	✓	✓
Cost									
No Cost ⁵	✓ ⁶	✓ ⁷	✓				✓		✓ ⁸
Cost	✓	✓	✓ ⁹		✓	✓		✓	✓
Credit Amount									
Up to 4 Years				✓		✓			
Up to 5 Years		✓			✓		✓		
Up to 10 Years	✓								
No Restrictions									✓ ¹⁰
Leave Specific			✓					✓	

¹Active and inactive Reservists and National Guard are eligible.

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

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

⁴A check denotes that the state complies with USERRA.

⁵A check denotes that there is no member cost.

⁶No cost for up to 5 years; cost for additional 5 years.

⁷No cost for PERS members who return within 90 days of discharge.

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

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

¹⁰Recovery 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:
 - Inherent Resolve, Iraq and Syria
 - Freedom's Sentinel, Afghanistan

Policy Issues

SB 5661 directs the Board to study the following questions:

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

Questions?

Ryan Frost

Research and Policy Manager

ryan.frost@leoff.wa.gov

360-586-2325



Benefit Improvement Pricing

Date Presented:

11/15/2017

Presenter Name and Title:

Ryan Frost, Research and Policy Manager

ATTACHMENTS:

Description	Type
▣ Benefit Improvement Pricing	Report
▣ Benefit Improvement Pricing	Presentation



November 15, 2017

Benefit Improvement Pricing

EDUCATIONAL BRIEFING

By Ryan Frost

Research and Policy Manager

360-586-2325

ryan.frost@leoff.wa.gov

ISSUE STATEMENT

One of the goals of the LEOFF 2 Board's strategic plan is to keep the stakeholders informed. One of the ways of meeting that goal, is for the Board to be briefed on the price of certain benefit improvements.

OVERVIEW

It has been over 10 years since the Board has requested pricing on benefit improvements. This briefing will focus on one in particular, the cost of increasing the multiplier. The current multiplier used in the LEOFF Plan 2 benefit formula is 2%, and a change to the existing multiplier could impact all 17,186 LEOFF Plan 2 active members.

Board staff requested the state actuary's office to price two specific multiplier increases:

- 2.50% multiplier on all service
- 2.50% multiplier on prospective service only

BACKGROUND

2005 Pricing

The first report on increasing the multiplier was presented to the Board in 2005. A number of different multiplier options were reviewed; they ranged from an increase of 2.25% to 3.00%.

The actuaries estimated cost for the 2.25% multiplier for the 2007-2009 biennia would have been \$111 million. This would've required a 4.40% increase in the rates, with 2.20% paid for directly by the member¹.

The cost for the 3% multiplier for the 2007-2009 biennia would've been \$444 million. This would've required a 17.58% increase in the rates, 8.79% paid directly by the member.

¹ The contribution rate split set in statute for LEOFF 2 is 50% member, 30% employer, 20% state.

2017 MULTIPLIER PRICING

Impact on Contribution Rates	
2.50% Multiplier - All Service	
Total Rate Increase	12.34%
Employee	6.17%
Employer	3.70%
State	2.47%

Contribution rates if this benefit was approved²:

- Employee: 14.92%
- Employer: 8.95%
- State: 5.97%

Impact on Contribution Rates	
2.50% Multiplier - Prospective Service Only	
Total Rate Increase	4.88%
Employee	2.44%
Employer	1.46%
State	0.98%

Contribution rates if this benefit was approved:

- Employee: 11.19%
- Employer: 6.71%
- State: 4.48%

Budget Impacts - 2.50% Multiplier - All Service			
(Dollars in Millions)	2018-2019	2019-2021	25-Year
General Fund-State	\$42.6	\$97.0	\$1,278.6
Local Government	\$63.7	\$145.5	\$1,917.9
Total Employer	\$106.3	\$242.5	\$3,196.5

Budget Impacts - 2.50% Multiplier - Prospective Service Only			
(Dollars in Millions)	2018-2019	2019-2021	25-Year
General Fund-State	\$16.9	\$41.8	\$777.8
Local Government	\$25.2	\$62.6	\$1,166.5
Total Employer	\$42.0	\$104.4	\$1,944.3

2015 Funded Status	
2015 Valuation Report	105%
2.5% Benefit Multiplier	90%
2.5% Benefit Multiplier Prospective Service Only	100%

² Current contribution rates: Employee – 8.75%; Employer – 5.25%; State – 3.50%

2017 TIERED MULTIPLIER PRICING

The following charts showcase the following options for a tiered multiplier:

1. Increased benefit multiplier from 2.0% to 3.0% for all earned and future service over 16 years (all service). Service earned from years 0 to 16 remains at a 2.0% multiplier.
2. Increased benefit multiplier from 2.0% to 3.0% for all service earned over 16 years after the valuation date (prospective service only). Service earned from years 0 to 16 remains at a 2.0% multiplier.

Impact on Contribution Rates	
Tiered Multiplier - All Service	
Total Rate Increase	11.06%
Employee	5.53%
Employer	3.32%
State	2.21%

Contribution rates if this benefit was approved³:

- **Employee: 14.28%**
- **Employer: 8.57%**
- **State: 5.71%**

Impact on Contribution Rates	
Tiered Multiplier - Prospective Service Only	
Total Rate Increase	7.31%
Employee	3.66%
Employer	2.19%
State	1.46%

Contribution rates if this benefit was approved:

- **Employee: 12.41%**
- **Employer: 7.44%**
- **State: 4.96%**

Budget Impacts - Tiered Multiplier - All Service			
(Dollars in Millions)	2018-2019	2019-2021	25-Year
General Fund-State	\$38.1	\$86.3	\$1,103.5
Local Government	\$57.2	\$129.5	\$1,655.4
Total Employer	\$95.3	\$215.9	\$2,758.9

Budget Impacts - Tiered Multiplier - Prospective Service Only			
(Dollars in Millions)	2018-2019	2019-2021	25-Year
General Fund-State	\$25.2	\$58.7	\$852.6
Local Government	\$37.9	\$88.0	\$1,279.1
Total Employer	\$63.1	\$146.7	\$2,131.8

2015 Funded Status	
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Tiered Benefit Multiplier	91%
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Benefit Improvement Pricing

Educational Briefing – November 15, 2017

Issue

- One of the goals of the LEOFF 2 Board's strategic plan is to keep the stakeholders informed. One of the ways of meeting that goal, is for the Board to be briefed on the price of certain benefit improvements.

Overview

- It's been over 10 years since the Board has requested pricing on benefit improvements.
- This briefing will focus on one in particular, the cost of increasing the multiplier.
- The current multiplier used in the LEOFF Plan 2 benefit formula is 2%, and a change to the existing multiplier could impact all 17,186 LEOFF Plan 2 active members.

Overview

Board staff requested the state actuary's office to price two specific multiplier increases:

- 2.50% multiplier on all service
- 2.50% multiplier on prospective service only

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The first report on increasing the multiplier was presented to the Board in 2005.

- A number of different multiplier options were reviewed; they ranged from an increase of 2.25% to 3.00%.
 - The actuaries estimated cost for the 2.25% multiplier for the 2007-2009 biennia would have been \$111 million. This would've required a 4.40% increase in the rates, with 2.20% paid for directly by the member.
 - The cost for the 3% multiplier for the 2007-2009 biennia would've been \$444 million. This would've required a 17.58% increase in the rates, 8.79% paid directly by the member.

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2017 Multiplier Pricing cont.

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Thank You

Ryan Frost

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Catastrophic Disability Medical Insurance

Date Presented:

11/15/2017

Presenter Name and Title:

Paul Neal, Senior Research and Policy Manager

ATTACHMENTS:

Description	Type
▣ Catastrophic Disability Medical Insurance	Report
▣ Catastrophic Disability Medical Insurance	Presentation



November 15, 2017
**Catastrophic Disability
Medical Insurance**

COMPREHENSIVE REPORT

By Paul Neal

Senior Research & Policy Manager

360-586-2327

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ISSUE STATEMENT

LEOFF Plan 2 catastrophic disability retirees and their survivors have different medical insurance access than survivors of members killed in the line of duty.

MEMBERS IMPACTED

The LEOFF Plan 2 catastrophic retirement benefit took effect on March 4, 2006. To date, the Department of Retirement Systems (DRS) has approved 53 retirees. 7 of those retirees have passed away, leaving a total of 46 currently. The Actuary estimates that an additional 4.5 members will qualify for catastrophic retirement annually.

OVERVIEW

LEOFF Plan 2 catastrophic retirees receive a reimbursement of their health insurance premium costs up to the amount paid by their former employers for COBRA¹ benefits.

In 2009 the LEOFF Plan 2 Board (Board) proposed HB 1679, which would have covered catastrophic LEOFF Plan 2 retirees and their survivors through the Public Employees' Benefits Board (PEBB). The Health Care Authority (HCA) fiscal notes estimated a high cost, which contributed to the bill's demise. The 2010 substitute version of the bill replaced the proposed PEBB coverage with the current reimbursement system.

Actual experience in the intervening years indicates that the cost of the PEBB participation may be less than originally estimated. Primarily this is because the actual number of catastrophic retirees is much lower than estimated in 2009 and 2010.

¹ "COBRA" stands for Consolidated Omnibus Budget Reconciliation Act of 1985. It includes a provision allowing separated employees to purchase insurance through the former employers risk pool for up to 18 months.

UPDATE SINCE LAST PRESENTATION

Since this topic was first presented at the September Board meeting staff has gathered additional data on the catastrophic retiree population. We also worked with HCA staff to update the estimates regarding the cost of covering catastrophic retirees in PEBB. HCA is working on providing those estimates but has not yet received OFM approval to go forward. HCA offered to present the updated fiscal analysis at the Board's December meeting.

Additional Data on Catastrophic Retiree Population

Catastrophic Retiree Population	
Total catastrophic retirees since benefit enacted	53
Number deceased	7
Current catastrophic retiree population	46
Eligible spouses	15
Eligible children	27
Total persons with reimbursement	88
Coverage Categories	
Pre-Medicare	27
Medicare	14
Have not sought reimbursement	5
Premium Costs	
Average pre-Medicare reimbursement	\$1100
Medicare part B premium	\$134

BACKGROUND AND POLICY ISSUES

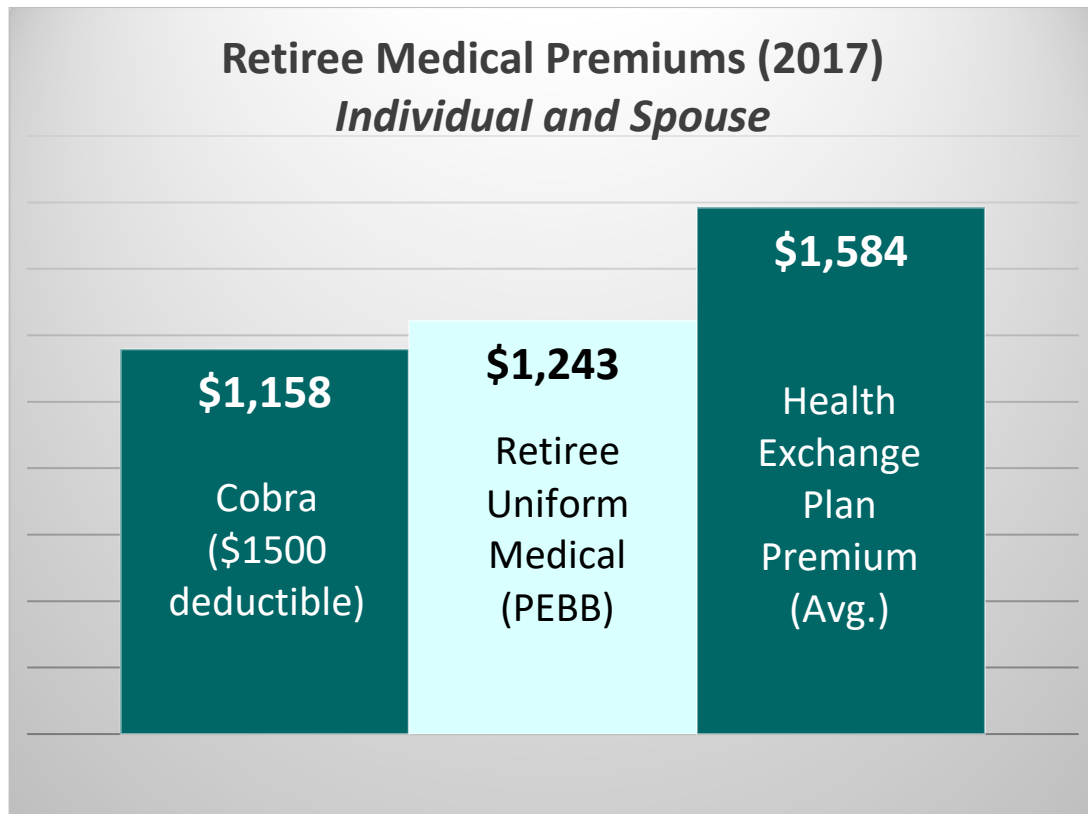
Background

Health Insurance Premium Reimbursement for Catastrophic Retirees and Survivors

LEOFF Plan 2 reimburses medical insurance premiums for LEOFF Plan 2 catastrophic retirees and their survivors. The reimbursement is capped at the former employers COBRA or other employer provided retiree medical insurance premium amount. RCW 41.26.470(10).

The actual amount reimbursed depends on the health insurance plan selected by the retiree or surviving spouse. Shopping for private coverage can be confusing. Tracking and paying a diverse and shifting field of individual providers creates administrative challenges for DRS.

The following table compares retiree health insurance premiums through COBRA, the Washington Health Exchange and PEBB retiree health premium. While comparable, the plans are not identical. Please see Appendix A for coverage and premium details.



Medicare qualified retirees receive reimbursement of Medicare Part A and B premiums. Most LEOFF members have Medicare and therefore have no Part A premium. The current Medicare Part B Premium is \$134. Other Medicare premiums, such as Part C and D (Prescription drugs) are not reimbursed.

The original benefit proposed by the Board on catastrophic retiree health coverage was very different than the bill that eventually passed the Legislature.

History of Premium Reimbursement

² The premium estimates are based on an "average" retiring LEOFF 2 member:

- 56 years old
- \$60,000 annual pension
- Non-smoker
- Coverage for self and spouse

The Legislature began authorizing enhanced health care coverage for LEOFF Plan 2 members killed or catastrophically disabled in the line of duty in 2001:

- The surviving spouses of emergency service personnel (including LEOFF Plan 2 members) killed in the line of duty on or after January 1, 1998, may purchase health care benefits from the Public Employees' Benefits Board (PEBB). The premium was paid by the insured. (ESHB 1371 (2001)).
- The Legislature authorized the LEOFF trust fund to reimburse surviving spouses for that insurance premium in 2006³.

How PEBB Works

Participation in the PEBB benefit system has two advantages:

1. Implicit Subsidy: The participant belongs to an insurance pool including all public employees participating in PEBB. Participating in an insurance pool typically provides a lower premium than can be purchased by an individual.
2. Explicit Subsidy: PEBB pays Medicare Part A and B premiums for Medicare covered retirees.

During the 2008 interim, the Board studied options for extending the health care premium assistance to catastrophic retirees and their survivors. At the Board's request, the Legislature introduced HB 1679 in 2009. The original bill proposed including catastrophically disabled LEOFF Plan 2 members, their spouses and dependent children in the PEBB risk pool, with the individuals paying their own PEBB premium until Medicare eligible.

The Health Care Authority fiscal note estimated a total cost of \$1.5 million the first biennium, ramping up to 4.7 million by the 2013-15 biennium. The fiscal note assumed, among other things, 14 new catastrophic retirees added on January 1 of each year.

The 2009 version of HB 1679 failed. The 2010 Legislature substituted a new bill containing the provisions now found in law. SHB 1679:

- Did not expand PEBB participation
- Authorized the LEOFF trust fund to reimburse catastrophic retirees and their survivors for health insurance premiums up to authorized COBRA levels

The Actuary's fiscal note estimated a cost of about \$1.8 million per biennium, increasing contribution rates by .26% total. However, when the actuary presented supplemental rate increase options to the Board in June of 2010, it did not include a rate increase from SHB 1679.

³ A similar reimbursement benefit for survivors of WSPRS members was enacted in 2007.

Experience May Lower Cost of Board's Original Proposal

Writing a fiscal note during the heat of session requires predicting the future. Sometimes actual experience does not track those predictions. With the benefit of hindsight, it appears the estimates of future costs for including catastrophic retirees and their families in PEBB may have been overstated, due primarily to an overestimate of the number of catastrophic retirees.

Assumed Number of Retirees

Both the actuarial and health care authority fiscal notes assumed a higher rate of catastrophic retirements than current experience demonstrates. In 2009 and 2010 the catastrophic disability retirement law was still new, leaving little experience to predict future retirement rates. The Actuary's office has completed two experience studies since that time showing a significantly lower catastrophic retirement rate.

Catastrophic Retirement Rates: Original vs. Revised	
2009 HCA Assumed Rate	14/year
Current Experience Study rate	4.5/year

The Actuary's sensitivity analysis in the original SHB 1679 fiscal note found that cutting the estimated number of retirees in half reduces the estimated cost of the bill nearly by half. Given that analysis, the lower rate of actual catastrophic retirements indicates a significantly lower cost than estimated in the original fiscal notes.

Mortality Assumptions

LEOFF Plan 2 provides a lifetime benefit. Cost estimates, therefore, are highly sensitive to mortality assumptions – i.e. how long a group is expected to live. Identifying the affected group is key to honing future benefit cost estimates. Possible mortality groupings for the Board's original proposal expanding PEBB eligibility include:

- General membership mortality: Mortality assumptions for all LEOFF members, most of whom are healthy – this provides the longest lifespan estimate.
- Disabled mortality: Mortality assumptions for disabled persons, includes slightly disabled to fully disabled – this provides a reduced lifespan estimate.
- Social Security Disabled Mortality: Mortality assumptions for persons that are fully disabled from any work – the same standard as LEOFF Plan 2 catastrophic disability. This should provide the shortest lifespan estimate of the three options.

The shorter the projected lifespan, the lower the estimated cost of a lifetime benefit increase. Whether that cost difference is significant remains to be seen.

Time Constraints

Fiscal notes prepared during session are subject to strict, short, deadlines. Assumptions must be made and numbers crunched on a tight timeline. This can limit the opportunity for feedback loops and revising analysis. A fiscal analysis prepared during the interim, while not necessarily better or different, can avoid some of those risks.

NEXT STEPS

The Board could:

1. Direct staff to prepare a comprehensive report to include an updated fiscal analysis of the cost of covering LEOFF 2 catastrophic disability retirees and spouses in PEBB; or
2. Take no further action on this topic.

SUPPORTING INFORMATION

Appendix A: Health Insurance Premiums for New Retirees

APPENDIX A: HEALTH INSURANCE PREMIUMS FOR NEW RETIREES - 2017

The following table compares the cost of insurance purchased through the Washington Health Exchange with PEBB retiree rates. Because of the many variables in health plan design, the comparison is not exact. It is intended to give an idea of what an individual retiree might pay for health insurance.

We calculated the estimated based on the following “average” new LEOFF 2 retiree:

- 56 years old
- \$60,000 annual pension
- Non-smoker

The Health Exchange provides bronze, silver, or gold coverage levels. To get as close as possible to the level of coverage available through employer provided health plans, the comparison looks only at “gold” plans and compares that to the Uniform Medical Classic plan. The costs, deductibles, and out-of-pocket maximums are for an individual and spouse.

Plan Provider	Individual Deductible	Individual Out of Pocket Max	Emergency Room Copay/ Coinsurance	Primary Care Copay	Premium (rounded)
Uniform Medical Retiree (State)	\$250	\$2000	\$75/ 15%	15%	\$1243 ⁱ
Plans Available From Washington Health Exchange (Gold level)					
Ambetter	\$1000	\$6350	\$250	20% coinsurance	\$1170
Bridgespan	\$1200	\$7,150	\$0/10%	\$30/10% coinsurance	\$1653
Community Health Plan	\$650	\$4800	\$250	\$0	\$1895
Kaiser Permanent	\$850	\$5000	\$200/ 20%	\$10	\$1402
LifeWise	\$1000	\$4500	\$200 / 30%	\$30	\$1560
Premiera Blue Cross	\$1000	\$4500	\$200/30%	\$10	\$1823
Average Private Market Premium				\$1584	

The current premiums for different levels of COBRA coverage calculated for the Northwest Fire Benefits Trust are provided below:

Northwest Fire Fighters Benefits Trust

2017 Benefit Options & Rates (WA COBRA Rates)

Plan Design	Plan \$50	Plan \$100	Plan \$200	Plan \$200A	Plan \$500	Plan \$750	Plan \$1,000	Plan \$1,500	Plan \$2,000	HSA \$1,500
Deductible	\$50	\$100	\$200	\$200	\$500	\$750	\$1,000	\$1,500	\$2,000	\$1,500
Coinsurance (In-Network/Out-of-Network)	100%/70%	90%/70%	80%/60%	80%/60%	80%/60%	80%/60%	80%/60%	80%/60%	80%/60%	80%/60%
Out-Pocket-Maximum	\$1,050	\$1,100	\$1,700	\$500	\$2,500	\$2,750	\$2,000	\$2,000	\$2,500	\$4,500
Office Visit Copay (Primary Care/Specialist)	\$0	\$10	\$10	\$10	\$15	\$15	\$20	\$20	\$25	Ded/Coins
Rx Copay	\$5 Generic / \$25 Formulary / \$50 Non-Formulary									Ded/Coins
Vision Coverage	Exam Every Year, No Copay, 100% / \$200 Hardware Every Year									
Plan Design	Plan \$50	Plan \$100	Plan \$200	Plan \$200A	Plan \$500	Plan \$750	Plan \$1,000	Plan \$1,500	Plan \$2,000	HSA \$1,500
Employee Only	\$829.85	\$681.23	\$647.78	\$805.09	\$609.39	\$584.61	\$579.66	\$530.12	\$511.55	\$453.32
Employee & Spouse	\$1,812.06	\$1,488.79	\$1,414.47	\$1,758.82	\$1,331.49	\$1,277.00	\$1,264.60	\$1,158.10	\$1,117.21	\$989.63
Employee & Child	\$1,355.02	\$1,112.26	\$1,057.76	\$1,314.15	\$994.58	\$953.72	\$945.04	\$864.54	\$833.56	\$739.43
Employee & Children	\$1,629.99	\$1,338.91	\$1,272.02	\$1,581.69	\$1,195.24	\$1,146.93	\$1,137.02	\$1,040.42	\$1,003.26	\$889.32
Employee & Spouse & Child	\$2,337.22	\$1,919.82	\$1,824.44	\$2,267.88	\$1,716.68	\$1,646.10	\$1,629.99	\$1,492.52	\$1,439.24	\$1,275.73
Employee & Spouse & Children	\$2,612.20	\$2,146.48	\$2,038.71	\$2,535.42	\$1,917.32	\$1,839.32	\$1,821.98	\$1,668.38	\$1,608.93	\$1,425.62

DiMartino Associates
EMPLOYEE BENEFITS CONSULTING

ⁱ Subsidized rate available through Public Employees' Benefits Board (PEBB) for state retirees.



Catastrophic Disability Medical Insurance

Comprehensive Report – November 15, 2017

Current Law

- Catastrophic retirees and surviving spouses premium reimbursement:
 - Before Medicare eligibility:
 - Reimbursement of health insurance premiums
 - Up to former employer's COBRA limit
 - At 65, Reimbursement of Medicare Premiums:
 - Part A (if any)
 - Part B
 - Not eligible for reimbursement of part C and D premiums

Survivor Premium Reimbursement

- Line-of-duty death benefit:
 - Survivors of LEOFF 2 members killed in the line of duty allowed to participate in PEBB (2001)
 - PEBB Premiums reimbursed by LEOFF (2006)
- Participation in the PEBB benefit system has two advantages:
 - Implicit Subsidy: Pay same rate as entire PEBB pool
 - Explicit Subsidy: PEBB pays Medicare part B premiums for Medicare covered retirees

Extending Benefit to Catastrophic Retirees

Version 1: Proposal to include catastrophic retirees and survivors in PEBB, with insured paying their own premium – HB 1679 (2009)

- **Health Care Authority (HCA) Fiscal Note: estimated cost of extending PEBB subsidy to catastrophic retirees**
 - **Estimated costs:**
 - **\$1.5 million cost first biennium**
 - **\$4.7 million 2013-15 biennium**

Extending Benefit to Catastrophic Retirees

Version 2: Premium reimbursement – SHB 1679 (2010)

- No PEBB membership, so no HCA cost
- Actuary supplemental rate increase not recommended

Additional Data

Catastrophic Retiree Population	
Total catastrophic retirees since benefit enacted	53
Number deceased	7
Current catastrophic retiree population	46
Eligible spouses	15
Eligible children	27
Total persons with reimbursement	88
Coverage Categories	
Pre-Medicare	27
Medicare	14
Have not sought reimbursement	5
Premium Costs	
Average pre-Medicare reimbursement	\$1100
Medicare part B premium	\$134



Thank You

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Off Duty LEOFF Employment

Date Presented:

11/15/2017

Presenter Name and Title:

Paul Neal, Senior Research and Policy Manager

Summary:

Seattle's interim mayor issued an executive order on September 27, 2017, directing the City to manage Seattle Police (SPD) officers' off-duty work in-house, thus converting the work to LEOFF Plan 2 service. The Board requested a briefing on possible pension impacts.

ATTACHMENTS:

Description	Type
▣ Off Duty LEOFF Employment	Presentation
▣ Off Duty LEOFF Employment	Report



Off-duty LEOFF Employment

Educational Briefing

Seattle PD Officers' Off-duty Work Has Raised Issues

- Seattle building boom generates significant off-duty work.
 - City ordinance limits traffic direction at Seattle construction sites to sworn officers.
 - majority to SPD officers.
- Allegations of abuse of system led to:
 - FBI investigation
 - Mayor's executive order:
 - Establishing internal SPD office to “regulate and manage” work.
 - Directing task force to report back by November 14.
 - Would convert the work to LEOFF Plan 2 service.

Potential LEOFF 2 Cost Unlikely to Manifest

Current Situation:

- Local police work overtime to staff events.
 - Classified as duty
 - Reportable in LEOFF 2
- Reportable compensation generates:
 - Contributions
 - Increased pension if worked during FAS period

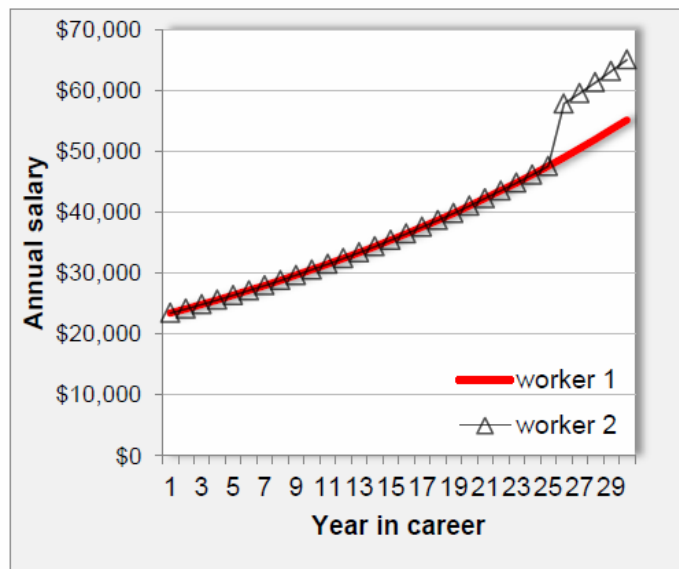
Contributions Reimbursed

- Employers reimbursed by event organizer for officer compensation, including pension contributions.
- 2017 Legislature required reimbursement also cover state contributions.
 - Budget language expires 6/30/2019.
 - Likely reenacted – either in budget or statute.

Additional Pension Cost Probably Covered by Additional Contributions

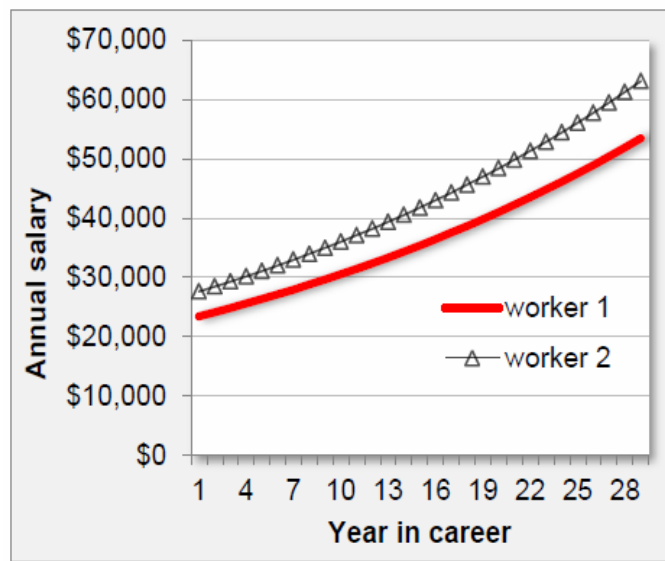
- Additional compensation leads to higher pension. Only an issue if overtime worked only in FAS period.

Illustration of Late-career Salary Increases



WSIPP stylized model (see Appendix E)

Illustration of Career-long Salary Increases



WSIPP stylized model (see Appendix E)

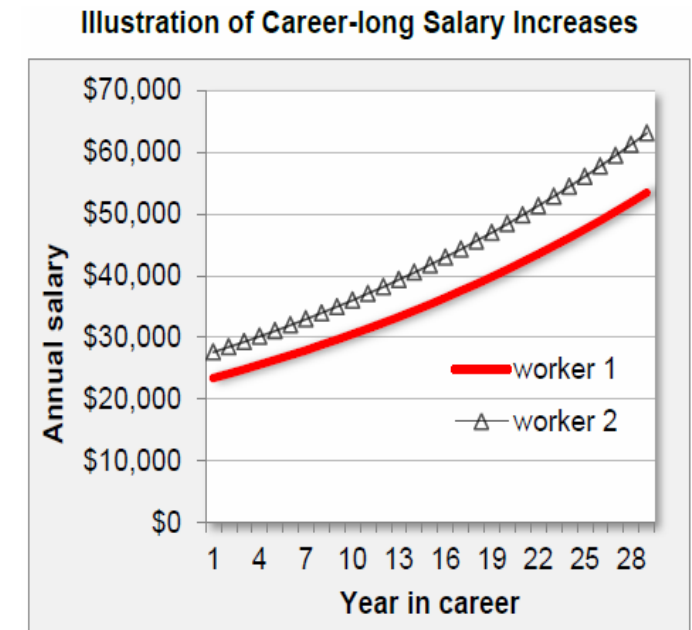
Report Found OT Not Abused

2012 Washington State Institute for Public Policy (WSIPP) report examined whether overtime was being manipulated to balloon pensions. Concluded:

- Most members tend to work the same amount of overtime both before and during FAS period.
- Exceptions are rare.
- Hours decline for some members.

Most SPD Officers Work OT Throughout Career

- Even without bringing off-duty overtime in-house, SPD pays significant overtime.
- 2015 audit report shows overtime costs at SPD doubling over last 10 years.
- High systemic rate of overtime means:
 - High career overtime contributions
 - Unlikely, but not impossible, that a member could work even more overtime to distort FAS



WSIPP stylized model (see Appendix E)

Ultimate Action Unclear at This Time

- Task force actions to date unknown. Not certain if recommendations will be produced by deadline.
- Ordered change in compensation needs to be collectively bargained.
- Proposal would freeze out others who may influence outcome.
 - Private companies currently managing work.
 - Non-SPD officers also engaged in off-duty work.
- Mayor Durkan takes office November 28, unknown whether she will follow course set by interim mayor.



Thank You

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November 15, 2017

Off-duty LEOFF Employment

EDUCATIONAL BRIEFING

By Paul Neal

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ISSUE STATEMENT

Seattle's interim mayor issued an executive order on September 27, 2017, directing the City to manage Seattle Police (SPD) officers' off-duty work in-house, thus converting the work to LEOFF Plan 2 service. The Board requested a briefing on possible pension impacts.

OVERVIEW

Questions have been raised regarding SPD officers' off-duty work. The FBI is investigating accusations of price-fixing and intimidation in connection with that work. After the investigation started, Seattle interim mayor Tim Burgess ordered SPD to manage officer off-duty work, with the possibly unintended consequence of converting it to LEOFF Plan 2 service. He created a task force to report back with recommendations by November 14.

Converting off-duty work to LEOFF 2 service, could increase pension costs. At the time of this writing it is unclear whether the task force will have a report by the due date or, when produced, what that report will say. For reasons explained below, even if the executive order is implemented as written, it is unlikely to increase pension costs.

BACKGROUND AND POLICY ISSUES

Downtown Seattle building is booming with construction projects requiring traffic direction. By city ordinance that work can only be performed by sworn officers. This, along with other off-duty work opportunities result in relatively high levels of SPD off-duty overtime.

The FBI is investigating allegations of off-duty overtime price-fixing and intimidation. See Appendix A: September 27, 2017, Seattle Times story. After the FBI investigation started, interim Seattle Mayor Burgess issued an executive order stating in part:

The Seattle Police Department, with support from the Seattle Department of Human Resources, the City Budget Office, the City Attorney's Office, and the Seattle Information Technology Department, shall establish an internal office,

directed and staffed by civilians, to regulate and manage the secondary employment of its employees.

The Seattle Department of Human Resources, the City Budget Office, and the Seattle Information Technology Department shall ensure that SPD is provided the necessary resources to manage this work in-house and at neutral cost to the City. This work, including its timeline for implementation, will be informed by the Taskforce's recommendations to the Mayor on or before November 14, 2017 as described in Section 2.

See Appendix B: *Seattle executive order 2017-09, §1*, September 27, 2017. Following this order members of the Select Committee on Pension Policy (SCPP) and the Board questioned possible LEOFF Plan 2 impacts of the proposed change. The SCPP was briefed at its October meeting.

How This Could Impact LEOFF Plan 2

Local police officers work overtime to provide services at local events such as concerts and sporting events. Event organizers then reimburse employers for overtime salary and benefits. Under the mayor's order, off-duty work would be brought in-house and presumably treated like event overtime: i.e. paid through the City's payroll system subject to reimbursement. This would convert that work into LEOFF Plan 2 service.

Like all other forms of overtime, pension contributions would be paid on this compensation and it would be part of final average salary (FAS) if earned during the 5 year FAS period. Converting off-duty work to City overtime could: 1) add to employer and state contribution costs; and 2) Increase pensions. For reasons explained below, these cost increases would probably not manifest for the employer, the state, or the pension fund.

Why This Doesn't Impact LEOFF Plan 2

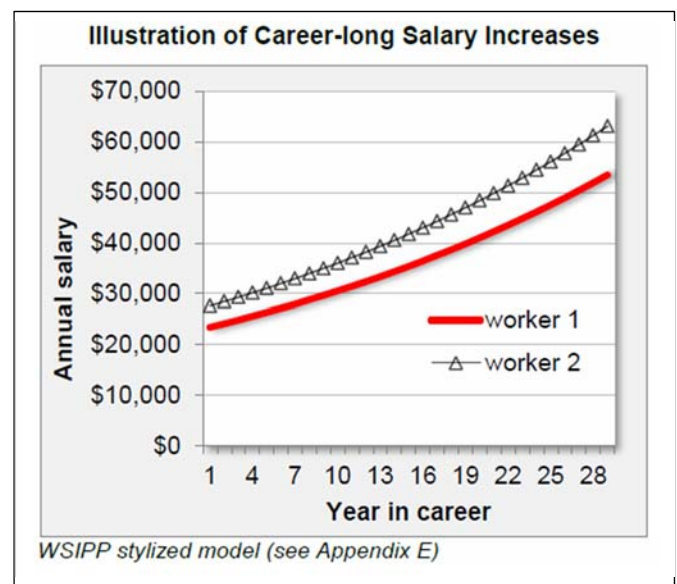
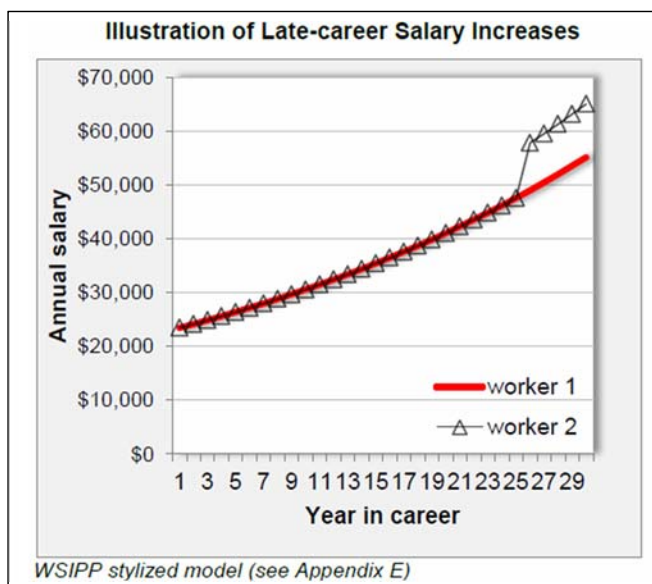
Contributions

Employers, employees and the State each contribute a percentage of pay to LEOFF plan 2. Currently, employer contributions due from event-related overtime are charged to the event organizer. That is, the contribution liability for that work is ultimately borne by the event organizer, not the employer. The 2017- 2019 state operating budget extended this coverage to the state share of the LEOFF contribution, requiring employers to pay the state portion and authorizing the employer to pass the cost on to the event organizer. See Appendix C, 2017-19 State Operating Budget, SSB 5883, § 963(3).

This same arrangement would presumably attach to any off-duty work that is converted to LEOFF service. The employer would pay both the employer and state contributions, and be fully reimbursed by the contracting entity.

Pension Benefit Impact

Additional time worked doesn't just generate additional contributions, it generates higher pensions if worked during a member's FAS period. This generates disproportionate pension costs if overtime earnings increase during the FAS period. However, contributions cover the cost if the member worked overtime throughout his or her career. Consider the following two examples comparing "worker 1" who works no overtime and "worker 2," shown working 2 different overtime patterns:



- In the first illustration worker 2 works no overtime for most of his or her career and then works overtime to increase salary during the FAS period. The member's career pension contributions are at the lower regular salary rate, making contributions on higher compensation only during the FAS period. In this example, culled from a 2012 report by the Washington State Institute for Public Policy (WSIPP) the additional overtime:
 - Increased the member's pension by \$4,500 each year, but
 - Only required an additional \$6335 in contributions during the FAS period.
- In the second example, worker 2 works consistent career overtime. Worker 2 still earns the same higher pension, but higher contributions paid throughout the workers career covers the cost.

WSIPP's report studied Washington public employee overtime earnings, concluding:

First, most members tend to work roughly the same number of hours before and during the AFC¹ period. Those who work overtime during the end of their career tended to also do so earlier in their career (like Stylized Example 2). Second, there are exceptions—hours increased substantially for some members, and extreme increases are rare. Third, hours decline for some members.

Retiree Benefits in Public Pension Systems (2012) WSIPP, p. 28. So it is possible, though unlikely, that a LEOFF 2 member could work excessive overtime during their FAS period and balloon their pension. This is particularly unlikely in the Seattle Police Department, which is already awash in overtime.

According to a 2015 report by the Seattle City Auditor: “Over the past 10 years SPD’s overtime expenditures have almost doubled and have significantly exceeded SPD’s overtime budget.” See Appendix D: *Seattle Police Department Overtime Controls Audit*, excerpt, p. 2.

In other words, Seattle Police Officers have high systemic rates of overtime, and therefore high systemic rates of overtime contributions throughout their careers. It is therefore unlikely that overtime from what is now off-duty policing would distort pension benefits.

Unclear What Action Will Be Taken

Though the interim mayor’s intent to have SPD manage off-duty police work is clear, the ultimate result is not. The change contemplated in the executive order would alter the City’s compensation plan. According to the Seattle Police Officer’s Guild, that change needs to be collectively bargained.

Further, this proposal apparently freezes out other parties currently engaged in this work. This includes the private companies currently organizing and managing the work. It also includes non-SPD officers such as: Washington State Patrol Troopers; officers from other jurisdictions; and Seattle parking enforcement officers. It is likely representatives of those groups will have input (the Seattle Parking Enforcement Officers’ Guild is listed as a consulting entity in the executive order) and help shape the ultimate outcome of the taskforce’s work.

Finally, Seattle’s new mayor, Jenny Durkan, will take office on November 28. It is unknown whether and to what extent she will change the interim mayor’s executive order.

¹ i.e. FAS

SUPPORTING INFORMATION

Appendix A: Mayor orders Seattle police to take control of officers' lucrative off-duty work amid FBI investigation - Seattle Times, September 27, 2017.

Appendix B: Seattle executive order 2017-09, September 27, 2017

Appendix C: Budget proviso

Appendix D: Seattle Police Department Overtime Controls Audit, excerpt, April 11, 2016.

APPENDIX A: MAYOR ORDERS SEATTLE POLICE TO TAKE CONTROL OF OFFICERS' LUCRATIVE OFF-DUTY WORK AMID FBI INVESTIGATION - SEATTLE TIMES, SEPTEMBER 27, 2017.

Mayor orders Seattle police to take control of officers' lucrative off-duty work amid FBI investigation

Originally published September 27, 2017 at 1:02 pm Updated September 28, 2017 at 6:10 am



Seattle Mayor Tim Burgess prepares on Wednesday to sign an executive order allowing the Police Department to take control of off-duty work. Behind him, from left, are Deputy Chief Carmen Best and Assistant Chiefs... (Greg Gilbert/The Seattle Times) [More](#)

The executive order issued Wednesday by Seattle Mayor Tim Burgess comes a week after it was disclosed that the FBI is investigating allegations of intimidation and price-fixing in off-duty work at construction sites and parking garages.

By [Ugxe'O kxlej](#) and [O kmg'Ectvgt](#) *Seattle Times* staff reporters

Seattle Mayor Tim Burgess signed an executive order Wednesday handing control of officers' off-duty work to the Seattle Police Department, a dramatic move that came a week after it was disclosed "j g'HDKk'lpxguxi cvkpi 'cmgi cvkqu"qh'pko kf cvkqp"cpf 'r tleg/hkzpi 'in off-duty work at construction sites and parking garages.

Vj g"qtf gt."when fully implemented, would take management of the work away from private companies that, for years, have dominated the lucrative Seattle off-duty market.

Burgess, a former Seattle police officer who was "uy qtp"p"cu'o c{qt"rcuv'y ggmafter former Mayor Ed Murray's resignation over sex-abuse allegations, said at a City Hall news conference that he issued the order on the recommendation of Police Chief Kathleen O'Toole to address conflicts of interest and long-standing lapses in the oversight of off-duty work.

"These practices were not stopped in the past," Burgess said. "But ignoring them stops today."

His order calls for the creation of an internal office in the Police Department, directed and staffed by civilians, to regulate and manage off-duty employment.

It also creates a task force of city officials from various departments to produce recommendations by Nov. 14 to reform management of off-duty employment and set a timeline for establishing the new office.

"I intend to take action before I leave this office," Burgess said, noting the new structure will be created without additional costs to the city.

As a longtime City Council member who will serve until a new mayor is elected in November, Burgess has played a key role in police-reform efforts.

While there have been patchwork efforts to fix problems over the years, the overall system has operated "qwukf g"vj g"eqptqn'qh'vj g'Rqrleg'F gr ctvo gpv0

More recently, Seattle's construction boom hau'f tk&gp'f go cpf 'hqt'qhh/f wwf 'y qtn'v'pgy 'rgxgn0

Officers must get permission to work off duty, but the department has no way of tracking how many hours an officer might be working.

There also have been concerns about the coziness of the two off-duty-officer staffing companies that dominate the market: Seattle's Finest and the police-union-supported Seattle Security Inc. — although many officers apparently work on their own, negotiating contracts with garages or merchants.

Raleigh Evans, the president of Seattle's Finest and a retired Seattle police officer, couldn't be reached for comment Wednesday.

Seattle Police Officers' Guild (SPOG) President Kevin Stuckey issued a news release saying, "If there are changes sought by the City, why can't those changes be accomplished at the bargaining table? This is yet another example of the City violating the Collective Bargaining Agreement (CBA) and State Labor Law. SPOG ALWAYS follows the CBA and State Labor Law!!"

The guild will take legal action, Stuckey said, adding, “Not to oppose the changes, but to demand that the City stop circumventing State Law.”

The department has tried to gain control what some officials worry might be a monopoly, and in the spring endorsed a newcomer — formerly Cops for Hire, now called *Direct Hire* — as an alternative, placing a link to the company on the department’s website. Blucadia matches officers with customers.

According to Blucadia’s founders and officials within the Police Department, the company’s efforts were met with opposition and alleged intimidation.

Rod Kaufmann, executive director of the Building Owners and Managers Association Seattle King County (BOMA), believes the mayor’s order is “a move in the right direction.”

Kaufmann said he is going through a questionnaire about off-duty police employment sent to BOMA members after concerns about price-fixing and lack of competition surfaced.

“So far, we haven’t seen any outright corruption or intimidation that we know of,” he said. “But my members are concerned about prices, and they are concerned about transparency and how prices are set. The mayor’s announcement seems like it will address that.”

Burgess said he couldn’t discuss whether he has spoken with customers who use off-duty officers because of the FBI investigation.

A Seattle parking executive who operates several downtown garages told The Seattle Times that off-duty officers are so hard to find, given the amount of work available, that officers can pretty much ask what they want.

The executive, who spoke on condition of anonymity out of fear of retaliation by police, said the company recently lost an officer who had been injured and had to hire a replacement. The previous officer was paid \$55 an hour, with a four-hour minimum, to direct traffic for about 2½ hours a day.

The new officer asked for — and received — \$120 an hour. The executive said the officer gets paid for at least two hours, but usually worked three.

Two other garages have seen hourly rates for off-duty officers increase from \$65 an hour in 2014 to \$80 an hour this year, the parking executive said.

“We had no choice,” the executive said. “It’s simple supply and demand, which I get.”

The city requires that only sworn officers be employed for traffic control, and the parking executive said that decision has cut options and costs money. There is no reason a professional flagger can’t do the job, the parking executive said.

“It’s just silly that only police can do it,” the executive said. “But nobody wants to take on the police union.”

Two incidents this spring apparently pushed Seattle police officials to ask the FBI to open an investigation. The first was a profanity-laced telephone call by SPOG President Stuckey that Blucadia's chief executive officer, Rob McDermott, said he found threatening.

Stuckey has acknowledged the call and said he lost his temper.

The second was a conversation McDermott and another Blucadia official, Andrew Finley, a former Pierce County sheriff's deputy, had in April with an off-duty Seattle officer working in uniform outside a downtown garage.

They said Officer MacGregor "Mac" Gordon, a 32-year department veteran, described the lucrative off-duty system in organized-crime terms — repeatedly using the word "mafia" — and said nobody would be allowed to interfere with it.

Their notes said Gordon told them about "squeezing" a building owner for more by threatening not to show up for traffic control.

"If they refused to pay more, he would threaten to leave and ensure no other cops would work the job," the notes said. Within "a day or two with no cop, the building manager would be calling back asking him to please return, quickly agreeing to any new rate."

Gordon has acknowledged the conversation, but said he was "joking," that things were taken out of context and that any reference to squeezing a building owner was a lie.

McDermott took his notes, his concerns about being blackballed, and the conversation with Stuckey to the Police Department's internal-investigation unit, the Office of Police Accountability (OPA) and O'Toole. She immediately referred the allegations to the FBI and its public-corruption investigators.

O'Toole, in response to Burgess' executive order, issued a statement saying the department, "with a sense of urgency," would develop and implement a transparent system to manage off-duty work.

Previously, internal department watchdogs had warned about the dangers of allowing off-duty work to exist outside the department's purview, and police-accountability legislation passed by the City Council in May calls for a civilian-staffed internal office in the Police Department to manage secondary employment.

In other cities, such as Denver and Portland, off-duty police work is managed by the department under city policies.



Office of the Mayor
City of Seattle
Tim Burgess, Mayor

Executive Order 2017-09: Reforming Secondary Employment at the Seattle Police Department

An Executive Order directing a coordinated interdepartmental effort to require the Seattle Police Department to provide greater oversight through internal regulation and management of all secondary employment for SPD officers.

WHEREAS, secondary employment is the practice by which police agencies permit their sworn employees to work for other employers when off-duty; and

WHEREAS, when performing secondary employment work, officers wear their SPD uniforms, carry weapons and maintain the powers and authority of on-duty officers, including the power of arrest; and

WHEREAS, the Seattle Police Department (SPD) received certain allegations relating to the management of off-duty SPD Officers by third-parties, the nature of which caused the Department to refer these allegations to the Federal Bureau of Investigation for review; and

WHEREAS, SPD officials and former Office of Police Accountability Auditors, as early as 2005, identified secondary employment as a significant area of risk for the Department; and recommended that SPD reform its approach and adopt an approach to management and oversight that is consistent with accountability and strengthens public trust; and

WHEREAS, SPD policy requires its officers to obtain permits from the Department to obtain secondary employment, and Department policy provides limits on such employment; and

WHEREAS, SPD does not directly regulate any secondary employers and has insufficient access to secondary employment schedules of off-duty officers, creating significant potential for mismanagement, conflicts of interest, inequities between officers competing for secondary employment opportunities, and which processes lack transparency to SPD management and the public; and

WHEREAS, in 2015 Seattle's Police Chief requested a review by the City Auditor of the overtime and secondary employment of Seattle Police Department employees; and

WHEREAS, in 2016, following the City Auditor's report, Seattle's Police Chief directed her management team to engage with other City Departments, including the City Attorney and the Seattle Department of Human Resources, to explore options for bringing the oversight and

management of SPD officer secondary employment in-house; and

WHEREAS, SPD did adopt the independent OPA Auditor's recommendations to eliminate the practice of Extended Authority Commissions and to change policy to expressly prohibit working secondary employment assignments while on-duty; and

WHEREAS, in June of 2017, the City of Seattle passed Ordinance 125315, commonly referred to as Seattle's Police Accountability Legislation, which requires that "SPD shall establish an internal office, directed and staffed by civilians, to manage the secondary employment of its employees. The policies, rules, and procedures for secondary employment shall be consistent with SPD and City ethical standards, and all other SPD policies shall apply when employees perform secondary employment work" (SMC 3.29.430 (D)); and

WHEREAS, many police departments across the country have reformed their secondary employment practices by adopting different systems of management, regulation, and oversight to improve transparency;

NOW, THEREFORE, I, Tim Burgess, Mayor of Seattle, accepting the recommendation of the Chief of Police, hereby order:

Section 1. Ordering City Management of All SPD Secondary Employment.

The Seattle Police Department, with support from the Seattle Department of Human Resources, the City Budget Office, the City Attorney's Office, and the Seattle Information Technology Department, shall establish an internal office, directed and staffed by civilians, to regulate and manage the secondary employment of its employees.

The Seattle Department of Human Resources, the City Budget Office, and the Seattle Information Technology Department shall ensure that SPD is provided the necessary resources to manage this work in-house and at neutral cost to the City. This work, including its timeline for implementation, will be informed by the Taskforce's recommendations to the Mayor on or before November 14, 2017 as described in Section 2.

Section 2. Interdepartmental Taskforce to Implement City Management of All SPD Secondary Employment. The Seattle Police Department shall create, convene, and lead a taskforce, which shall include the following membership:

- Seattle Department of Human Resources, Director, or designee
- Seattle Information Technology Department, Chief Technology Officer, or designee
- City Budget Office, Director, or designee
- Office of the Mayor's Office Legal Counsel
- Department of Finance and Administrative Services, Director, or designee

This Taskforce shall work with and consult the Seattle City Attorney, the Office of the City Auditor, the Community Police Commission, the Chair of the Seattle City Council's Gender Equity, Safe Communities, and New Americans Committee, former independent OPA Auditor Judge Anne Levinson (ret.), the Seattle Police Officers' Guild, the Seattle Police Management Association,

Seattle Parking Enforcement Officers' Guild, and the Seattle Ethics and Elections Commission.

By November 14, 2017, SPD shall report its recommendations to reform the management of secondary employment and a timeline for implementation of its internal office to the Office of the Mayor. The recommendations shall guide the work of the Seattle Police Department as described in Section 1.

Dated this 27th day of September, 2017.

Tim Burgess
Mayor, City of Seattle

APPENDIX C: 2017-19 STATE OPERATING BUDGET, SSB 5883, § 963(3).

The following provision of the 2017-19 State operating budget requires employers to pay, and therefore charge event organizers for, the State LEOFF 2 contribution for event-related overtime:

During fiscal years 2018 and 2019:

When an employer charges a fee or recovers costs for work performed by a plan member where:

(a) The member receives compensation that is includable as basic salary under RCW 41.26.030(4)(b); and

(b) The service is provided, whether directly or indirectly, to an entity that is not an "employer" under RCW 41.26.030(14)(b);

the employer shall contribute both the employer and state shares of the cost of the retirement system contributions for that compensation. Nothing in this subsection prevents an employer from recovering the cost of the contribution from the entity receiving services from the member.

2017-19 State Operating Budget, SSB 5883, § 963(3).



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Seattle Police Department Overtime Controls Audit



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4/11/2016

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REPORT SUMMARY

Over the past ten years, the Seattle Police Department's (SPD) overtime expenditures have almost doubled. We conducted this audit at the request of the Seattle Police Chief, and we found that significant improvements are needed in SPD's controls for overtime processes in the areas of policies and procedures, budgeting, operations, management monitoring, and special events.

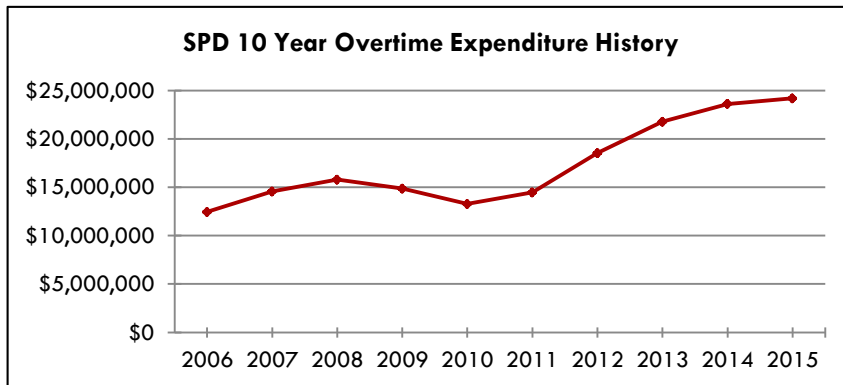
Seattle Police Department Overtime Controls Audit

SEATTLE OFFICE OF CITY AUDITOR

Report Highlights

Background

At the request of Seattle's Police Chief, we conducted an audit of the Seattle Police Department's (SPD) overtime controls for the period January 2013 through June 2015. The Chief had concerns about whether there was adequate leadership, management oversight, and supervisory control to manage SPD's overtime spending. Over the past ten years SPD's overtime expenditures have almost doubled and have significantly exceeded SPD's overtime budget. In 2015, SPD spent \$24.2 million on overtime. SPD's overtime expenditure trend has caused concerns for the City Council and the City Budget Office, as well as for SPD management.



Source: Office of City Auditor summary of SPD data.

What We Found

There are many factors that contribute to SPD's high overtime expenditures and budget overages. Although some of these factors are outside of SPD's control (e.g., number of special events and protests), many are within SPD's control. We identified significant gaps in SPD's overtime internal controls that led to overtime errors and inefficiencies, including duplicate payments of overtime. We found internal control issues in the following six categories:

- 1. Overtime Policies and Procedures** – SPD's overtime policies and procedures are not adequate, and there is no overtime usage policy to provide high-level guidance to supervisors on when overtime should be authorized.
- 2. Budgeting for Overtime** – SPD's budgets have not been set at realistic levels to fund its overtime needs based on current practices.
- 3. Overtime Operational Controls** – Controls over many of SPD's overtime processes are not adequate to ensure overtime is paid accurately and in compliance with existing overtime policies and procedures. Further, current controls do not facilitate adequate monitoring and oversight of overtime. Specific areas for improvement include overtime approvals, overtime recording, reconciliation (i.e.,



WHY WE DID THIS AUDIT

This audit was conducted in response to a request from SPD Chief of Police Kathleen O'Toole to review the controls over SPD's use of overtime.

HOW WE DID THIS AUDIT

To accomplish the objectives we:

- Interviewed SPD sworn and civilian leaders and other City officials;
- Reviewed SPD's overtime policies and procedures, reports, and other documentation;
- Observed the SPD Payroll Unit's processes for entering overtime into the City's payroll system and reviewing overtime for accuracy;
- Collected benchmarking information from comparable municipal police departments;
- Analyzed and summarized SPD payroll data; and
- Tested SPD overtime payroll documentation for four pay periods.

comparison of hours paid to hours worked), centralization of overtime documents, and automated controls to ensure overtime is paid accurately.

4. **Overtime Management Controls** – SPD does not adequately and consistently monitor overtime department-wide or at the section level, or review overtime data to identify potentially abusive or unnecessary overtime.
5. **Special Events Overtime Controls** – Special Events is the largest category of SPD overtime use, representing 38% (\$25.9 million) of total overtime (\$67.6 million) paid between January 2013 and June 2015. SPD's current controls over the planning, authorization, and recording of special events overtime are not adequate. While City policies were recently revised through legislation to result in greater recovery of event policing costs, this will not result in full cost recovery for the City. Procedures need to be developed and implemented to carry out the terms of the new legislation to ensure proper billing and collection of police service costs. In addition, SPD does not have adequate processes to ensure overtime that is reimbursable through contractual agreements is billed accurately and collected timely.
6. **Off-Duty Police Work** – SPD has little control over off-duty police work and does not have a mechanism in place to track off-duty hours worked by SPD employees. Off-duty police work can affect overtime use if officers take leave to work off-duty, and it can result in officer fatigue.

Recommendations

Our report includes 30 recommendations to improve SPD's overtime controls. However, these recommended improvements will not take root unless SPD senior management sets the proper "tone at the top" by emphasizing the importance of overtime controls, clearly communicating to SPD staff the expectation for compliance with the controls, and consistently monitoring for compliance. The following is a summary of our recommendations by general category:

1. **Overtime Policies and Procedures** – SPD should establish policies and procedures for all overtime functions, including a high-level policy to provide management guidance on the appropriate uses of overtime.
2. **Overtime Budget** – SPD should establish a more realistic overtime budget to better fund its actual overtime needs, but that also takes into account the likely reduction in overtime usage due to implementing improved controls, as outlined throughout this report.
3. **Operational Controls for Overtime Processes** – SPD should improve its overtime processes related to approvals and authorizations, recording of overtime, reconciliation of hours paid to hours worked, recordkeeping, and compliance with existing policies. To facilitate monitoring and compliance with overtime policies, SPD should consider implementing an automated staff scheduling and timekeeping system. SPD should also consider staffing some job functions with civilians.
4. **Overtime Management Controls** – SPD should improve monitoring of overtime department-wide and at the section level. Additionally, SPD should consider having an entity independent of operations regularly assess whether overtime is being worked and paid in compliance with policies and procedures and look for indications of unnecessary or abusive overtime.
5. **Overtime for Special Events** – SPD and the City's Office for Special Events should develop and implement procedures to bill for police services in accordance with Ordinance 124860. SPD should ensure all event staffing plans are independently reviewed, overtime plans are reconciled to actuals, and large variances from plans are explained. SPD should improve processes and enforce controls for the documentation and approval of overtime at events. Additionally, SPD should improve its processes and controls related to billing for contractually reimbursable overtime and handling delinquent accounts.
6. **Off-Duty Policy Work** – SPD should establish a mechanism to track off-duty hours worked by its officers to ensure officers are adhering to work hour limits. SPD should also consider developing a plan and timeline for requiring employers of off-duty SPD officers to contract directly with SPD.

SPD's Formal Response to the Audit

In its formal, written response to our report (see Appendix C), SPD stated that it concurred with our findings and recommendations.

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I. INTRODUCTION

Audit Overview

Seattle Police Chief Kathleen O'Toole requested this audit on October 3, 2014. In her request letter, the Chief stated concerns about whether there was adequate leadership, management oversight, and supervisory control to manage overtime spending. She also noted that SPD's limited review of 2014 overtime spending indicated there were "anomalies," which led her to call for an audit of all overtime spending for the department. In addition, SPD has been exceeding its overtime budget by millions of dollars for the past several years. These budget overruns have been a source of concern for the City Council and the City Budget Office.

We conducted an audit of SPD's department-wide internal controls¹ for overtime functions. The basic categories of controls that we included within our audit were:

- **Overtime Policies and Procedures** – formal guidance from SPD that documents the processes and requirements related to overtime;
- **Overtime Budgeting** – the process of planning and budgeting for overtime department-wide and monitoring overtime expenditures in comparison with the budget;
- **Overtime Operational Controls** – the "day to day" functions that ensure overtime is appropriate and is recorded and paid accurately, including the processes for requesting, approving, scheduling, tracking, and processing overtime hours;
- **Overtime Management Controls** – management duties related to reporting and monitoring overtime, including reviews for potentially excessive or inappropriate overtime;
- **Special Events Overtime Controls** – processes related to both the planning, authorization, and recording of special events overtime, and practices to ensure reimbursable costs are billed properly and collected timely; and
- **Off-Duty Police Work** – general controls for SPD off-duty police work.

The audit team gathered the evidence for its audit conclusions and recommendations through six separate types of audit work:

- Interviewed SPD sworn and civilian leaders and other City officials;
- Reviewed SPD's overtime policies and procedures, reports, and other documentation;
- Observed the SPD Payroll Unit's processes for entering overtime into the City's payroll system and reviewing overtime for accuracy;
- Collected benchmarking information from comparable municipal police departments;
- Analyzed and summarized SPD payroll data; and
- Tested SPD overtime payroll documentation for four pay periods.

¹ Internal controls are systematic measures (such as reviews, checks and balances, methods and procedures) instituted by an organization to (1) conduct its business in an orderly and efficient manner, (2) safeguard its assets and resources, (3) deter and detect errors, fraud, and theft, (4) ensure accuracy and completeness of its accounting data, (5) produce reliable and timely financial and management information, and (6) ensure adherence to its policies and plans. *BusinessDictionary.com*

Background Information

SPD is a large municipal police department with a 2015 budget authority for approximately 2,018 Full Time Equivalent employees, of which about 1,434 are sworn² employees, including police officers, sergeants, lieutenants, captains, assistant chiefs, and the Chief of Police. SPD is organized into bureaus, each of which is led by an assistant chief. Bureaus are comprised of several sections, which are managed by a captain or a civilian director or manager.

SPD employees work overtime³ based on departmental needs, including:

- additional police services for special events (e.g., parades, music festivals, and dignitary visits);
- high workload for the current level of staffing;
- peak workloads due to crimes or other conditions;
- backfilling for absent staff and covering for vacant positions;
- attending training; and
- police services for unexpected events, such as demonstrations and protests.

For a detailed view of the uses of SPD overtime, see our table of overtime use between January 2013 and June 2015 broken down by category on page 16. Sworn personnel up to and including the rank of lieutenant are eligible to earn overtime, and SPD civilian personnel are also eligible to earn overtime if they are classified as a non-exempt employee,⁴ or an “hourly” worker. When SPD personnel work overtime, they are usually compensated at 150% of their regular hourly rate of pay, but there are certain times when overtime is paid at 200% or at the employee’s regular hourly rate. SPD overtime pay is governed by City Personnel policy⁵ and by collective bargaining agreements.

In 2015, SPD’s General Fund overtime spending exceeded the budgeted amount by 58%, with General Fund overtime expenses of \$24,192,607 and a General Fund overtime budget of \$15,279,823.⁶

² Sworn law enforcement officers are those who have taken an oath to support the constitution of the United States, their state, and the laws of their agency’s jurisdiction. Sworn officers also have the authority to make arrests and carry firearms and they have completed extensive training, such as police academy training.

³ Overtime is work performed by an employee in excess of a basic workday or work week as defined by SPD rules or a Collective Bargaining Agreement. Throughout this report, all references to overtime include compensatory time (comp time) earned in lieu of overtime pay.

⁴ Non-exempt hourly employees are employees who are compensated on an hourly basis for each hour of work performed, including time worked beyond 40 hours in a work week.

⁵ City Personnel Policy 3.6 – Overtime Compensation.

⁶ SPD’s Overtime Budget includes the amount for SPD overtime that was included in the Adopted Budget plus certain supplemental transfers and appropriations (e.g., transfers from Finance General Reserve for overtime related to the implementation of the U.S. Department of Justice Consent Decree, emphasis patrols, etc.). It excludes supplemental appropriations for year-end balancing.

II. SUMMARY OF AUDIT RESULTS

We identified significant gaps in SPD's controls related to overtime functions, and we organized the issues we identified into six categories and summarized them below. The detailed discussion of the issues and our recommendations are in Section III of this report. We also want to emphasize that these recommended improvements will not take root unless SPD senior management sets the proper "tone at the top" by emphasizing the importance of overtime controls, clearly communicating to SPD staff the expectation for compliance with the controls, and consistently monitoring for compliance with controls. SPD concurred with our findings and recommendations, and their formal, written response to our report is included in Appendix C.

Overtime Policies and Procedures – SPD needs to develop and implement adequate policies and procedures related to the use and administration of overtime. SPD does not have an overtime usage policy, which would provide guidance to SPD managers and supervisors on when overtime should and should not be authorized, and current policies and procedures are inadequate for many operational overtime functions.

Overtime Budgeting – SPD's current overtime budget has not been set at realistic levels to fund its actual overtime needs, based on SPD's current management practices. In recent years, SPD has consistently exceeded its overtime budget by significant amounts. In 2015, SPD exceeded its adopted overtime budget by more than \$8.9 million and was 58% over budget (2015 overtime expenditures totaled \$24.2 million). However, while SPD's overtime budgets have not been adequate to meet its needs, we believe SPD also overspends on overtime due to its poor control of overtime functions, as detailed in the report.

Overtime Operational Controls – The controls over many of SPD's day to day overtime processes are not adequate, compliance with existing overtime policies and procedures needs improvement in some areas, and the efficiency of some overtime processes could be improved. Overtime processes that need stronger controls include approvals, recording into the payroll system, reconciliation (i.e., comparison) of hours worked to hours paid, recordkeeping, and tracking and enforcing compliance with policies. In addition, SPD could reduce overtime expenses by using civilian personnel for some job functions currently staffed by sworn personnel, although we recognize that this could be subject to bargaining with the police unions.

Overtime Management Controls – Significant improvements are needed in SPD management's reporting and monitoring of overtime. Section leaders (i.e., primarily captains) do not consistently monitor overtime, and there is limited independent monitoring⁷ of overtime. In addition, SPD does not regularly review overtime to look for trends or potentially abusive or unnecessary overtime, so there is the risk that inappropriate overtime could occur and not be detected.

Special Events Overtime Controls – Special events is the largest category of overtime usage for SPD and accounted for 38% (376,203 hours) of overtime hours (991,657 hours) paid between January 2013 and June 2015. Internal controls related to overtime functions for special events need significant improvement.

⁷ By "independent monitoring" of overtime, we mean someone within SPD who does not work for the SPD operational/field sections. For example, this could be a staff person who works for SPD Finance or Human Resources.

- **Policy Issues** – At the time of our audit work, the City did not have clear policies that specify which events are and are not charged for police services, and Seattle was not charging event organizers for policing costs for many types of events that some other cities charge for. According to SPD and City officials, the City’s pricing practices led to a large increase in the number of special events occurring in the City and a significant increase in police overtime expenses since most officers work special events on overtime. Ordinance 124860 was passed by the City Council on September 21, 2015 and it clarifies what events should be charged for police services. Nevertheless, the new policies do not result in full cost recovery of police services costs.
- **Operational Issues** – Event staffing plans are not independently reviewed⁸ and reconciled to actual overtime hours worked, and there is no requirement to explain large variances between planned and actual hours. Additionally, we identified issues with SPD’s practices for documenting and approving overtime at special events. Finally, improvements are needed with the handling of delinquent accounts to ensure that reimbursable overtime costs are billed and paid appropriately.

Off-Duty Police Work – SPD has very little control over off-duty police work compared to the other agencies we reviewed, and SPD has no visibility of off-duty hours worked by its employees. Off-duty police work can affect overtime use if officers take leave to work off duty, as other officers must back fill for the employee on leave. Additionally, officers who work both overtime and off-duty may be at risk of fatigue and increased use of sick leave.

III. DETAILED AUDIT RESULTS AND RECOMMENDATIONS

1. Overtime Policies and Procedures

SPD does not have adequate policies and procedures related to overtime. Policies and procedures either do not exist or require improvement. Policies and procedures establish guidelines and document expectations for both employees and managers, and they are a necessary tool for institutionalizing improved overtime controls. We recommend that SPD improve its policies and procedures for both the **use** and **administration** of overtime.

A. Overtime Use Policy

SPD does not have an overtime usage policy to provide sufficient guidance to department management and employees on the use of overtime. For example, SPD does not have a policy that specifies the circumstances in which SPD personnel may be authorized to work overtime or how supervisory approvals for overtime must be documented.

Additionally, SPD does not have a clear policy directing employees and supervisors on the proper process for recording overtime in different scenarios. As we discuss in Section 3.A. on page 9, SPD has two primary methods for recording overtime hours: (1) directly into the employee’s electronic timesheet or (2) on an Event Summary Form or Overtime Request Form. There is no policy that specifies when each method should be used, and this has resulted in confusion about whether overtime has been recorded and by whom. It has also resulted in inaccurate overtime payments,

⁸ By “independently reviewed” in reference to event staffing plans, we mean someone within SPD who does not work for the SPD operational/field sections who perform policing for the events. For example, this could be a staff person who works for the Special Operations Center (SPOC) or for SPD Finance.

including duplicate payments of overtime. We believe the lack of an overtime usage policy contributes to SPD's high overtime expenses.

An overtime usage policy should also address any maximum hour thresholds⁹ for overtime and total work hours (including regular time and off-duty work hours), when compensatory time (comp time) can be earned in lieu of payment for overtime,¹⁰ and how employees should code overtime to ensure accountability and transparency and to facilitate payroll and overtime monitoring processes.

Recommendation 1: SPD should develop and enforce a clear, detailed overtime usage policy that provides (a) management sufficient guidance on the appropriate uses of overtime,¹¹ including compensatory time, and (b) direction on the proper recording and coding of overtime in the City's payroll system. This policy should address the following:

- the activities or service needs that may justify overtime;
- the activities or service needs that do not justify overtime or require special management approval;
- requirements for supervisory approvals and approval processes and documentation;
- any maximum thresholds for overtime hours or total work hours (i.e., regular time plus overtime and off-duty work hours);
- when compensatory time can be earned in lieu of payment for overtime;
- how employees should record overtime to ensure it is paid accurately (e.g., when to record hours in the City's Employee Self Service system or use an Event Summary Form); and
- how employees should code overtime to ensure accountability and transparency and to facilitate payroll and overtime monitoring processes.

This policy should include an effective date and an approval signature. Additionally, SPD should train all employees on the policy and related procedures and monitor for compliance.

B. Overtime Administrative Policies and Procedures

In addition to an overtime **usage** policy, SPD needs to develop and enforce policies and procedures that address all overtime **administrative processes**. Current policies and procedures related to overtime administration are inadequate for multiple aspects of managing overtime, including authorization and approval, payroll processing, monitoring, and billing. For example, although SPD has a policy requiring supervisors to approve overtime before it is worked,¹² current policies and procedures do not clearly describe how prior authorization is to be documented or how approval should be documented in the payroll system before the overtime is paid. As is described in later sections of this report, this lack of documentation and guidance leads to inconsistent practices and can contribute to SPD's high overtime expenditures.

⁹ Currently, the only place that maximum work hour thresholds are documented is in the SPD Department Manual, policy 5.120 on Supplemental Employment.

¹⁰ Per the Seattle Police Officer Guild collective bargaining agreement, section 5.8 states that management approval is needed for any overtime that will be earned as compensatory time.

¹¹ For example, employees are required to obtain approval to work overtime but there is no clear guidance on how the approval is obtained and documented. There is also an exception where employees may work overtime without supervisory approval "when an operational need or work load requires the employee to work beyond their regular shift", but examples of circumstances where such exceptions may or may not apply are not provided.

¹² Seattle Police Department Manual, 4.020 POL 2 – Reporting and Recording Overtime/Out of Classification Pay

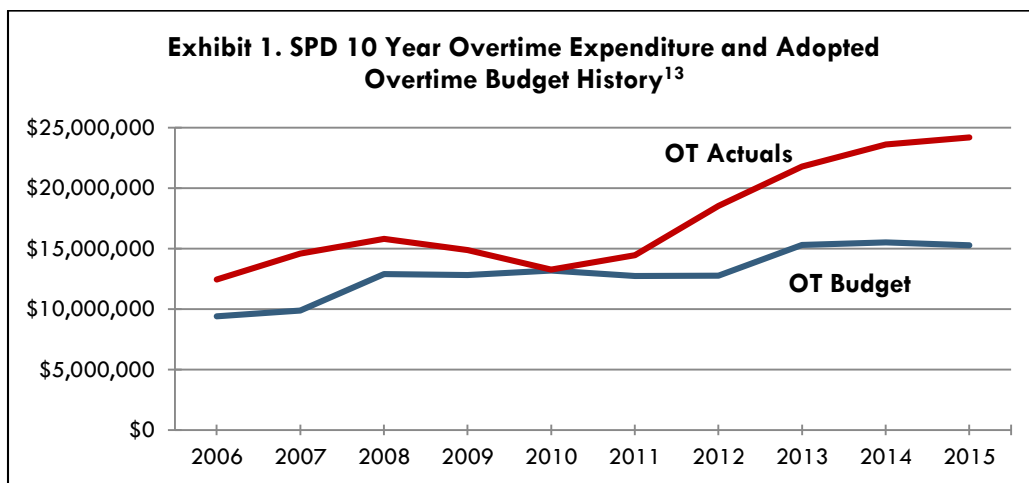
Recommendation 2: SPD should develop and enforce clear and detailed policies and procedures that address all overtime administrative processes, including the following:

- payroll processes for the handling and monitoring of overtime;
- authorization of overtime before it is worked;
- approval of recorded overtime before payment;
- review of recorded overtime for errors or improper entry (e.g., duplicate entry or incomplete coding);
- review of recorded overtime for appropriateness and to help prevent and detect unnecessary or abusive overtime;
- management reporting and monitoring of overtime;
- planning and reconciliation of special event overtime;
- billing of reimbursable overtime, including which overtime costs are reimbursable by event organizers; and
- account delinquency follow-up processes for reimbursable overtime.

Personnel should be trained in all overtime policies and procedures relevant to their job functions. Further, SPD's policies and procedures should be continually updated as process improvements are implemented.

2. Overtime Budgeting

As can be seen in Exhibit 1 below, SPD has significantly exceeded its adopted overtime budget every year since 2011. In 2013, SPD exceeded its adopted overtime budget by more than \$6.4 million (42% over budget), in 2014 by more than \$8 million (52% over budget), and in 2015 by more than \$8.9 million (58% over budget). The City Council and Mayor have repeatedly approved supplemental budget appropriation requests to cover overtime overages that SPD could not cover with savings in other areas (e.g., salary savings from position vacancies).



Source: Office of City Auditor summary of data from SPD and the City Budget Office¹³

¹³ SPD's Overtime Budget includes the amount for SPD overtime that was included in the Adopted Budget plus certain supplemental transfers and appropriations (e.g., transfers from Finance General Reserve for overtime related to the implementation of the U.S. Department of Justice Consent Decree, emphasis patrols, etc.). It excludes supplemental appropriations for year-end balancing.

Several SPD field managers (i.e., captains, lieutenants, and sergeants) and administrative managers emphasized to us that the current overtime budget is not sufficient to fund actual overtime needs, and expenditures over the past few years indicate that the overtime budget is not realistic given SPD's current management practices. However, based on the results of our audit work, we also believe that SPD overspends on overtime due to its poor control of overtime functions, as we detail in this report.

Further, as SPD field and administrative managers reported to us, SPD section leaders responsible for managing staff workload and overtime historically have not had a meaningful role in determining the overtime budget for their individual sections. As a result of this, and because the budget has not increased with expenditures and supplemental budget requests have repeatedly been approved, many section leaders view the overtime budget as "political" and appear to lack motivation to be vigilant about trying to manage overtime hours within the budgeted levels.

SPD needs a realistic overtime budget that is based on a rigorous analysis of actual overtime needs and that also factors in reductions in overtime based on the implementation of improved controls for overtime functions, as outlined in this report. The budget should either be adhered to or significant budget variances should be documented, explained, and justified by section management.

Recommendation 3: SPD should develop a realistic overtime budget to fund its overtime needs. The overtime budget should reflect the input of SPD section leaders (i.e., primarily captains) who spend against the budget, the number of department vacancies, planning for special events, and should factor in reductions in overtime costs that result from improved controls, as outlined in this audit report.

Recommendation 4: SPD section management should explain and document any significant variances from the overtime budget to SPD senior management (i.e., Assistant Chiefs, Director of Finance, Chief Operating Officer, and Chief). Additionally, SPD should work with the City Budget Office and the City's Office for Special Events to develop and implement strategies for adhering to the overtime budget.

Benchmarking Results Budget & Overtime Spending

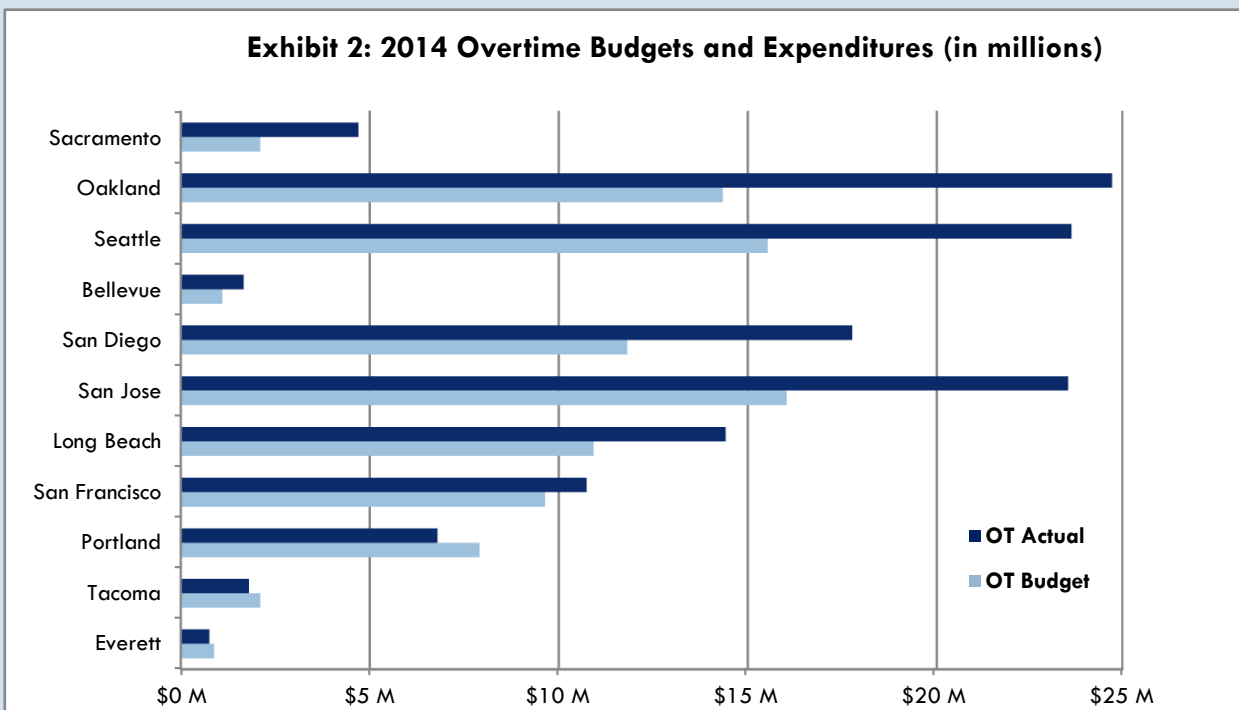
Among the 12 police agencies we surveyed (including Seattle), we found that in 2014 Seattle had the:

- 4th largest police department budget of approximately \$289 million;
- 3rd highest police budget per capita at \$440,000 per 1,000 individuals;
- 2nd highest overtime expenditure amount of \$23.6 million; and
- 3rd highest overtime budget overspend (based on percentage of overtime budget).

Source: Office of City Auditor benchmarking results. See Appendix B for information on our benchmarking methodology.

Benchmarking Results Overtime Budgets & Expenditures

Exhibit 2 summarizes the 2014 overtime budgets and overtime expenditures for the police agencies we surveyed.



Source: Office of City Auditor benchmarking results.

Note: If an agency's fiscal year differed from the calendar year, we used data from the 2013/2014 fiscal year.

3. Overtime Operational Controls

Operational controls are the day to day processes that ensure overtime is processed accurately, in compliance with policies and procedures, and as efficiently as possible. One example of an operational control to ensure overtime was paid accurately is reconciliation (i.e., comparison) of overtime hours paid to documentation of hours worked. The controls over many of SPD's day to day overtime processes are not adequate. We make several recommendations to address gaps in controls related to overtime processing, increase compliance with overtime policies and procedures, and improve the efficiency of some overtime functions.

To develop, implement, and evaluate the necessary overtime operational controls, SPD would benefit by using a specialist in internal controls and business process re-engineering. We also believe that SPD may require an additional accounting tech staff person in its Payroll unit to assist with overtime control functions. Further, as we describe in Recommendation 13, SPD would benefit from implementation of a police-specific automated timekeeping and scheduling system, or significant enhancements to existing systems, to help improve overtime controls and efficiency. While an investment in additional staff and technology incurs costs, SPD's overtime over-expenditures are a multi-million dollar issue.

A. Overtime Processing Controls

SPD's controls for several overtime processes are not adequate and require improvement. Specifically, improvements are needed in the following five areas: 1) recording of overtime, 2) reconciliation of overtime hours, 3) automated controls, 4) tracking employees' assignments, and 5) the maintenance of overtime documentation. Overtime controls need to be institutionalized and followed consistently.

Recording of Overtime – SPD has two primary methods for recording overtime hours:

- Overtime hours are entered by an employee, or their supervisor, into the employee's electronic timesheet in the City's Employee Self Service (ESS) system; this data is uploaded into the City's payroll system at the end of each pay period.
- Overtime hours are recorded by an employee on an Event Summary Form or an Overtime Request Form, and payroll staff enter the data from the form directly into the payroll system. This latter method is used mostly for overtime worked for special events.

As we described above, there are no policies and procedures that specify when each type of entry should be used, and this has resulted in confusion about whether overtime has been entered and by whom. Further, although overtime is supposed to be reported within the pay period it was earned, this does not always occur and hours can be entered into the payroll system long after it was worked. As a result of the multiple ways in which overtime hours can be recorded and the potential lag time in recording hours, SPD is at risk of inaccurate and duplicate payment of overtime.

In our analysis of SPD payroll data, we queried 2014 records for instances of the same individual being paid overtime twice for the same number of hours for the same activity on the same work date. We identified over 400 potential duplicate payments for overtime hours in 2014 that totaled more than \$160,000. These preliminary results do not include duplicate payments of overtime that had already been identified and corrected by SPD at the time of our analysis. Determining an exact figure for duplicate payments would require detailed research that was not conducted as part of this audit. SPD reported to us that they are researching the extent of this issue and determining next steps. It appears that many of these potential duplicates occurred because the same overtime hours were entered into the payroll system by both methods described above (i.e., hours were entered directly into an employee's timesheet and were also entered by the Payroll unit from an Event Summary Form or Overtime Request Form). To reduce the risk of duplicate payments, SPD should (1) specify how employees record overtime hours, as we describe above in Recommendation 1, and (2) implement the automated controls discussed in the following section and in Recommendation 8.

Reconciliation of Overtime Hours – There is currently no reconciliation of overtime hours **worked** against overtime hours **paid**, and this creates the risk of inaccurate payment, including overpayments. To reduce this risk, SPD section leaders should periodically verify that all overtime charged to their sections is appropriate and supported with documentation (e.g., Overtime Request Forms and Event Summary Forms). In addition, SPD should strongly consider having an independent reviewer (e.g., from SPD Payroll or Finance) perform reconciliations across the department for all overtime paid. We describe additional recommended monitoring by section leaders in Recommendation 18, and monitoring by an independent entity in greater detail in Recommendation 20.

Automated Controls to Ensure Accuracy and Compliance – SPD’s current payroll system has few automated controls in place to catch overtime errors and non-compliance with overtime policies. During our audit test work and payroll data analysis, we identified several types of errors and instances of non-compliance that could have been identified by automated controls if they had existed, including:

- Instances of **duplicate payments** of overtime that were undetected by SPD, as well as several instances of duplicate payments of overtime that were self-reported by the employee, or identified by SPD and then corrected. We discuss this issue in greater detail above under *Recording of Overtime*.
- Instances of payments for **more than 24 hours of work in a day**. There are cases in which it is appropriate for an employee to be paid for more than 24 hours on a single day (e.g., a retroactive adjustment must be attributed to a single day in the payroll system). However, we identified multiple incidences of employees recording over 24 hours in a day as a result of potential errors in entering standby time. We discuss this issue in greater depth below in *Section B. Compliance with Policies and Procedures*.
- Instances of officers **accruing compensatory time (comp time) in excess of the maximum accrual** set in SPD’s collective bargaining agreements. Comp time earned in lieu of overtime pay can be particularly expensive in scenarios in which there is a minimum required staffing level (e.g., in the 911 Communications Center), because the department must backfill to cover for personnel when they use comp time as leave and this can result in additional overtime. We discuss this issue in greater depth below in *Section B. Compliance with Policies and Procedures*.

Tracking Employee Assignments – SPD’s payroll system does not track an employee’s current assignment (e.g., if they are on loan to a particular unit), and this can make monitoring and reporting on overtime by section time-consuming and inaccurate.

Centralization of Overtime Documentation – There is no centralized repository for all overtime support documents, including Overtime Request Forms and Event Summary Forms. SPD’s Payroll unit retains the overtime support documents for overtime they enter, and the sections are supposed to retain the support documents for time entered by an employee or their supervisor. Without a central repository for overtime documents, it is difficult and time consuming to review and research the details of overtime worked, which is an important control issue.

Recommendation 5: Each SPD section leader should verify that all overtime charged to his or her section is appropriate and reconcile overtime hours with the supporting overtime documentation (e.g., Overtime Request Forms, Event Summary Forms, or other documents). This monitoring should be done in coordination with the section-leader monitoring we describe in Recommendation 18.

Recommendation 6: SPD should implement a process to ensure that overtime costs are accurately recorded and tracked by employee assignment.

Recommendation 7: SPD should establish a central recordkeeping location for all overtime-related documents.

Recommendation 8: SPD should develop automated controls or processes for detecting payroll errors or non-compliance with key policies, such as:

- duplicate payments for overtime;
- entry of more than 24 hours in a single day; and
- accrual of comp time in excess of maximum allowed.

B. Compliance with Overtime Policies and Procedures

In Recommendations 1 and 2, we describe the need for SPD to develop additional overtime policies and procedures and improve those that are already in place. However, SPD also needs to ensure **compliance** with current overtime policies and procedures related to management approval, maximum work hours, accrual of comp time, activity coding, and standby time.

Management Approval of Overtime – SPD policy is for employees to get approval from a supervisor before working overtime.¹⁴ However, SPD does not document approval of all overtime in the payroll system and does not require that all overtime be approved before payment.

- Overtime hours that come to the payroll unit on hard-copy Event Summary and Overtime Request Forms are entered manually into the payroll system. Our review of these forms indicated that most hard copy overtime forms were signed by at least one level of management. However, these approvals are not entered into the payroll system along with the overtime hours.
- If an employee or his or her supervisor records overtime directly into the City's Employee Self Service System (ESS), supervisory approval should be recorded electronically and uploaded to the City's payroll system. From our analysis of payroll data from January 2013 through June 2015, only 88% of overtime hours entered using ESS had supervisory approval documented in the system – **i.e., 12% of overtime hours did not have evidence of approval.**

To ensure all overtime is approved before payment, SPD needs to develop a way to record management approval of all overtime in the payroll system and not allow payment without proper approval. Five police departments we benchmarked with do not allow payment of overtime without supervisory approval in the payroll system.

Maximum Work Hours – SPD's Supplemental Employment Policy prohibits officers from working more than 18 consecutive hours per day or 64 hours per week, including both SPD on-duty and any non-SPD off-duty work.¹⁵ However, SPD cannot enforce this threshold because it does not monitor on-duty hours and it does not track off-duty work time. We queried SPD 2014 payroll data and identified many instances of an employee being paid for over 128 hours of on-duty time (including regular hours and overtime) within a 2-week payroll period, with some employees working over 128 hours in several pay periods over the course of the year. We cannot know if these employees worked off-duty time as well, since SPD does not have visibility over employee off-duty time and there is no requirement that off-duty time be reported to by SPD. However, in 2014, 481 officers (or 35%) were granted permits to work off-duty.

SPD should track all personnel work time, including off-duty time, and management approval should be required when employees exceed the maximum allowable levels, as is required in some other police agencies we surveyed. Enforcing maximum hour thresholds, and tracking compliance

¹⁴ Seattle Police Manual, Section 4.020 (Revision dated 2/1/2016).

¹⁵ Off-duty police work is work that non-City entities hire SPD officers to perform during their off-hours.

with these thresholds, could help control overtime expenses, reduce officer fatigue and the need for sick leave, and reduce opportunities for overtime abuse.

Maximum Accrual of Comp Time – SPD does not monitor compliance with the maximum accrual of comp time hours, which varies by collective bargaining agreement (i.e., 27 hours for patrol officers, 40 hours for other police officers, and 80 hours for parking enforcement officers). SPD Payroll staff reported to us that they used to audit comp time balances, but they no longer have the time necessary. Through our analysis of payroll data and review of overtime documentation, we identified multiple cash-outs of comp time for quantities that exceeded the maximum allowable balance of comp time hours. As we discuss in Recommendation 8, SPD should develop an automated control or a manual process to track comp time balances and ensure employees do not exceed the allowable thresholds.

Overtime Coding – SPD requires employees to code their overtime hours in the payroll system to a specific work activity, other than “general,” so that SPD management can see the specific types of activities that overtime is used for. Additionally, detailed and accurate payroll coding enables SPD to bill event organizers for reimbursable activities. However, we found that almost 5% of overtime hours paid between January 2013 and June 2015 were improperly coded to general police work or left blank. For this period, 47,092 hours, or \$3.2 million, could not be attributed to specific work activities.

Another example of incomplete coding of overtime data is the coding of Resource Type, which identifies whether the employee extended their regular work shift to work the overtime, was called in, or worked overtime on their regular day off. We found that 42% (\$28.5 million) of overtime was not properly coded with a Resource Type and left blank.

Currently, if incomplete or inaccurate data is submitted for payroll processing, the payroll system does not automatically “kick out” these records for further scrutiny or withhold pay. Rather, SPD’s practice is for the Payroll Supervisor to give a blanket approval to all records so employees always get paid. SPD should ensure that all overtime hours are properly coded to provide SPD management with adequate information on the reasons overtime is worked.

Standby Time and Pay for Over 24 Hours of Work in a Day – SPD employees who are required to be available to return to work if needed (i.e., are on-call) when they are off duty (e.g., detectives assigned to the Homicide Unit) are compensated at the rate of 10% of their regular hourly rate for the hours they spend on this “standby” pay status. When an on-call employee must return to work, SPD policy is that standby pay ends and regular overtime rules apply. However, we identified many instances in which an employee appeared to have been paid for more than 24 hours in a day due to receiving standby pay at the same time they received overtime or regular pay. In all, we identified a total of 143 incidences for 40 employees, with a potential financial impact of about \$2,300. Although the impact of these potential errors is relatively small, these payments did not comply with SPD policies and resulted in overpayments to employees. Further, they are another example of the errors that SPD should be consistently searching for and preventing or correcting (see Recommendation 8).

Accuracy of Payments – Throughout the audit, we also identified issues with accurate payment of overtime. Specifically, as we discussed above, SPD does not have a consistent method of preventing or identifying duplicate payments of overtime. In our analysis of 2014 records, we identified over 400 potential duplicate payments for overtime. As it appears that many of these

payments were for overtime hours that were entered into the payroll system twice by different methods, SPD needs to clarify how overtime hours should be recorded and enforce this policy (see Recommendation 1). Additionally, as described in Recommendation 8, SPD needs to implement automated controls to ensure all potential duplicate overtime is identified, so it can be corrected before it is paid or very soon afterwards.

Recommendation 9: SPD needs to enforce current overtime and compensatory time policies and procedures, including those related to the following:

- proper documentation of overtime authorization and approval;
- accurate activity and assignment coding of overtime;
- compensatory time thresholds; and
- accurate recording of overtime and standby time.

Recommendation 10: SPD should develop a way to record supervisory approval of all overtime in the payroll system and not allow payment without proper approval.

Recommendation 11: SPD should track all work time, including off-duty time, and require management approval for hours beyond the maximum allowable level.

Recommendation 12: SPD should ensure that all overtime hours are properly coded to specific activities to provide SPD management with adequate information on the overtime worked for the department.

C. Efficiency and Performance of Overtime Processes

SPD lacks adequate automated tools to conduct overtime processes in an efficient and well-controlled manner, specifically for overtime scheduling, entering overtime into the payroll system; reviewing overtime hours for errors, exceptions, and policy non-compliance; and producing reports on overtime. In addition, some SPD functions that are currently performed by sworn personnel and result in overtime could instead be performed by civilian personnel at a lower total cost to the department.

Timekeeping, Scheduling, and Payroll Systems – The City’s timekeeping system (i.e., Employee Self Service) and payroll system (i.e., EV5) are not tailored to the complexities of the police environment. Additionally, SPD currently does not have an electronic workforce scheduling system and handles all of this work manually. This lack of electronic tools makes the tracking and monitoring of overtime, along with many other aspects of scheduling and payroll, cumbersome and time consuming. For example, SPD managers cannot easily compare an individual’s overtime use with his or her schedule, and this makes it difficult to identify opportunities to reduce overtime by changing shifts. Additionally, as a result of the limitations of the current systems, there are very few automated controls SPD can use to help reduce errors employees make in recording hours or to identify non-compliance with

Benchmarking Results Systems for Scheduling & Tracking Overtime

- Six police agencies we surveyed use or are in the process of transitioning to Telestaff, a scheduling and timekeeping software system that is tailored to police and fire department environments and facilitates overtime tracking and reporting.
- One agency reported that they customized their existing payroll and timekeeping systems to improve overtime tracking and reporting.

Source: Office of City Auditor benchmarking results.

policies. SPD should consider either implementing new scheduling and timekeeping systems or enhancing existing systems to better meet its needs.

Sworn versus Civilian Staffing – SPD could reduce sworn overtime expenses if some jobs were performed by civilians (including retired sworn) instead of sworn staff. Three such areas that currently involve the regular use of sworn personnel on overtime are listed below for consideration. While replacing sworn staffing of these functions with civilian staffing may not result in reduced overtime hours, it would result in reduced overtime expenses because civilian personnel are generally less expensive than sworn personnel. However, this action could be subject to bargaining with the police unions.

- **Background Unit** – Extensive background checks are conducted for new SPD officers and other SPD personnel, and this work is currently done mostly by sworn police officers and frequently involves overtime work. This work could be done instead by civilian administrative staff, retired sworn personnel, or it could be outsourced to a third party agency. From pay periods between January 2013 and June 2015, overtime payments for sworn personnel in the backgrounding unit were \$494,974 (6,611 hours). We surveyed other jurisdictions' police agencies on how they perform background checks and found that half of the agencies use retired sworn officers or contractors to assist active sworn personnel in conducting background checks on new hires.
- **Office of Professional Accountability (OPA) Investigations** – OPA is responsible for investigating various types of complaints about SPD and SPD personnel. Currently, all investigation work is conducted by SPD sworn personnel (sergeants and above) who staff OPA on a rotating basis. The investigations frequently involve overtime work. The head of OPA is a civilian who is not part of SPD, although the office is funded by SPD. OPA's investigations work could be done by civilian professional investigators or retired sworn personnel.
- **Education and Training Section (ETS)** – ETS provides most of the training for SPD personnel. Almost all of the training is developed and delivered by sworn SPD personnel, and substantial amounts of overtime hours are used for these functions. Some of the curriculum development work and the training delivery could be done instead by civilian training professionals. This could reduce SPD's overtime expenses. Our benchmarking results indicated that some jurisdictions use a combination of sworn officers and other staffing resources (e.g., retired sworn officers and civilian subject matter experts) to provide training.

Recommendation 13: SPD should either (a) implement new scheduling and timekeeping systems or (b) enhance existing systems to include automated controls and to facilitate tracking and monitoring of overtime.

Recommendation 14: SPD should consider staffing some positions with civilians, rather than sworn officers, to reduce overtime expenses. SPD should consider civilian staffing in the Background Unit, the Office of Professional Accountability, and the Education and Training Section.

4. Overtime Management Controls

In addition to improving the controls over the day-to-day handling of overtime, SPD also needs to improve the processes and tools used by management to ensure overtime is properly tracked and analyzed, adequately monitored by SPD section leaders and an independent party, and reviewed for potentially abusive or avoidable overtime. An important aspect of effective management control is the “tone at the top” communicated by management. That is, to ensure the effectiveness of controls, management must emphasize their importance, establish policies and procedures, and monitor compliance.

A. Department-Wide Overtime Tracking and Analysis

While SPD has made significant improvements in the last year in how it tracks and analyzes the use of overtime, it still needs to make further improvements to provide management with sufficient information for good decision-making.

SPD’s current monthly overtime management reports employ a format that was specifically designed by SPD Finance to provide command staff with information about overtime in their assigned areas of responsibility. The monthly reports are organized to show overtime targets and actual use (in hours) for selected work activities for each SPD bureau,¹⁶ with further breakdowns within the bureau and by activity.

The reports are targeted to show where the majority of overtime spending occurs in those work activities of greatest interest internally or to others, such as the City Budget Office and the City Council. We believe these reports could be improved to provide a more comprehensive department-wide summary of overtime for work activities by adding a department-wide breakdown of overtime for all work activities (e.g., emphasis patrols or community meetings). This addition to current reporting would enable management to see overtime usage and changes from the department-wide perspective, versus just at the bureau-level. Exhibit 3 is one example of how SPD could summarize overtime hours by activity department-wide.

¹⁶ The SPD bureaus at the time of our audit work were the Chief of Police, Patrol Operations, Criminal Investigations, Special Operations, Chief Operating Officer, Compliance and Professional Standards, and Field Support.

**Exhibit 3. Overtime by Activity in Hours and Dollars
January 2013-June 2015**

Overtime Activity¹⁷	Overtime Hours¹⁸	% of Total Overtime Hours	Overtime Dollars¹⁷	% of Total Overtime Dollars
Special Events-Non Reimbursable	228,224	23%	\$15,717,145	23%
Special Events-Reimbursable	147,979	15%	\$10,200,775	15%
Training	95,675	10%	\$6,648,495	10%
Investigations/Arrest	86,123	9%	\$6,123,523	9%
Communications Center	68,008	7%	\$3,108,929	5%
Emphasis Patrols	55,856	6%	\$3,834,860	6%
Un-coded	47,092	5%	\$3,217,927	5%
U.S. Department of Justice Related Work	40,294	4%	\$3,067,115	5%
Civilian Vacancy/Vacation Coverage	34,933	4%	\$1,480,785	2%
Other ¹⁹	30,986	3%	\$3,393,772	5%
Federal Task Forces-Reimbursable	29,457	3%	\$2,133,312	3%
Patrol Augmentation	25,535	3%	\$1,800,465	3%
Human Resources and Recruiting	15,450	2%	\$1,066,394	2%
Court	15,224	2%	\$995,960	1%
Traffic	13,960	1%	\$928,973	1%
Community Meetings	13,027	1%	\$940,690	1%
Late Nite Recreation	10,484	1%	\$735,963	1%
Special Projects	9,980	1%	\$716,972	1%
Forensics & Technology	7,812	1%	\$415,111	1%
Mayor's Detail	7,757	1%	\$545,411	1%
Information Technology and Records	4,189	<1%	\$162,129	<1%
Supervisory Duties	3,610	<1%	\$321,410	<1%
Total	991,657	100%	\$67,556,115	100%

Source: Office of City Auditor analysis of SPD payroll data.

¹⁷ We categorized hours charged to multiple Resource Categories (RCATs) into these 23 general overtime activities.

¹⁸ We included in this exhibit all overtime and comp time paid by SPD between January 2013 and June 2015, including retroactive payments and payments for overtime that was reimbursed to SPD from other entities (e.g., grants).

¹⁹ Other includes retroactive payments for overtime (\$1.2 million) and other smaller categories of overtime, such as vehicle maintenance or assistance to other federal, state, county, and city agencies.

SPD Finance also should develop and regularly review (e.g., quarterly) reports that document trends in overtime use (department-wide, by section, and by activity), personnel with the highest amounts of overtime, overtime distribution by days of the week and months of the year, and overtime caused by the need to backfill for staff out on leave (e.g., sick leave or vacation).

In conjunction with improving reports to capture more comprehensive information about activities that lead to overtime, SPD should also review the coding structure used to identify and distinguish various activities. SPD Payroll explained to us that overtime coding can be confusing to management and officers. Although there is a certain established hierarchy of the different elements of payroll coding (i.e., RCATs, Activity Codes, and Project IDs), it's not always clear how hours should be coded to ensure costs are tracked properly. Further, SPD Finance has changed the meaning of certain payroll codes over the past couple of years. SPD should re-visit its overtime coding structure and provide regular training to all staff on coding of overtime. We noted that due to a lack of resources, Payroll staff have not conducted any training on entering hours and coding for payroll purposes in over two years.

Recommendation 15: SPD should develop a report that provides a department-wide, comprehensive summary and breakdown of overtime use for all work activities.

Recommendation 16: We recommend that SPD Finance develop and regularly review (e.g., quarterly) the following types of reports to expand its current scope of overtime review and analysis:

- Overtime Trend Analysis – change in overtime spending and hours, in total and by section;
- Comp Time Trend Analysis – change in overtime taken as comp time, in total and by section;
- Comparative Activity Analysis – overtime by primary activity categories compared to prior periods;
- Personnel with Highest Amounts of Overtime – overtime for all personnel over a certain amount (in hours and dollars) or for the top 10% or so;
- Overtime Distribution Analysis – overtime distribution by days of the week or months of the year, and on the individual dates with highest overtime historically (e.g., 4th of July); and
- Analysis of overtime caused by the need to backfill for staff out on leave (e.g., sick leave or vacation).

Recommendation 17: SPD should re-visit its overtime coding structure and provide regular training to all staff on how to code their overtime.

B. Section-Level Monitoring of Overtime

Currently, there is not consistent or adequate monitoring of overtime for most SPD sections. To improve monitoring at the section level, SPD needs to (1) set clear expectations for how and when section leaders are to monitor overtime, (2) provide section leaders with the reports needed to conduct the monitoring, and (3) ensure monitoring is documented by the section leaders and reviewed by management.

Monitoring Expectations – SPD senior management should specify how often each aspect of overtime must be monitored by section leaders. We recommend requiring a monthly review by section leaders of “the overtime basics” listed below and a more thorough review and analysis quarterly and annually (including the reconciliations described in Recommendation 5). Required steps for a section leader’s monthly review of overtime could include:

- Review total overtime for section;
- Review overtime breakdown by activity;
- Review changes in overtime by total hours and dollars and by activity over time;
- Assess reasonableness of section overtime;
- Review individual employee overtime for the section by total hours and by activity;
- Review changes in overtime activity (e.g., total hours, type of work, etc.) at the employee level;
- Assess reasonableness of overtime charged by individuals; and
- Assess reasonableness of standby time.

Overtime Reports for Section Leaders – To facilitate this monitoring, SPD will need to improve the overtime reports available to section leaders. Current overtime reports do not cover all the overtime conditions we listed above, and creating them requires a great deal of manual effort from SPD Finance staff. SPD should determine what they want to know about overtime and then design data systems and reporting to get that information in an efficient manner.

Documentation of Section Leader Monitoring – SPD should prepare an Overtime Review Sign-Off Form that Section Leaders would use to document their reviews. The form should clearly identify the monitoring steps, and SPD should provide training to section leaders on how to execute the new process. Further, SPD senior managers should regularly review and approve completed sheets to ensure the reviews occur.

Recommendation 18: SPD should increase the level and frequency of overtime monitoring required of section leaders and should ensure such monitoring is documented. To do this, SPD senior management should set clear expectations for how and when section leaders should monitor overtime (e.g., monthly, quarterly, bi-annually, annually). At a minimum, section leaders should conduct monthly reviews of overtime use by individual and activity. SPD should also develop a one-page monthly overtime monitoring sign-off sheet that identifies the information each section leader is responsible for reviewing, and section leaders should use these forms to document their monthly reviews.

Recommendation 19: SPD should ensure section leaders have the overtime reports needed to perform the overtime monitoring activities described in Recommendation 18.

C. Independent Monitoring of Overtime

SPD should also implement more robust independent monitoring of overtime and should consider assigning an analyst within SPD Finance or another area outside of operations to monitor and research overtime. Currently, SPD Finance reports on overtime and conducts periodic analyses, but there is no meaningful follow-up process for the results of these analyses and there is no auditing of overtime. This proposed independent monitoring of overtime should supplement our recommended management reviews by section leaders. Processes for independent monitoring should be documented in formal policies and procedures, as we describe in Recommendation 2.

Further, there is very little work done within SPD to look for unnecessary or abusive overtime. The SPD Payroll unit runs some queries to look for some inappropriate overtime conditions (e.g., overtime reported by an employee not eligible for overtime, such as a captain), but these reviews are limited and are focused more on finding payroll reporting errors than looking for potentially inappropriate overtime. In addition to the independent monitoring described above, SPD should implement a regular, periodic review of overtime data to look for indications of unnecessary or abusive overtime.

Recommendation 20: SPD should consider assigning an analyst within SPD Finance or another area outside of SPD operations to monitor and research overtime. This proposed independent monitoring of overtime should supplement our recommended reviews by section leaders. This monitoring should assess whether overtime is being worked and paid in compliance with policies and procedures, and it should also be designed to prevent and/or detect unnecessary or abusive overtime. Any exceptions identified by the independent monitor should be followed up on by an administrative sergeant.

Below are some overtime monitoring activities that should be conducted by someone independent of SPD's sworn field operations command structure:

- Conduct routine audits of the sections and individuals with the highest overtime (e.g., top 10%) to review compliance with policies and necessity of overtime reported. Review the supporting payroll documents for these employees.
- Conduct periodic audits of overtime worked for randomly selected employees and pull and review supporting payroll documentation.
- Run queries and analyses of payroll data to look for overtime that does not comply with department policies. For example, the San Francisco Police Department has an exception report of personnel working more than 14 hours in a day (i.e., their maximum cap for a workday) and this report is reviewed and followed up on by an administrative sergeant.
- Run queries and analyses of payroll data to identify patterns that may indicate unnecessary overtime or overtime abuse, for instance:
 - overtime worked every day by the same employees;
 - employees consistently working overtime on certain days of the week;
 - employees who alternate sick leave (or other paid leave) with overtime on a repetitive basis; and
 - employees who work overtime at a certain time of day, day after day, when their schedule could possibly be altered to better accommodate the work time needs for their position
- Periodically review standby time.

5. Special Events Overtime

SPD provides police services for special events in Seattle, including sporting events, parades, marathons, music festivals, protests, and dignitary visits. Most special events require a Special Event Permit, which are handled by the City's Office of Economic Development (OED), and involve payment of a permit fee and coordination of City services needed for the event, including police services, transportation services, and services provided by the City's Department of Parks and Recreation.

Special Events in Seattle are categorized as reimbursable and non-reimbursable:

Reimbursable special events: Events that require police services, and the cost is reimbursed to the City by the event organizer. While some event organizers reimburse the City for police services based on contractual agreements (e.g., for large sporting events), with the passage of Ordinance 124860 in September 2015, some event organizers will reimburse the City for policing hours through the event permitting process.

Non-reimbursable special events: Events that require police services, but the event organizer does not reimburse the City for the cost of these services.

The City's current controls over special events police overtime are not adequate. Special events (combined non-reimbursable and reimbursable) is the largest category of overtime usage for SPD and accounted for about 38% (\$25.9 million) of total overtime expenditures (\$67.6 million) between January 2013 and June 2015. For this reason, SPD must develop and implement the controls necessary to ensure that these hours are planned, authorized, and recorded properly. Ordinance 124860, which was passed by the City Council in September 2015, clarifies the types of events for which the City should be reimbursed for providing police services and at what hourly rate, but will still not result in full cost recovery for the City. The City needs a process for ensuring that it bills and collects reimbursable policing costs accurately and timely.

During this audit, we focused on internal controls and policies and procedures, and performed a limited review of special events overtime data. We did not review special event data in detail either at the department or employee level. Additionally, we did not assess special event staffing levels. However, in accordance with Ordinance 124860 passed by the City Council in 2015, our office will conduct a detailed audit of SPD's staffing of special events in 2016.

A. Policies and Procedures for Charging for Special Events

Between January 2013 and June 2015, about 23%, or \$15.7 million, of SPD's total overtime was for non-reimbursable special events, and about 15%, or \$10.2 million was for reimbursable special events.

Benchmarking Results Special Events Cost Recovery

Several police agencies we surveyed charge on a full cost recovery basis for police services for private events and most types of special events, except for free speech type events and events with community significance, such as parades.

- Seven agencies reported having an objective decision making process for deciding which events will provide reimbursements.
- Agencies that reported having clear policies regarding which events get reimbursed also reported higher levels of reimbursements for special events.

Some agencies reported that they collect payment for police services in advance of the event and then bill for or refund any difference from actual costs after the event.

Source: Office of City Auditor benchmarking results.

During the time of our audit work, we were told by several SPD officials, as well as by OED's Special Events Director, that Seattle's special events fees are much lower than those for other cities and that they believe that our low fee structure has resulted in a significant increase in events being held in Seattle, and consequently a large increase in police overtime expenses. We were also told that the City's fees do not fully recover the costs incurred by SPD or the City. As noted above, the City Council recently revised the special events permit fees, clarified what types of events should be charged for police services, and specified the hourly rate (i.e., currently \$67) for these services. However, we were told by the Director of the City Budget Office that the new fee structure will not result in full cost recovery.²⁰ To ensure the City recovers as much as allowed under Ordinance 124860, SPD will need to work with the City's Office for Special Events to establish procedures related to collecting deposits for estimated police services, tracking police service hours and costs, and billing or refunding based on actual police costs.

Recommendation 21: SPD should ensure that events are charged for police services as required by Ordinance 124680. This will involve SPD working with the City's Office for Special Events to develop and implement procedures for carrying out the terms of the Ordinance for permitted events related to collecting deposits for estimated police services, tracking actual police hours associated with the events, and billing or refunding event organizers for any differences between actual and estimated police hours.

B. Controls for Special Events Planning and Overtime

Although we did not focus specifically on special events overtime during this audit, we identified control gaps in SPD's processes for reviewing staffing plans before and following events, and for recording and approving special event overtime.

Review of Special Event Staffing Plans – Special Event staffing plans (i.e., planned number of staff and planned hours) are not always reviewed by an independent source, such as SPD's Special Operations Center (SPOC).²¹ Some events that will be held within a precinct's area are planned solely by the precinct. While we recognize the importance of precinct input to special event staffing because precinct personnel are most familiar with the risks associated with their regions, SPD should identify a central entity that is responsible for reviewing every special event plan and develop a consistent approach for event staffing and risk management planning.

The review by SPOC that is supposed to happen prior to the event is not always evidenced with a SPOC official's signature on Event Summary forms. Moreover, we were told by SPOC officials that their unit's staffing is so low that, in actuality, the SPOC review is essentially a "rubber stamp" of the overtime hours that were worked, not an in-depth or critical review process. Additionally, an independent review of **actual** overtime hours worked against **planned** hours after the event does not always occur. There may be good reasons for significant variances from a plan, such as escalation of risk or other unpredictable events, and these conditions would provide the explanation for staffing variances.

Recording and Approval of Special Event Overtime – We identified two specific control issues related to SPD's procedures for recording and approving special event overtime:

²⁰ The OED Special Events Office estimated the special events permit fee increase will result in \$204,000 of additional revenue for the City's General Fund in 2016.

²¹ SPOC was established by a former Assistant Chief with the objective of centralizing all of SPD's non-enforcement activities so the department could get a comprehensive view of special events.

- Overtime hours are normally approved at the close of an event by a sworn SPD “manager.” For most events, the manager is a sergeant and is called the field sergeant for the event. Because the field sergeants who approve the event overtime usually also worked the same event, there is an inherent lack of independence in the current process. This process makes the independent reconciliation of actual hours to planned hours called for in Recommendation 24 even more important.
- Event Summary Forms are used to document overtime worked for special events, and they list the names of all individuals who worked overtime; however, the forms are not always completely filled out with entries for Roll Call time, Event time, Secure time, or the field sergeant’s signature. SPD officers working the events are not required to sign in and out on the Event Summary Forms. We were told by some sworn personnel that field sergeants can remember who attended roll call meetings. However, special events can involve a large number of personnel (e.g., over 100 individuals), and memory does not provide sufficient documentation of the control.

Recommendation 22: SPD should develop a consistent approach and criteria for planning event staffing and managing risk at special events.

Recommendation 23: SPD should identify a central entity that is responsible for conducting an in-depth review and evaluation of all special event plans.

Recommendation 24: SPD should compare actual hours worked to hours planned for all special events, and significant variances should be explained, evaluated, and documented for SPD management.

Recommendation 25: SPD should improve documentation of time worked at special events by completing the Roll Call time, Event time, and Secure time on Event Summary Forms. Additionally, SPD officers working events should be required to sign in and out on Event Summary Forms, and SPD should ensure that these forms are signed by the approving sergeant.

C. Reimbursable Special Events Overtime – Contractual

Reimbursable special events are events that require police services, and in some cases the cost is reimbursed to the City by the event organizer based on a contractual agreement with SPD. Entities contract with SPD for police services for a period of time (e.g., the Seahawks and Mariners contract for an entire season), and SPD also executes short-term contracts or memorandums of agreement to provide services for one-time events, for example with film companies for a photo shoot. During January 2013 through June 2015, reimbursable special events overtime totaled \$10.2 million and represented about 39% of SPD’s total special events overtime expenditures of \$25.9 million.

As noted above, our office will be conducting a detailed audit of SPD Special Events in 2016, and we will be reviewing controls for both reimbursable and non-reimbursable events for that audit. During this audit we conducted a limited review of control procedures related to special events overtime. Nonetheless, we identified the need for improvements to SPD’s processes for tracking overtime worked, billing, and collecting payments for reimbursable events.

Policies and Procedures for Reimbursable Overtime Processes – SPD does not have comprehensive and documented policies and procedures on its processes for handling

reimbursable overtime. Existing policies and procedures need to have an effective date and an approval signature. As described in Recommendation 2, SPD needs documented procedures for reimbursable event billing, payment processing, and the handling of delinquent accounts.

Billing for Police Services – We noted several issues with billing for police services that should be addressed:

- Currently, SPD bills event organizers after the event. SPD could bill event organizers for estimated policing costs in advance of the event, and then bill for or refund any variance of actual costs from estimated costs. This policy change would eliminate most of the issues with delinquent accounts that are discussed below.
- Overtime listed on Event Summary Forms for all reimbursable events should be reconciled to hours entered into SPD's payroll system to ensure all reimbursable overtime is billed. Currently, SPD Fiscal queries the payroll system for overtime associated with each reimbursable event to identify what should be billed to the event organizer. Fiscal queries the system soon after the event was held and then again periodically to try to ensure any hours that were entered into the payroll system late are also identified. During our audit test work of payroll documents, we saw many instances in which Event Summary Forms were not turned in to SPD's Payroll unit for processing until up to a month after the event and we are concerned this could result in some overtime not getting billed to event organizers. Establishing a procedure to reconcile all overtime forms for reimbursable events to overtime entered to the payroll system would ensure that all reimbursable hours are billed.
- Our payroll data analysis work indicated that 4.7% of overtime was coded improperly to a "general work" category or not coded at all. Unless overtime is coded accurately to the event project number, SPD Fiscal will not know it was worked for a reimbursable event and the overtime may not get billed to the event organizer. The high amount of overtime that we found to be coded improperly presents a concern that there is SPD overtime that should be billed but is not due to this payroll coding issue.

Delinquent Accounts – We identified several issues with SPD's processes for handling delinquent accounts for reimbursable overtime.

- Follow up on delinquent reimbursable overtime accounts is limited to sending monthly statements to the customers who are in arrears. SPD should be more actively following up on delinquent accounts by contacting customers to try to obtain payment.
- Delinquent accounts are not written off in a timely manner. SPD's current accounts receivable aging report indicates that some accounts are over 90 days and 120 days delinquent for substantial amounts. As of July 13, 2015, the total amount of significantly delinquent debt was over \$331,000, not including finance charges (i.e., interest charged by the City on delinquent debts). Further, there were eight customers with significantly delinquent accounts of \$5,000 or greater.
 - One of these customers was over 120 days delinquent on a balance of over \$168,000.
 - Another customer was over 120 days delinquent on a balance of over \$53,000.

In 2013, SPD wrote off three reimbursable overtime accounts for a total of \$4,700 and the outstanding balances for two of these account write-offs dated back to 2006 and 2009 (two accounts). All three customers were film companies.

In 2014, SPD sent over \$32,000 in delinquent debt to the City Attorney's Office or to FAS Treasury for collections. This represented twelve accounts in total (most of which were for film companies), with one delinquent account worth \$15,600.

To reduce current issues with delinquent accounts, SPD should revise its billing practices. If SPD collected payment for estimated policing costs before events, and then billed or refunded the customer for any variation from the estimate, then problems with account delinquencies would not be much of an issue. Additionally, at a minimum, SPD should check an organizer's credit history before entering into an agreement for reimbursable police services.

Recommendation 26: SPD should revise its billing practices so that it either (a) bills event organizers for estimated policing costs in advance of the event, and then bills for or refunds any variance of actual costs from estimated costs, or (b) at a minimum, checks organizers' credit histories before entering into an agreement for reimbursable police services.

Recommendation 27: For reimbursable events, SPD should reconcile all overtime hours on Event Summary Forms with hours recorded into SPD's payroll system to ensure all overtime is accurately billed.

Recommendation 28: SPD should contact event organizers to collect payment when debts are 30 days delinquent or earlier.

Recommendation 29: SPD should write off delinquent accounts for special event reimbursements in a timely manner.

6. Off-Duty Work

Off-duty police work is work that non-City entities hire SPD officers to perform during their off-hours. The officers wear their SPD uniforms and carry their SPD-issued weapons to off-duty assignments. Two examples of off-duty police employers are construction firms that hire officers to handle traffic control and pedestrian safety for their construction sites, and businesses that hire officers for security. In 2014, approximately 35% of SPD officers were granted permits to work off-duty for 1,979 off-duty permitted jobs.

Visibility of Off-Duty Work

Currently, SPD has very little control over this off-duty work and no visibility of how many hours officers are working off-duty. Entities that wish to hire off-duty SPD officers have to file a form with SPD and get the department's approval, and officers who wish to work off-duty must also get the department's permission

Benchmarking Results Off-Duty Administration

Most of the police agencies we surveyed had partial or complete control over off-duty police work, enabling them to monitor and manage any impacts to overtime, absences, and performance.

- Three agencies require entities requesting work to contract with the police department rather than directly with the employee.
- Three agencies prohibit or severely limit off-duty police work.
- San Jose has a Secondary Employment Unit that approves and monitors the off-duty program and City approved special events.
- King County requires officers to notify radio dispatch of the location and times of off-duty work, which allows the County to monitor the hours worked.

Source: Office of City Auditor benchmarking results.

annually for each off-duty employer. However, that is the extent of SPD's involvement in this work. The entities that hire the off-duty personnel pay them directly, based on an hourly rate that has been approved by SPD. Comparable police agencies we benchmarked with have much greater control and visibility of their employees police off-duty work.

Without knowledge of the hours personnel spend on off-duty work, SPD cannot know if employees are exceeding their maximum total work hours (i.e., both on-duty and off-duty work) allowed by SPD's Supplemental Employment policy of 64 hours per week or no more than 18 consecutive hours a day. In addition, SPD management cannot determine whether off-duty work could be contributing to high employee paid leave, such as sick leave or family medical leave. Excessive off-duty work could also result in officers who are fatigued or underperforming during their SPD work shifts.

Recommendation 30: SPD should implement a process for tracking off-duty work hours so SPD management can monitor whether officers are a) complying with the department's maximum weekly and daily hours thresholds, b) taking high amounts of sick or other paid leave while also working a lot of off-duty hours, or c) underperforming for SPD work due to high amounts of off-duty time. SPD Policy 5.120 states that SPD personnel are required to log in and out by radio when working off duty, so this might be one option to consider for tracking off-duty time. SPD should also consider developing a plan and timeline for requiring employers of off-duty SPD officers to contract directly with SPD.

IV. OBJECTIVES, SCOPE AND METHODOLOGY

Audit Objectives

Because this audit was requested by the Chief of Police, we developed our audit objectives to address her concerns about whether there was adequate leadership, management oversight, and supervisory control to manage SPD's overtime spending appropriately. During this audit we examined SPD's internal controls related to overtime that are common across all or most of SPD's bureaus and sections, particularly those controls that could result in a significant financial impact on the City. The primary objectives of this audit were to:

1. Determine whether SPD has implemented sufficient internal controls to ensure the SPD overtime budget is accurate and realistic and is based on an analysis of historic overtime data and forecasted needs, and has been communicated to SPD managers responsible for budget categories;
2. Determine whether SPD's internal controls ensure overtime hours are tracked, processed, recorded, and paid accurately and properly for overtime worked (including compliance with SPD collective bargaining agreement requirements related to overtime);
3. Determine whether SPD's internal controls are sufficient to ensure good management control of overtime, including proper authorization, approval, tracking, and management monitoring of overtime;
4. Determine whether SPD's internal controls are adequate to prevent and/or detect fraudulent, excessive, or abusive use of overtime;
5. Determine whether controls are adequate for overtime associated with policing special events, and determine whether controls over reimbursable event overtime ensure the City is accurately compensated for the police services it provides during these events; and

6. When feasible, document SPD's business practices, service delivery methods, or policies and procedures that contribute to avoidable overtime.

Audit Scope

We reviewed current and recent SPD overtime policies, procedures, and practices, with a greater emphasis on current operations. For our payroll data analysis work, we reviewed payroll records for the pay periods from January 2013 through June 2015, and we reviewed payroll documents from 2013 and 2014 for our other audit test work. The timeframe selected for our audit work was in accordance with the audit request from the Chief of Police.

We conducted an audit of department-wide internal controls for overtime functions. We evaluated whether there were adequate controls in place, whether there was compliance with controls, and whether management was properly monitoring overtime controls and following up on any issues. The basic categories of controls that we included within our audit were:

Overtime Policies and Procedures

- Overtime usage policy
- Overtime functions policies and procedures

Overtime Budgeting

- Budgeting process
- Budget monitoring
- Budget performance

Overtime Operational Controls

- Requesting, authorizing, and approving overtime
- Scheduling overtime and tracking overtime worked
- Payroll processing of overtime hours
- Recordkeeping
- Efficiency and effectiveness of overtime functions

Overtime Management Controls

- Overtime reporting
- Management monitoring
- Review/Analysis/Audit for potentially inappropriate overtime

Special Events Overtime Controls²²

- Policing cost reimbursement policy for special events
- Event planning controls
- Event procedures and tracking overtime worked
- Contracts and billing for reimbursable overtime
- Delinquent account procedures for reimbursable overtime

²² We covered internal controls associated with overtime for special events at a high level but did not conduct a detailed review or in depth audit test work. We will do this when we conduct an audit of SPD's special events cost controls in 2016, as requested by the City Council in Ordinance 124860.

Off-Duty Police Work

- Off-duty work policies and procedures
- Reporting of off-duty hours worked

There were some things we did not cover within this audit, primarily due to a lack of time; however, we recommend that these areas be considered for a future audit. We did not complete the following:

- Assessment of overtime controls related to specific SPD sections;
- Reconciliation of overtime paid with supporting documents. This test would involve tracing documents filed at each SPD section;
- Testing of compliance with overtime policies and procedures at the individual employee-level or SPD section level; or
- Analysis of payroll data to look for indications of potential abusive or unnecessary overtime at the individual employee or SPD section level.

Audit Methodology

We based our conclusions on several types of audit work, including reviews of documents, observations, audit test work, and benchmarking. Specifically, we:

- Interviewed SPD and other City officials, including sworn commanders/management of eight “field operations” sections. In total, we interviewed 18 sworn SPD officials (i.e., captains, lieutenants, and sergeants);²³
- Reviewed overtime policies and procedures, reports, and other documentation;
- Observed the SPD Payroll unit’s two-day payroll processing cycle to see how overtime is entered in to the SPD payroll system and reviewed for accuracy and anomalies;
- Conducted test work by reviewing supporting payroll documents for four pay periods;
- Analyzed and summarized raw payroll data on overtime for pay periods ending between January 2013 and June 2015 (see Appendix A); and
- Conducted benchmarking on overtime with 11 comparable police departments, including four local police agencies to learn about their overtime policies and procedures.²⁴ See Appendix B for the full results of our benchmarking survey.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²³ We interviewed SPD management from Budget and Finance, Fiscal, Human Resources, West Precinct, South Precinct, Traffic, Education and Training, Community Relations, Violent Crimes, Communications/911 Center, Special Operations Center (SPOC), and Office of Professional Accountability (OPA).

²⁴ The benchmark agencies include the “West Coast seven” (Long Beach, Oakland, Portland, Sacramento, San Diego, San Francisco, and San Jose) and four local police agencies (Bellevue, Everett, King County, and Tacoma).

APPENDIX A

Payroll Data Analysis

This appendix provides the results of analyses we performed using raw payroll data provided by the Seattle Police Department.

Scope and Methodology

The data we used spanned the pay periods ending January 1, 2013 through June 30, 2015.

Overtime is defined as hours worked beyond an employee's regular shift. In order for an employee to receive pay at the overtime rate, their hours must be coded to an overtime or compensatory time (comp time) earn code in SPD's Employee Self Service System (ESS) or payroll system (EV5). Earn codes are the payroll codes SPD uses to define the rate and method of compensation (i.e., whether an employee is paid at 100%, 150%, or 200% of their regular hourly rate, and whether an employee is paid overtime or earns comp time for additional hours worked).

For our analyses in this appendix, we used ACL and Excel to extract and analyze payroll records with the following overtime and comp time earn codes:

76	Overtime meals
GA	Out of class overtime, 1X regular rate
GB	Out of class overtime, 1.5X regular rate
GC	Out of class overtime, 2X regular rate
MP	Mandatory, 1.5X regular rate overtime
PA	Court overtime, 1X regular rate
PB	Court overtime, 1.5X regular rate
PC	Court overtime, 2X regular rate
TA	Overtime pay, 1X regular rate
TB	Overtime pay, 1.5X regular rate
TC	Overtime pay, 2X regular rate ²⁵
EA	Comp time earned, 1X regular rate
EB	Comp time earned, 1.5X regular rate
EC	Comp time earned, 2X regular rate
MC	Mandatory comp time, 1.5X regular rate

It is important to note that we used the raw payroll data as-is. We did not "clean-up" the data to remove retroactive payments, re-categorize hours, or make any other changes that would affect how the data was summarized. As a result, the data used for our analysis included the following:

- Payments to SPD employees for work conducted outside the time period of review, including retroactive adjustments;
- Bulk pay adjustments and corrections; and
- Payouts for comp time earned outside the time period of review.

²⁵ Used only on the 4th of July if it's not the officer's regularly scheduled day and the officer works overtime.

Approval of Time in the Payroll System

Entries of overtime hours into the City's Employee Self Service System (ESS) are entered electronically by the employee or their supervisor. These entries require supervisory approval of the timesheet. However, we found that only 88% of overtime hours submitted through ESS had supervisory approval recorded in the payroll system.

**Exhibit A1. Supervisory Approvals of Overtime for Hours
Submitted through Employee Self Service, January 2013 – June 2015**

Hours Submitted	Hours with Supervisory Approval	% Hours with Supervisory Approval
680,350	595,416	88%

Source: Office of City Auditor analysis of SPD payroll data.

Resource Type Coding in Payroll System

Another example of incomplete data entry is for Resource Type codes, which identify whether the employee (1) was called in to work overtime (Call In), (2) worked overtime on their regular day off (Day Off), or (3) extended their regular work shift to work the overtime (Shift Extension). We found that 42% of overtime hours lacked a code for the Resource Type.

Exhibit A2. Resource Type Coding for Overtime Hours, January 2013 – June 2015

Resource Type Coding	Hours	% of Total Hours	Dollars	% of Total Dollars
Call In	34,849	3%	\$2,491,512	4%
Day Off	294,483	30%	\$20,988,791	31%
Shift Extension	244,112	25%	\$15,530,008	23%
Blank	418,213	42%	\$28,545,804	42%
Total	991,657	100%	\$67,556,115	100%

Source: Office of City Auditor analysis of SPD payroll data.

SPD Employee Overtime Hours and Dollars by Year²⁶

We analyzed overtime to identify the ranges of overtime hours and dollars paid to SPD employees in 2013, 2014, and 2015.

In 2013, the highest number of overtime hours paid to an SPD employee was 1,290 hours; and in 2014, the highest number of overtime hours paid to an SPD employee was 1,398.75 hours.

Exhibit A3. Overtime Hours Paid in 2013

Number of Employees	Number of Overtime Hours
3	1,200 hours or more
5	between 1,000 and 1,199 hours
46	between 800 and 999 hours
90	between 600 and 799 hours
171	between 400 and 599 hours
377	between 200 and 399 hours
1,068	between 0 and 199 hours
1,760	379,711 Total Hours

Source: Office of City Auditor analysis of SPD payroll data.

Exhibit A4. Overtime Hours Paid in 2014

Number of Employees	Number of Overtime Hours
4	1,200 hours or more
11	between 1,000 and 1,199 hours
39	between 800 and 999 hours
84	between 600 and 799 hours
175	between 400 and 599 hours
461	between 200 and 399 hours
1,020	between 0 and 199 hours
1,794	409,026 Total Hours

Source: Office of City Auditor analysis of SPD payroll data.

²⁶ All references made to overtime hours include both overtime and compensatory time hours.

In 2013, the highest amount in dollars paid for overtime was \$99,023.96, and in 2014, \$103,825.81.

Exhibit A5. Overtime Dollars Paid in 2013

Number of Employees	Dollars Paid for Overtime
0	\$100,000 or more
1	between \$95,000 and \$99,999
2	between \$90,000 and \$94,999
1	between \$85,000 and \$89,999
2	between \$80,000 and \$84,999
3	between \$75,000 and \$79,999
3	between \$70,000 and \$74,999
14	between \$65,000 and \$69,999
19	between \$60,000 and \$64,999
24	between \$55,000 and \$59,999
25	between \$50,000 and \$54,999
29	between \$45,000 and \$49,999
32	between \$40,000 and \$44,999
45	between \$35,000 and \$39,999
62	between \$30,000 and \$34,999
84	between \$25,000 and \$29,999
105	between \$20,000 and \$24,999
154	between \$15,000 and \$19,999
208	between \$10,000 and \$14,999
312	between \$5,000 and \$9,999
635	between \$0 and \$4,999
1,760	\$25,606,862 Total Dollars

Source: Office of City Auditor analysis of SPD payroll data.

Exhibit A6. Overtime Dollars Paid in 2014

Number of Employees	Dollars Paid for Overtime
4	\$100,000 or more
1	between \$95,000 and \$99,999
1	between \$90,000 and \$94,999
1	between \$85,000 and \$89,999
3	between \$80,000 and \$84,999
5	between \$75,000 and \$79,999
10	between \$70,000 and \$74,999
9	between \$65,000 and \$69,999
25	between \$60,000 and \$64,999
15	between \$55,000 and \$59,999
23	between \$50,000 and \$54,999
32	between \$45,000 and \$49,999
37	between \$40,000 and \$44,999
40	between \$35,000 and \$39,999
60	between \$30,000 and \$34,999
96	between \$25,000 and \$29,999
123	between \$20,000 and \$24,999
169	between \$15,000 and \$19,999
248	between \$10,000 and \$14,999
355	between \$5,000 and \$9,999
537	between \$0 and \$4,999
1,794	\$27,934,696 Total Dollars

Source: Office of City Auditor analysis of SPD payroll data.

Between January and June 2015, the highest number of overtime hours paid to an employee was 787.25 hours, and the highest amount in dollars paid for overtime was \$66,944.02.

Exhibit A7. Overtime Hours Paid Jan-Jun 2015

Number of Employees	Number of Overtime Hours
4	600 hours or more
44	between 400 and 599.99 hours
300	between 200 and 399.99 hours
1,355	between 0 and 199.99 hours
1,703	202,920 Total Hours

Source: Office of City Auditor analysis of SPD payroll data.

Exhibit A8. Overtime Dollars Paid Jan-Jun 2015

Number of Employees	Dollars Paid for Overtime
1	\$65,000 or more
1	between \$60,000 and \$64,999.99
0	between \$55,000 and \$59,999.99
1	between \$50,000 and \$54,999.99
2	between \$45,000 and \$49,999.99
5	between \$40,000 and \$44,999.99
13	between \$35,000 and \$39,999.99
28	between \$30,000 and \$34,999.99
46	between \$25,000 and \$29,999.99
76	between \$20,000 and \$24,999.99
129	between \$15,000 and \$19,999.99
215	between \$10,000 and \$14,999.99
365	between \$5,000 and \$9,999.99
821	between \$0 and \$4,999.99
1,703	\$14,014,557 Total Dollars

Source: Office of City Auditor analysis of SPD payroll data.

Overtime Hours by Day of Week

Exhibit A9 includes the results of our summary of overtime hours by day of the week.

Exhibit A9. Overtime Hours by Day of Week, January 2013 – June 2015

Week Day	Hours	% Total Hours	Dollars	% Total Dollars
Saturday	206,084	21%	\$13,517,571	20%
Sunday	160,296	16%	\$10,602,076	16%
Friday	150,372	15%	\$10,213,882	15%
Wednesday	133,042	14%	\$9,018,673	13%
Monday	117,029	12%	\$7,783,854	12%
Thursday	113,257	11%	\$7,693,241	11%
Tuesday	111,576	11%	\$8,726,819	13%
Total	991,656	100%	\$67,556,115	100%

Source: Office of City Auditor analysis of SPD payroll data.

Top 25 Days for SPD Overtime Hours

Exhibit A10 summarizes the 25 dates with the highest quantity of overtime hours, from highest to lowest, for pay periods ending January 2013 – June 2015.

Exhibit A10. Top 25 Days for SPD Overtime Hours, January 2013 – June 2015

Rank	Date Worked	Overtime Hours	Overtime Dollars
1	05/01/2015	6,114	\$432,166
2	07/27/2013	5,934	\$400,327
3	07/26/2014	5,898	\$406,891
4	07/04/2014	5,868	\$500,216
5	02/05/2014	5,700	\$395,690
6	05/01/2014	4,544	\$323,635
7	07/04/2013	4,375	\$350,876
8	02/01/2015	4,254	\$305,730
9	12/03/2014	4,093	\$290,349
10	08/03/2013	3,876	\$250,498
11	01/19/2014	3,872	\$267,747
12	05/18/2015	3,822	\$264,034
13	09/04/2014	3,696	\$253,893
14	08/17/2013	3,550	\$230,685
15	02/02/2014	3,538	\$254,317
16	05/02/2015	3,467	\$236,384
17	05/01/2013	3,443	\$228,042
18	01/18/2015	3,194	\$218,257
19	08/02/2014	3,186	\$211,797
20	12/31/2014	3,164	\$223,161
21	12/01/2014	3,129	\$224,679
22	06/29/2014	3,110	\$213,206
23	01/10/2015	3,052	\$206,812
24	11/29/2013	2,988	\$194,086
25	06/13/2015	2,963	\$186,066

Source: Office of City Auditor analysis of SPD payroll data.

Overtime Hours for July 4th

We analyzed raw payroll data for July 4, 2013 and July 4, 2014, to determine the number of employees who worked overtime and how many hours they worked.

Exhibit A11: Overtime Hours for July 4, 2013

Number of Employees	Number of Overtime Hours
37	15 or more hours
102	between 10 and 14.99 hours
264	between 5 and 9.99 hours
197	between 0 and 4.99 hours
600 Total Employees	4,375 Total Hours

Source: Office of City Auditor analysis of SPD payroll data.

Exhibit A12: Overtime Hours for July 4, 2014

Number of Employees	Number of Overtime Hours
43	15 or more hours
201	between 10 and 14.99 hours
267	between 5 and 9.99 hours
229	between 0 and 4.99 hours
740 Total Employees	5,868 Total Hours

Source: Office of City Auditor analysis of SPD payroll data.

Overtime Hours by Employee's Age, Sex, Race, and Years of Service

We analyzed SPD payroll and personnel data to determine the age, sex, race, and years of service of SPD employees who worked varying amounts of overtime between January 2013 and June 2015, and we summarize this data in Exhibit A13. We noted that there was a consistent trend between overtime worked and employee years of service, with the average years of service being higher for employees who earned the most overtime.

Exhibit A13. January 2013 – June 2015 Overtime Hours by Employee Age, Sex, Race, and Years of Service

Number of Employees	Number of Overtime Hours Earned	Average Age (years)	Sex	Race	Average Years of Service
2	3,000 or more hours	53.4 years	100% Male	50% White 50% Asian	25.7 years
9	between 2,500 and 2,999 hours	52.6 years	100% Male	78% White 11% Asian 11% Black or African American	26.0 years
33	between 2,000 and 2,499 hours	50.7 years	85% Male 15% Female	58% White 18% Asian 3% American Indian/Alaska Native 12% Black or African American 3% Native Hawaiian/Other Pacific Islander 6% Two or More Races	24.9 years
75	between 1,500 and 1,999 hours	50 years	87% Male 13% Female	71% White 12% Asian 1% Not Specified 5% Hispanic or Latino 11% Black or African American	22.8 years
178	between 1,000 and 1,499 hours	46.6 years	88% Male 12% Female	70% White 8% Asian 1% American Indian/Alaska Native 5% Hispanic or Latino 12% Black or African American 3% Native Hawaiian/Other Pacific Islander 1% Two or More Races	18.5 years
452	between 500 and 999 hours	44.9 years	75% Male 25% Female	73% White 8% Asian 1% Not Specified 2% American Indian/Alaska Native 6% Hispanic or Latino 7% Black or African American 1% Native Hawaiian/Other Pacific Islander 2% Two or More Races	16.5 years

Number of Employees	Number of Overtime Hours Earned	Average Age (years)	Sex	Race	Average Years of Service
1,238	between 0 and 499 hours	45.8 years	67% Male 33% Female	73% White 7% Asian 1% Not Specified 2% American Indian/Alaska Native 4% Hispanic or Latino 9% Black or African American 1% Native Hawaiian/Other Pacific Islander 3% Two or More Races	15.5 years
1,987 Total Employees Worked OT Between January 2013 and June 2015	Average of 499 Hours per Employee	45.9 years	72% Male 28% Female	72% White 9% Black or African American 8% Asian 4% Hispanic or Latino 3% Two or More Races 2% American Indian/Alaska Native 1% Native Hawaiian/Other Pacific Islander 1% Not Specified	16.5 years

Source: Office of City Auditor analysis of SPD HRIS data.

SPD provided data for all SPD employees eligible for overtime, as of February 2016, and this information is included in Exhibit A14.

Exhibit A14. SPD Employees Eligible for Overtime, February 2016

Number of Employees	Average Age (years)	Sex	Race	Average Years of Service
1,836 employees	44.32 years	73% Male 27% Female	71% White 9% Black or African American 8% Asian 5% Hispanic or Latino 3% Two or More Races 2% American Indian/Alaska Native 1% Native Hawaiian/Other Pacific Islander 1% Not Specified	15.7 years

Source: Office of City Auditor summary of SPD data.

APPENDIX B

Police Agency Benchmarking

We benchmarked with other police agencies to learn how they manage, track, report on, and are accountable for overtime expenditures. This appendix describes how we selected the benchmark agencies, the approach we used to collect the information, and the results of our benchmarking efforts.



West Coast Seven and Local Police Agencies

We benchmarked with 11 police agencies in three West Coast states. We used the “West Coast Seven” cities (Long Beach, Oakland, Portland, Sacramento, San Diego, San Francisco, and San Jose) to benchmark against Seattle. We used the West Coast Seven because those cities have been used in City of Seattle labor negotiations related to law enforcement wages and benefits

since the 1980s. Because all of the West Coast Seven cities are located outside of Washington, we also benchmarked with the four of the largest local law enforcement agencies in the region (Bellevue, Everett, King County, and Tacoma).

We did not include the King County Sheriff's Office (KCSO) data in our benchmarking exhibits that were based on quantitative analyses of population or land area (e.g., comparison of sworn officers per 1,000 residents or per square mile), staffing, and police agency budgets, overtime budgets, and actual expenditures. KCSO provides local law enforcement services in the unincorporated areas of King County. In addition, some cities and other entities contract with KCSO for law enforcement services. However, we included KCSO in some of our comparisons of various policies and procedures because we believe many aspects of its policies and procedures could be beneficial to Seattle.

Approach Used to Collect Information

To obtain our information, we reviewed the agencies' websites for information on general fund budget, overtime budget, and employee data. On several agencies' websites, we found policies and procedures related to overtime and the sworn officers' collective bargaining agreements. We used U.S. Census data to obtain demographic information on the jurisdictions we surveyed, such as population and square miles. Finally, we sent a list of customized questions to each jurisdiction so they could provide information we were unable to locate independently, confirm the information we collected, and answer over 20 questions that we asked of all jurisdictions. All 11 police agencies provided written responses to the questions. In addition, we conducted in-person or telephone interviews with 10 of the 11 agencies. One jurisdiction provided only written responses. Although we attempted as much as possible to verify self-reported information and the results of our online research, we did not audit the information we received from other police agencies.

Comparison Data and Information

We present our benchmarking results in 9 sections:

1. Demographics (including population and land area)
2. Staffing (total, sworn, and civilian)
3. Police Agency Budgets, Overtime Budgets, and Actual Overtime Expenditures
4. Collective Bargaining Agreement Provisions Affecting Overtime
5. Overtime Budgeting, Management, and Reporting Systems
6. Police Special Events Overtime Reimbursement Policies
7. Off-Duty Policing and Secondary Employment
8. Use of Civilians for Background Checks and Training
9. Police Agency Thresholds for Work Hours

Demographics

The following demographics are provided for context. Seattle serves the fourth largest population and is the third densest jurisdiction.

Exhibit B1. Population, Land Area, and Density per Square Mile

Agency	2013 Estimated Population	Land Area Square Miles ²⁷	Density (pop. per square mile)
San Francisco	837,442	47	17,932
Long Beach	469,428	50	9,314
Seattle	652,405	84	7,776
Oakland	406,253	56	7,242
San Jose	998,537	175	5,709
Sacramento	479,686	97	4,935
Portland	609,456	134	4,538
Bellevue	133,992	31	4,365
San Diego	1,355,896	324	4,181
Tacoma	203,446	50	4,061
Everett	105,370	33	3,150

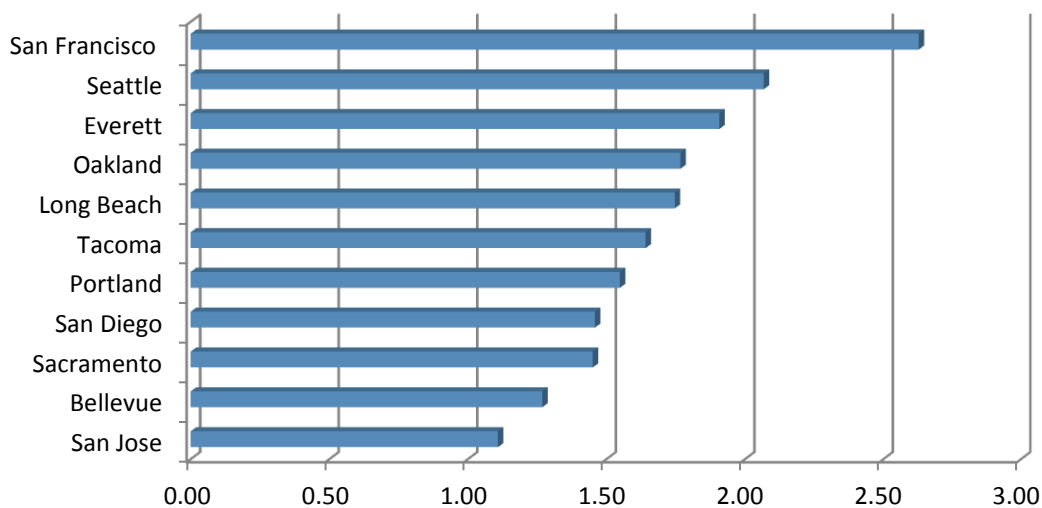
Source: Office of City Auditor benchmarking results.

²⁷ We used land area square miles rather than total square miles to determine density, because total square miles include bodies of water. We used total square miles in other analyses, when we believed it was more appropriate to do so.

Staffing

A 2012 police staffing and allocation study performed by Michigan State University researchers²⁸ found that a number of police agencies use resident population to estimate the number of officers a community needs. They stated that while this method provides an easy calculation and interpretation, it may provide a biased representation of a jurisdiction's need and does not take into account intensity of the workload or crime experienced in the jurisdiction. There is no generally accepted benchmark for the optimum staffing rate based on population. However, because staffing by population is easily available, we provide it here for our benchmark agencies (including Seattle) for further context.

Exhibit B2. Police Agency Sworn Officers per 1,000 Population



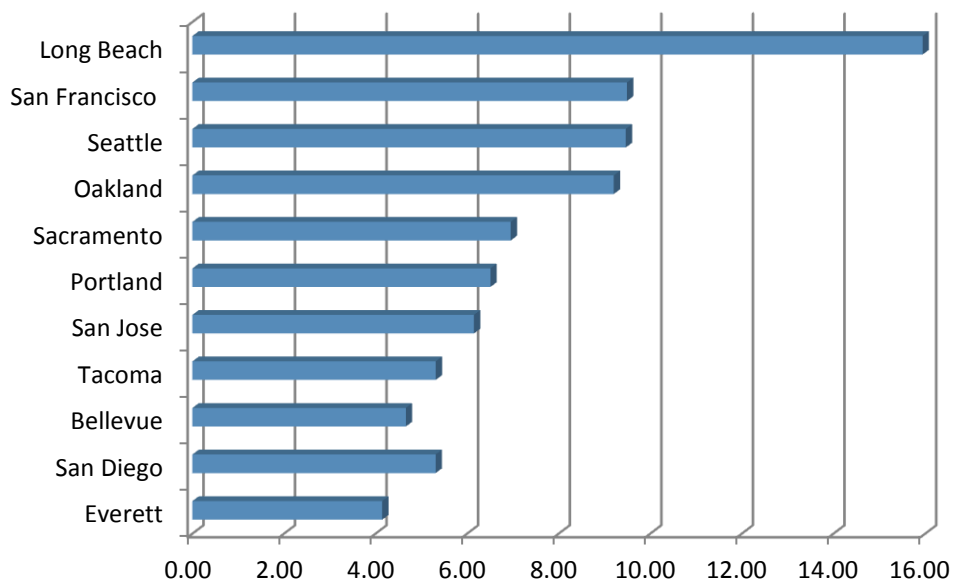
Agency	2014 # of Sworn Officers Budgeted	2013 Estimated Population	2013 Estimated Population/1000	Officers per 1,000 Population
San Francisco	2,201	837,442	837	2.63
Seattle	1,349	652,405	652	2.07
Everett	201	105,370	105	1.91
Oakland	718	406,253	406	1.77
Long Beach	820	469,428	469	1.75
Tacoma	334	203,446	203	1.64
Portland	944	609,456	609	1.55
San Diego	1,978	1,355,896	1,356	1.46
Sacramento	696	479,686	480	1.45
Bellevue	170	133,992	134	1.27
San Jose	1,107	998,537	999	1.11

Source: Office of City Auditor benchmarking results.

Note: If an agency's fiscal year differed from the calendar year, we used data from the 2013/2014 fiscal year. We used 2013 U.S. Census data for estimated population, because 2013 was the most recent year for which census data was available.

²⁸ A Performance-Based Approach to Police Staffing and Allocation, Jeremy M Wilson and Alexander Weiss, Michigan State University, 2012.

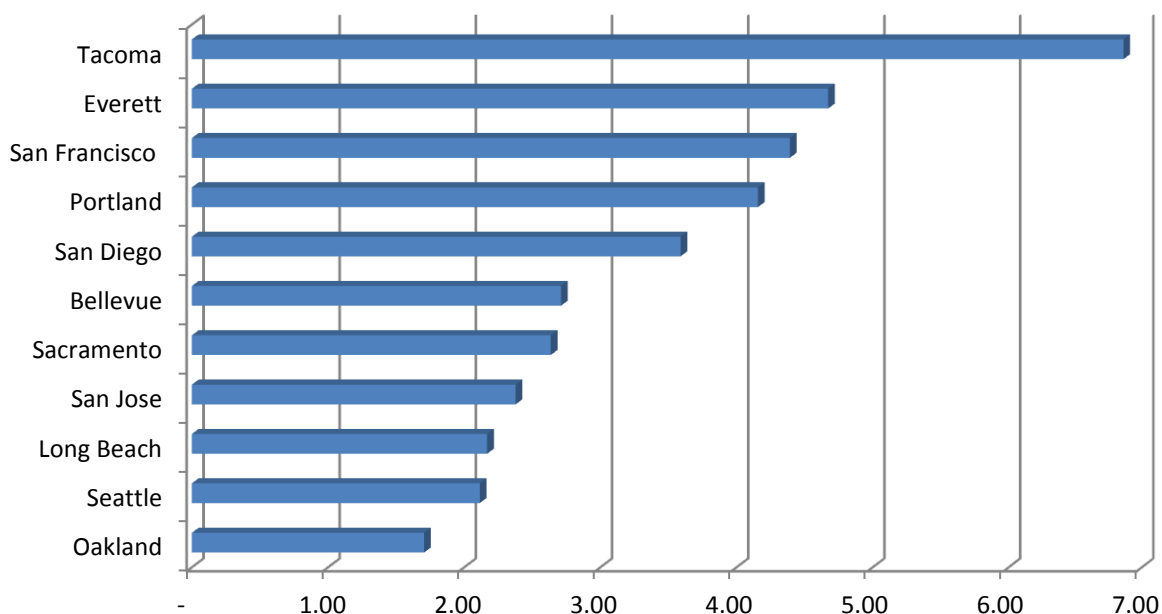
**Exhibit B3. Police Agency Sworn Officers
per Total Square Miles**



Agency	Total Square Miles	2014 # of Sworn Officers Budgeted	Sworn Officers per Square Mile (Total)
Long Beach	51.43	820	15.94
San Francisco	231.89	2201	9.49
Seattle	142.5	1349	9.47
Oakland	78	718	9.21
Sacramento	100.1	696	6.95
Portland	145	944	6.51
San Jose	179.97	1107	6.15
Tacoma	62.84	334	5.32
Bellevue	36.47	170	4.66
San Diego	372.4	1978	4.43
Everett	48.49	201	4.15

Source: Office of City Auditor benchmarking results.

Note: If an agency's fiscal year differed from the calendar year, we used data from the 2013/2014 fiscal year.

Exhibit B4. Police Agency Sworn to Civilian Employee Ratio

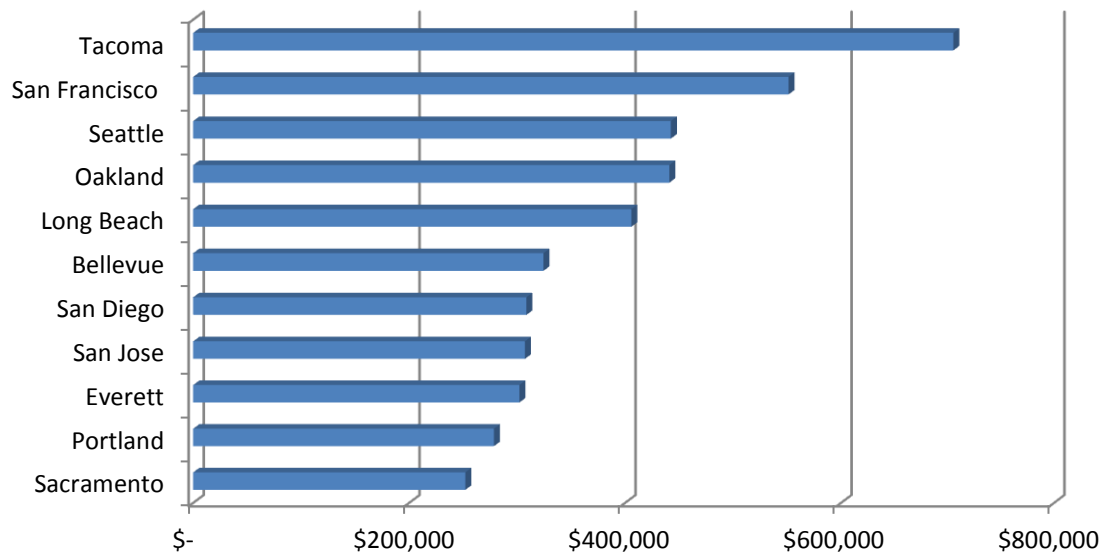
Agency	2014 # of Sworn Officers Budgeted	2014 # of Civilian Employees	Sworn to Civilian Employee Ratio
Tacoma	326	47.50	6.86
Everett	201	43.00	4.67
San Francisco	2,201	501.00	4.39
Portland	944	227.00	4.16
San Diego	1,978	551.00	3.59
Bellevue	160	59.00	2.71
Sacramento	696	263.96	2.64
San Jose	1,107	465.37	2.38
Long Beach	820	378.00	2.17
Seattle	1,349	637.85	2.11
Oakland	718	420.85	1.71

Source: Office of City Auditor benchmarking results.

Note: If an agency's fiscal year differed from the calendar year, we used data from the 2013/2014 fiscal year.

Police Agency Budgets, Overtime Budgets, and Actual Expenditures

**Exhibit B5. Police Agency General Fund Budget
Per 1,000 Population**



Agency	2014 General Fund Police Agency Budget	2013 Estimated Population	General Fund Budget per 1,000 Population
Tacoma	\$143,428,570	203,446	\$704,996
San Francisco	\$461,690,894	837,442	\$580,542
Seattle	\$288,667,732	652,405	\$442,467
Oakland	\$179,148,647	406,253	\$440,978
Long Beach	\$190,481,977	469,428	\$405,775
Bellevue	\$43,479,370	133,992	\$324,492
San Diego	\$418,542,912	1,355,896	\$308,684
San Jose	\$306,848,315	998,537	\$307,298
Everett	\$31,839,259	105,370	\$302,166
Portland	\$169,779,755	609,456	\$278,576
Sacramento	\$120,954,913	479,686	\$252,154

Source: Office of City Auditor benchmarking results.

Note: If an agency's fiscal year differed from the calendar year, we used data from the 2013/2014 fiscal year. We used 2013 U.S. Census data for estimated population, because 2013 was the most recent year for which data was available.

Exhibit B6. Budgets, Overtime Budgets, and Actuals

Agency	2014 General Fund Police Budget	2014 OT Budget	2014 OT Actual	OT Budgeted vs OT Actual (Over Budget)	Actual OT as % of Total Budget	Actual OT as % of OT Budget
Sacramento	\$120,954,913	\$2,100,000	\$4,700,000	(\$2,600,000)	4%	224%
Oakland	\$179,148,647	\$14,337,189	\$24,727,146	(\$10,389,957)	14%	172%
Seattle	\$288,667,732	\$15,526,280	\$23,625,263	(\$8,098,983)	8%	152%
Bellevue	\$43,479,370	\$1,094,458	\$1,661,959	(\$567,501)	4%	152%
San Diego	\$418,542,912	\$11,811,076	\$17,761,956	(\$5,950,880)	4%	150%
San Jose	\$306,848,315	\$16,028,257	\$23,537,738	(\$7,509,481)	8%	147%
Long Beach	\$190,481,977	\$10,920,865	\$14,417,774	(\$3,496,909)	8%	132%
San Francisco	\$461,690,894	\$9,638,898	\$10,735,647	(\$1,096,749)	2%	111%
Portland	\$169,779,755	\$7,900,000	\$6,790,000	\$1,110,000	4%	86%
Tacoma	\$143,428,570	\$2,100,000	\$1,800,000	\$300,000	1%	86%
Everett	\$31,839,259	\$882,465	\$753,496	\$128,969	2%	85%

Source: Office of City Auditor benchmarking results.

Note: If an agency's fiscal year differed from the calendar year, we used data from the 2013/2014 fiscal year.

Collective Bargaining Agreement Provisions and Department Policies

We reviewed the collective bargaining agreement provisions and internal department policies related to overtime and found significant differences between Seattle's overtime provisions and those found in some police agencies in four areas: 1) whether paid time off counts towards hours worked for overtime, 2) holiday pay rules, 3) overtime pay for telephone calls, and 4) standby or on-call rates. Below is a summary of the differences:

- **Paid Time Off:** Does paid time off (holidays, vacation sick leave) count as hours worked for calculating overtime compensation? In Seattle, paid time off counts towards hours worked on a daily and weekly basis for calculating overtime. Two police agencies, San Diego and San Jose, do not count paid time-off as hours worked for calculating overtime. For example, if an employee takes four hours of vacation or sick leave, and then works six more hours on the same day, they would not receive two hours of overtime at the overtime premium rate.
- **Holiday Pay Rules:** In Seattle, the holiday work rate is 1.5 times the regular hourly rate and 2.0 times the regular hourly rate when working on the 4th of July. Two agencies (Oakland and Tacoma) required officers to work the day before and/or after the holiday in order to receive holiday pay. Four police agencies pay all officers an amount in lieu of holiday pay or a pay adjustment for holidays. In these police agencies, police officers who work holidays receive no additional compensation. These agencies are: Everett, Long Beach, Sacramento, and San Jose.
- **Overtime Pay for Telephone Calls:** Seattle pays officers 1.5 times the regular hourly rate for any calls equal to or greater than 8 minutes, in one hour intervals. Two police agencies do not pay officers for taking telephone calls on their personal time (San Francisco and San Jose). Four police agencies pay for telephone calls in shorter intervals, for example for actual time rounded up to the nearest 15 minutes (Portland, Bellevue, Everett, and Long Beach). One police agency pays two hours for one call per day (Sacramento).
- **Stand-by or On-call rates:** Seattle pays 10% of straight time pay for standby or on-call time with no maximum hours or amount of pay. Seven police agencies capped the amount of pay or hours paid for stand-by. For example, two police agencies pay two hours if the stand by occurs on a work day and three hours if the stand by occurs on the day off. One police agency pays one hour of overtime in the a.m. and one hour of overtime in the p.m. Others pay either \$1.00 or \$3.00 per hour. San Diego pays one day of discretionary leave for every 300 hours of standby. If the employee is on standby on their day off, he/she gets 24 hours of standby.

Overtime Budgeting, Management, and Reporting Systems

Exhibit B7. Washington and Oregon Police Agencies

Agencies	Seattle	Bellevue	Everett	King County Sherriff's Office	Portland	Tacoma
1. In last 10 years have you exceeded your overtime budget?	Yes	Yes	No	Yes	Yes	Yes
2. If yes to 1, which years did you exceed your overtime budget?	All 10 years	They have gone over budget the last four years, and 7 of the last 9 (one year is reflected as NA).	Have not exceed budget in the last 8 years – they have no prior knowledge before that, but they can assume they did not exceed it.	Although they exceed the OT budget, they stay within the Department's overall expenditure budget.	Between 2004-05 through 2008-09 and in 2011-12 and 2012-13. Under budget in 2009-10, 2010-11, and 2013-14.	FY 2003-04, 2005-06, and 2007-2008.
3. How much did you exceed your OT budget by in those years?	Between \$8.6 million in 2014 and \$100,000 in 2010.	Amounts over budget vary from \$600,000 to \$75,000. In 2009-2010 they were under OT budget by \$236,000 and \$165,000, respectively.	N/A	In 2014 by approximately \$1.7million (King County provided no other numbers).	Exceeds budget on average by about \$1.25 million, with a high of \$2.53 million in 2007-08 and a low of \$240,000 in 2012-2013.	Did not provide amounts. Have not exceeded OT budget in the last several years.
4. What were the consequences of exceeding the OT budget?	Requests for supplemental appropriations to the City Council to cover excess are granted without consequence.	Minimal, if any, consequences, except for the two years after 2007 and 2008, where the Chief felt compelled to issue a directive limiting overtime use.	N/A	Salary savings is used to cover over expenditures related to OT. High vacancy rate results in salary savings which far exceed the cost of OT.	Excess in OT explained to City Budget Office and City Council largely without consequence.	There were no budgetary consequences during the years the Police Department went over budget.
5. What systems do you use to schedule/ manage OT?	There are no automated systems in place to help manage OT.	Telestaff	Telestaff for scheduling and Kronos for payroll. Everett is transitioning to an all-electronic OT Approval System using Telestaff.	Telestaff	An SAP Enterprise Management System (a Citywide system).	Telestaff is used as Tacoma's scheduling solution.

Source: Office of City Auditor benchmarking results.

Exhibit B8: California Police Agencies

Agency	Long Beach	Oakland	Sacramento	San Diego	San Francisco	San Jose
1. In last 10 years have you exceeded your overtime budget?	Yes	Yes	Yes	Yes	Yes (only kept track last 7 years)	Yes
2. If yes to 1, which years did you exceed your overtime budget?	Every year except 2010.	Every year since FY07-08, except FY10-11.	Yes, in each of the last 10 years (actually last 19) has exceeded its budget.	Every year since 2010 and expect to exceed it in 2015. No info before 2010.	Every year since 2007-08, except FY 2009-10 and 2011-12.	2012/13, 2013/14, and 2014/15.
3. How much did you exceed your OT budget by in those years?	Range from \$250,000 to nearly \$7million.	In FY10-11 OT came in under budget by about \$700K. In FY11-12, FY 12-13, and FY13-14 was over by \$5M, \$8M, \$10.3M respectively.	From a high of \$5.6 million in FY07 to a low of about \$500K in FY11 and FY12. Average overage of last 10 years was about \$2.2 million.	\$2-\$6 million above adopted budget and \$2-\$4 million above adjusted budget.	In 2007-08, ~\$8.3 million, by 2012-13 and 2012-14, ~\$1million	2012/13 ~ \$661,000 2013/14 ~ \$2,111,180 2014/15 ~ \$3,600,000
4. What were the consequences of exceeding the OT budget?	Leadership is kept informed of anticipated expense levels, which minimizes surprise and adverse reaction.	Yes. OPD had to justify the overspending to the City Administrator, Mayor, and City Council and propose reduction strategies.	There were no consequences but the Department did end up going over budget in some of the years because there was not adequate salary savings to cover the difference.	Other than asking elected officials for more money; not sure if there are any consequences.	Must go before Board of Supervisors mid-year or end of year to ask for supplemental or budget transfer.	The high vacancy rate requires officers to work overtime, which creates some savings in fringe benefits/retirement.
5. What systems do you use to schedule/ manage OT?	Long Beach is transitioning to using Telestaff for scheduling and timekeeping.	They use Telestaff for scheduling OT.	They use an Oracle based financial system to report on OT. They don't use Telestaff and don't have a software system to track/schedule OT.	The Department uses a manual process for scheduling. They do not use an automated scheduling system. They use SAP for reporting and payroll.	Oracle Scheduling System and PeopleSoft Payroll System tracks all time - raw file interfaces with City's payroll system.	They use PeopleSoft reports to track and manage expenses. There are full and part-time employees so they use a combination of paper and a web based system.

Source: Office of City Auditor benchmarking results.

Police Services Special Events Overtime Reimbursement Policies

Exhibit B9. Police Services Special Events Overtime Reimbursement Policies

Agency	What types of events reimburse for police services?	Who decides which events require full reimbursement?	How much is reimbursed?
Seattle	No set policy regarding what gets reimbursed. During our audit, Ordinance 124860 was passed and it does provide additional guidance about what types of events will reimburse the City for police services.	It is not clear who decides which events will reimburse the City. During our audit, Ordinance 124860 was passed and it does provide additional guidance on event reimbursements.	29% of Special Events overtime is reimbursable, and 10% of all department overtime. During our audit, Ordinance 124860 was passed and it does provide additional guidance on the amount of police services costs to be reimbursed to the City.
Bellevue	There are no specific laws, regulations, or policies that govern reimbursements.	Generally, these arrangements are made during the permit process and the Fiscal Unit follows through with billing.	Most, if not all event policing costs are reimbursed including full overtime salary, plus variable benefits. There is no charge for vehicles, gas, radio, etc.
Everett	They receive reimbursement for various special events, the Xfinity Center security, public works projects, and grants.		They recover all overtime costs for salary, but rarely will it include benefits.
Long Beach	If the event requires a permit and a condition of approval of that permit requires traffic enforcement or law enforcement presence/security, the events will be reimbursed.	The City Manager.	100% are recovered, unless the event is City-sponsored.
Oakland	Fees and charges are specified in the Master Fee Schedule. Oakland bills event organizers for policing costs in advance of event.	Oakland's Master Fee Schedule dictates the payment structure for events. However, the Chief of Police can waive the fee or may impose additional conditions to the permit including requiring the applicant to retain or hire one or more security officers.	The majority get reimbursed.
Portland	City policy states that City services providing private benefits should be paid for by fees and charges as much as possible to maximize flexibility in the use of City general revenue sources to meet the cost for services of broader public benefit.	The decision regarding what does not get reimbursed is made by the City Council. The City Council voted not to charge some large public events with City historic/cultural significance, such as the Rose Festival.	Within the last few years, the City made a big turn-around and is now being reimbursed for significantly more special event policing costs than not.
Sacramento	Most private events get reimbursed for the costs incurred.	If the event coordinator is unable to fund OT, the decision about whether to staff the event is made by the Police Department.	There is almost no reimbursement for protests or state government related events. Sacramento is a capital City and therefore manages many events with little or no reimbursement.

Agency	What types of events reimburse for police services?	Who decides which events require full reimbursement?	How much is reimbursed?
San Diego	The City Council decides the rates to charge for-profit entities vs. non-profit organizations. There are percentages to determine how much will be reduced. There are separate contracts for the SD Chargers and Padres and they get a discount.	The City Council	They recover 100% of their OT costs for for-profit events. Special events for non-profits pay a discounted amount of the total costs.
San Francisco	Cultural events, street fairs, parades – do not get reimbursed. Athletic events, including Giants and 49ers games, marathons, filming events and road closures for private purposes, private events, funeral escorts and full security get 100% recovery. City departments (e.g. Library, utilities) also get charged for law enforcement services.	The Entertainment Commission.	100% recovery for certain events including athletic events, private events and services for other departments.
San Jose	They absorb the OT costs (no recovery) for some events such as dignitary visits. For permitted events, the City of San Jose provides city services on a full cost recovery basis. Some Departments may require payment before the event.	The Office of Cultural Affairs	Some OT costs are recovered; the percentage varies year by year.
Tacoma	The City gets reimbursed for Tacoma Dome events. Smaller events are not reimbursed (e.g., Daffodil Parade and a couple of runs).	The City Manager and the City Council decide which events get reimbursed on a case by case basis.	The percentage recovery or reimbursement rate is unknown.

Source: Office of City Auditor benchmarking results.

Off-Duty Policing/Secondary Employment

Exhibit B10. Off-Duty Policing/Secondary Employment in Washington and Oregon Agencies

Agency	Seattle	Portland	Bellevue	Everett	Tacoma	King County Sheriff's Office
Are officers allowed to work as off-duty police? If yes, who manages/monitors the work?	The department reviews requests for off-duty police work and issues permits to those the department approves. Employers pay officers directly. SPD does not monitor the number of hours worked off-duty and does not require officers to report off-duty hours worked.	If a private entity wants to hire officers, they pay the City for the number of hours, for example 4 hours x sergeant's rate of pay, plus 4 officers X their rate of pay. There is a four hour minimum. They contract directly with the City and the officer is considered an employee of the City. The City is providing police services to the private party, but the union does all assignments of the shifts. This is called special duty.	Off duty policing is handled privately by Puget Sound Executive Security (PSES). To ensure there is no double dipping, – i.e., getting paid for off-duty work for the same hours they are paid for BPD work, each supervisor has between 5-8 people they are responsible for and the employee would be caught if they did this.	Officers are required to sign in and out of CAD. Monthly reports are reviewed to ensure staff are not working fatigue hours and fulfilling all requirements of the department.	Some off duty work is coordinated through Special Events and the special events sergeant. Individuals can also schedule and bill off-duty work directly with employers. Both methods require permission through the Chain of Command. The officer's time is monitored through Telestaff tracking. Upon reporting to the off-duty job site, the Officer will notify dispatch of the following: location, duration of shift, telephone number where the officer can be reached.	Officers are required to enter a code when working off-duty. KCSO has a code for off duty work where you enter the time and location. When you arrive, you enter an "off duty clearing code" so that there is a record of the off duty work. Off-duty work is managed by the guild; however, the Administrative Services Captain of the Technical Services Division maintains a list of authorized employers and venues. The list is reviewed annually by the Captain.
Any restrictions on Off-Duty/ Secondary Employment?	Employees shall not work in excess of 18 consecutive hours or 64 hours per week. Work includes regular shift hours, department and/or court overtime, and off-duty work.	No officer shall work special duty more than 20 hours per week. Excluded from the 20 hours is vacation, compensatory, or holiday time an officer takes off to work off-duty (therefore up to 60 hours max).	If the supervisor felt that the work was impacting their job, they can put a limit or restrictions on it.	No answer received	Off-duty work may not exceed 80hours per week combined on and off duty.	Members report for duty when directed regardless of secondary employment commitments. Officers may not work off-duty while on probation, light duty, leave of absence or sick leave.

Source: Office of City Auditor benchmarking results.

Exhibit B11. Off-Duty Policing/Secondary Employment in California Agencies

Agency	Long Beach	Oakland	Sacramento	San Diego	San Francisco	San Jose
Are officers allowed to work as off-duty police?	Officers are not allowed to work as off-duty officers within the City of Long Beach because according to a police official, “there is an inherent conflict of interest when you provide security at a facility that is also policed by that jurisdiction.”	Officers are prohibited from working off-duty if it would require using their uniforms, equipment, etc. The policy does not include provisions for monitoring	Officers are allowed to work off duty through a supplemental employment program administered through the City. SPD enters into agreements with each entity and invoices them for actual costs incurred. Management of the program is handled by a unit with the police department.	Officers can be hired by private entities, but it has to be pre-approved by the Chief or a designee. Off duty work is managed by the employee’s captain. Officers are subject to discipline if they are caught working without having received approval.	Other than what is contracted through the department, no other off-duty work in a police officer function is allowed.	They have a Secondary Employment Unit that monitors and coordinates work outside of their regular 40 hour assignment. The City also has an outside work permit policy in place.
Any restrictions on Off-Duty/ Secondary Employment?	Long Beach does not allow off-duty policing within the City. However, collateral employment (outside the City or non-police work) should not exceed 20 hours per week and that it should not impact your ability to perform your duties. It is not tracked.	Restrictions largely prohibit off-duty police work.	No more than 16 consecutive total hours of combined regular shift, supplemental off-duty assignment, and backfill overtime are allowed, limited to no more than 20 hours per week (except while on vacation or other approved time off). Employees shall not sign up for a supplemental police employment assignment if it will not allow for an eight-hour rest period before the start of that employee’s regularly scheduled assignment.	Off duty officers do not wear SDPD uniforms; and there are a maximum number of hours they can work. Officers can work as armed security, but they cannot wear SDPD uniforms and they must use a department-approved weapon. These weapons are not provided by the department.	N/A	Officers shall not work in excess of 30 hours of secondary employments assignments in one week. During a week where the member uses comp time, holiday time or vacation, the member may increase the amount of secondary employment hours by the amount of that time taken. Officers shall not work in excess of 16 hours in a 24 hour period including regular shift plus a secondary employment assignment.

Source: Office of City Auditor benchmarking results.

Use of Civilians in Background Checks and Police Training

Seattle uses sworn personnel to conduct background checks for sworn positions. Half the police agencies we surveyed use a combination of sworn personnel, retired sworn officers, and/or contract for background checks. Most of Seattle police training is conducted by sworn personnel. Several of the 11 police agencies we surveyed use a combination of sworn personnel and other sources for police training.

Exhibit B12. Use of Civilians for Background Checks and Training

Agency	Background Checks for Sworn Positions	Police Training Providers
Seattle	Sworn	Primarily sworn, limited use of outside entities
Bellevue	Sworn	Sworn
Everett	Sworn and contractors	Sworn, consultants, and other outside entities
King County	Sworn	No response provided
Long Beach	Retired sworn	Sworn and subject matter experts
Oakland	Sworn and retired sworn	Sworn and subject matter experts
Portland	Sworn and retired sworn	Sworn, consultants, subject matter experts, and other federal, state, and local agencies
Sacramento	Sworn	Sworn, retired sworn, and consultants
San Diego	Sworn	Sworn and retired sworn. Civilian instructors are used for First Aid, CPR, etc.
San Francisco	Retired Sworn for sworn candidates; outsourced to a consulting firm for civilian candidates.	Sworn, retired sworn, outside consultants, and officers on OT
San Jose	Sworn and retired sworn	Sworn, consultants, subject matter experts, and other outside entities
Tacoma	Sworn	Sworn

Source: Office of City Auditor benchmarking results.

Police Agency Thresholds for Work Hours

Exhibit B13. Police Agency Thresholds for Work Hours

Agency	Daily Cap	Weekly Cap	Annual Cap	Comments/Other Restrictions
Seattle	18 hours	64 hours		Cap applies to regular, overtime, and law enforcement off-duty employment. However, SPD does not track off-duty hours; therefore caps are not enforced.
Long Beach		20 hours		Cap applies to collateral (secondary employment). Off-duty police work is prohibited within the City of Long Beach.
Portland		20 hours		Cap applies to special duty work; up to 60 hours of overtime per week is allowed if vacation, holiday, or comp time is taken.
Sacramento	16 hours			Cap applies to regular, overtime, and off duty hours. Off-duty officers assigned to City-sponsored events may work up to 12 hours within a 28-day work period.
San Francisco	14 hours	72 hours	520 hours	Cap applies to regular and overtime hours. Law enforcement off-duty employment is not permitted.
San Jose	16 hours	70 hours		Cap applies to regular and some overtime hours. It does not apply to court and mandatory overtime. Secondary employment hours are limited to the amount of holiday, vacation, or comp time hours taken.
Tacoma		80 hours		Cap applies to regular, overtime, and off-duty hours.

Source: Office of City Auditor benchmarking results.

APPENDIX C

Seattle Police Department Response to the Audit Report




City of Seattle

Seattle Police Department

March 15, 2016

MEMORANDUM

To: David Jones, City Auditor
Robin Howe, Auditor-In-Charge
Cindy Drake, Deputy City Auditor
Virginia Garcia, Assistant City Auditor
Megumi Sumitani, Assistant City Auditor

From: Brian Maxey, Chief Operating Officer 
Seattle Police Department

Subject: SPD Response to Audit of Seattle Police Department's Overtime

Thank you for providing an opportunity to review and respond to the Seattle Police Department (SPD) Overtime Controls Audit report—we greatly appreciate the work done by the City Auditor's Office. This audit of SPD's overtime use and process took place at the request of Chief O'Toole, who recognized that there were areas where the SPD needed to make positive changes to manage overtime use—as such, the results are not unexpected. The Chief's request for a complete audit reflects the department's commitment to assessing and fixing its overtime processes and use, and is part of a complete Departmental overhaul of best management practices. While the audit and this letter focus on overtime control and budgeting, such efforts can only be successful if combined with better practices in other areas, such as controls on spending and travel and training, and a "truing up" of departmental assignments with the budget. All of these efforts will take time and will require cultural changes, but the Department is committed to achieving best business practices throughout the organization.

As this memo indicates, we have not been passive—since your initial briefings in 2015 we have been proactively implementing changes throughout the department. As a result, since July 2015 there were steady reductions in monthly overtime resulting in the lowest overtime usage in November and December 2015 in years. Through overtime reduction efforts, other expenditure controls and salary savings, SPD was able to let \$2.9M lapse back to the General Fund at the end of 2015. Changes in our overtime expenditures were the direct result of hard work, close monitoring, and conscious choices about how the department utilized this important resource. However, much more work needs to be done. Going forward, as our new policy comes on line, new technologies allow us to monitor and make choices in real time, and new sources of information allow supervisors and managers to make corrections before using overtime, we will be in both a better position to responsibly manage and control overtime and to demonstrate what the appropriate level of SPD overtime funding should be annually.

The audit outlines six key areas where there are opportunities for positive change in the SPD's use of overtime, the amount of overtime it has available, controls over its use, and how special events overtime is managed by the department. Many of the audit's findings and observations were also identified by the

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SPD Response to Audit of Seattle Police Department's Overtime

March 15, 2016

Page 2 of 4

department and changes have already been implemented or are in the works. These recommendations provide an excellent roadmap for the department's continuing effort to ensure that overtime is used only when necessary to provide the required police services to the City of Seattle. The department is moving quickly to implement changes in its policies, processes, and review of overtime. The following sections touch on the audit's findings areas and highlight the changes that have taken place and the efforts that are underway.

Overtime Policies and Procedures

The findings accurately note that there are deficiencies in the department's current overtime policy. The current policy does not clearly detail the need to minimize overtime, for employees to obtain pre-authorization for overtime work, and for supervisors and managers to consistently, thoroughly, and uniformly review overtime at the unit and individual levels. As part of the audit recommendations review process SPD made changes to the overtime expenditure information it sent to supervisors. However, the department's current processes and technology reviews employees' use of overtime retrospectively, making it difficult to enforce its existing weekly overtime hour's threshold until after the hours are actually worked by the employee.

To resolve this issue, the department is creating a new overtime policy. The new policy builds on the examples of several jurisdictions examined as part of the audit. It details the department's commitment to mitigate overtime use, requires pre-approval for all overtime, outlines the documentation process, and contains detailed supervisor and manager review and analysis procedures. A draft policy is currently in the final review process and is expected to take effect in the second quarter of 2016. These will come with supervisor and manager training focused on approval decisions, documentation, and review of overtime. Once the department begins using a new scheduling and timekeeping application (Kronos Workforce Telestaff – discussed in a later section) supervisors will have immediate access to current overtime reports and see where their employees are scheduled to work future overtime. The request and approval process will be automated and provide an efficient way for supervisors to monitor overtime utilization by their respective personnel.

Overtime Budget

The overtime audit states that the SPD needs a more realistic overtime budget. Since 1994, the department has operated within its allotted overtime only once. As demands on the department for services beyond normal law enforcement operations have increased in recent years, overages have gone up. Putting the recommendations of this audit into practice will ensure that the department is mindful in how it is using and accounting for overtime, while continuing to respond to the increasing demand for police services.

The SPD is determined to work with the City Budget Office (CBO) to establish a proper overtime budget for the department. The current figure represents incremental changes over time and is not pegged to any specific analytical framework. The department will resolve this issue by creating a "zero-based" overtime budget for the SPD. Chief Financial Officer Mark Baird is leading this effort, which should be presented by second quarter 2016, with the goal of having an overtime amount that is rooted in sound principles and represents the actual workload of the department to submit during the next budget process. The current staffing and allocation work being done is also a key element of this process – as it informs the staffing resources necessary to provide the desired amount of police services in Seattle. This will create an overtime budget that is grounded in the realities of the department's present-day workload and establish a procedure for creating the annual overtime budget for the department to submit in future years.

SPD Response to Audit of Seattle Police Department's Overtime

March 15, 2016

Page 3 of 4

Operational Controls for Overtime Processes

The City Auditor found that the SPD could benefit from increased overtime controls and processes; specifically, an improved automated staffing scheduling and timekeeping system. Many of the comparable cities discussed in the report used and benefited from such systems. The SPD agrees and has begun the process of purchasing and implementing such a system, beginning with a rollout of Kronos Workforce TeleStaff (Kronos). This rollout will begin shortly with the department's Communications Center and will continue to the rest of the department. The preliminary work has begun and a project manager is putting together the details of the configuration and roll out process. The implementation of Kronos will include clearly defined business rules outlining mandated chain-of-command approvals and automated auditing of overtime usage. The implementation of Kronos will also benefit other management areas, such as staff scheduling and controls on secondary employment. Until this solution becomes operationalized, the department is conducting regular manual audits of overtime usage.

Overtime Management Controls

The audit found that the SPD would benefit from additional management-level reporting and monitoring of overtime. It also indicated that the department would benefit from independent (non-operational unit) analysis of overtime use.

To resolve this issue, in the summer of 2015, the Budget Section began sending managers (captains and above) bi-weekly reports on the overtime use for their respective units. On a monthly basis, managers of individual units receive reports that detail each employee's overtime for that month. Additionally, the Budget Section reviews department wide overtime use and reports on it regularly at Command Staff meetings. Additionally, budget issues will be presented and discussed at SeaStat in order to focus commanders on the role of dollars in operational efforts. The two-week lag in receiving overtime information will resolve as Kronos is deployed and the overtime information can be viewed and tracked in real-time.

Overtime for Special Events

The audit rightly identifies several challenges that the department faces in dealing with special events. The City hosts to nearly 600 special events per year, ranging from neighborhood events to commercial runs, professional sporting events, and large heritage events such as Seafair. Additionally, SPD responds to many unpermitted events that are unannounced and often require spontaneous deployment of officers on overtime. In September 2015, the City Council adopted a new ordinance that amends the Seattle Municipal Code as it pertains to special events permits and fees. The intent was to shift its special events permit fee structure from one focused on the likely number of participants to a fee for services model. While this new model allows SPD to recoup some costs, SPD will not be able to collect the complete cost of officers and may not collect any fees for certain events, such as community events. Additionally, SPD also will not collect fees for the many unpermitted events the SPD responds to each year. As such, the bulk of SPD response to special events will still need to be managed with overtime staffing.

However, SPD has been improving its management of resource deployment for special events by implementing consistent budgetary assessments of all staffing plans for special events of all sizes. All staffing plans for events are now funneled through a sergeant in the Special Operations and Planning Center (SPOC). SPD's Chief Financial Officer now participates in the department's weekly plans review meetings that assess event staffing before plans are presented to the city's Special Events Committee. Even if a small event is operationally running in a precinct or through the Traffic Unit, the staffing plan will come through this

SPD Response to Audit of Seattle Police Department's Overtime

March 15, 2016

Page 4 of 4

weekly staffing meeting. This consistent review provides a department-wide context for the planning and budgeting of every event. Assistant Chief Tarrant represents the department on the Special Events Committee and is responsible for reviewing and approving the department's staffing needs for each event.

Historically, all overtime associated with special events was allocated to SPOC, rather than the specific event. Now overtime is allocated to its own category and separated from the overtime of personnel assigned to SPOC. This change provides clarity about the basis and allocation of overtime and will allow the department to more accurately track the overtime associated with special events.

Off-Duty Police Work

The audit found that the department could benefit from more control of off-duty police work, which is an issue SPD has been actively working on. Current department policy requires employees to self-report their off-duty police work to their chain-of-command, up to the precinct or section captain. There is no easy automated system to log this information or to aggregate it with other hours worked (e.g., regular hours and overtime hours). Options currently being evaluated include bringing the scheduling of off-duty work "in-house" within the department or utilizing a single scheduler that can provide the department with necessary real-time data to ensure effective management. An IT solution, such as an add-on to the Kronos software and some staff support would be necessary if the department pursues this option. The goals of any new off-duty system include department pre-approval of the work and employer before off-duty work is performed, clear documentation of where/when/for whom an officer is working if necessary for audit purposes, ensuring that off-duty jobs do not conflict with on-duty work, and fair distribution of off-duty opportunities.

Again, the Chief is grateful to the City Auditor's Office for the comprehensive examination of the SPD's overtime use and processes as it will further the department's commitment to achieving best business practices. Thank you for the opportunity to review the draft audit report and provide comments. If you have any questions or would like any additional information on any of the department's efforts that are discussed in this memorandum, please call me at (206) 684-0764.

cc:

Chief Kathleen O'Toole, SPD
Deputy Chief Carmen Best, SPD
Mark Baird, SPD Budget Director
Assistant Chief Lesley Cordner, SPD
Assistant Chief Steve Wilske, SPD
Assistant Chief Robert Merner, SPD
Assistant Chief Perry Tarrant, SPD
Mike Fields, SPD HR Director
Deputy Mayor Kate Joncas, Mayor's Office
Scott Lindsay, Mayor's Office
Ben Noble, CBO
Jennifer Devore, CBO
Kara Tillotson, CBO

BGM:lt

APPENDIX D

Office of City Auditor Mission Statement

Our Mission:

To help the City of Seattle achieve honest, efficient management and full accountability throughout City government. We serve the public interest by providing the City Council, Mayor and City department heads with accurate information, unbiased analysis, and objective recommendations on how best to use public resources in support of the well-being of Seattle residents.

Background:

Seattle voters established our office by a 1991 amendment to the City Charter. The office is an independent department within the legislative branch of City government. The City Auditor reports to the City Council, and has a four-year term to ensure her/his independence in deciding what work the office should perform and reporting the results of this work. The Office of City Auditor conducts performance audits and non-audit projects covering City of Seattle programs, departments, grantees, and contracts. The City Auditor's goal is to ensure that the City of Seattle is run as effectively, efficiently, and equitably as possible in compliance with applicable laws and regulations.

How We Ensure Quality:

The office's work is performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. These standards provide guidelines for audit planning, fieldwork, quality control systems, staff training, and reporting of results. In addition, the standards require that external auditors periodically review our office's policies, procedures, and activities to ensure that we adhere to these professional standards.



Disabled Members Return to Work

Date Presented:

11/15/2017

Presenter Name and Title:

Ryan Frost, Research and Policy Manager

ATTACHMENTS:

Description	Type
▣ Disabled Members Return to Work	Report
▣ Disabled Members Return to Work	Presentation



November 15, 2017

Disabled Members Return to Work

COMPREHENSIVE REPORT

By Ryan Frost

Research and Policy Manager

360-586-2325

ryan.frost@leoff.wa.gov

ISSUE STATEMENT

Members who recover from their disabilities are stuck in limbo if their previous employer refuses to hire them back.

OVERVIEW

This is one of the issues that came out of working with the Department of Retirement Systems (DRS) on the duty disability rule making project, as an issue that they were hoping that policymakers would take notice of. Current disability statute for LEOFF 2 members states that when a member is determined to have recovered from their disability, the members' previous employer is required to hire them back at their previous rank. They will begin earning service credit again and become eligible for an active member benefit.

Issues arise when the employer disagrees with the DRS decision that the member has fully recovered from their disability. This leaves the member in limbo pending the appeals decision because:

- Duty Disability payments have been stopped.
- They are not earning a salary, because their previous employer refuses to hire them back.

BACKGROUND

Disability Payments Stopped

Any member who receives a disability allowance is subject to comprehensive medical examinations as required by DRS. If those medical examinations reveal that the member has recovered from their incapacitating disability, they are no longer entitled to their duty disability pension benefit. The members' retirement allowance is therefore canceled and the member shall be restored to duty.

Previous Employer

Once the determination has been made that the member has recovered from their disability, the member's previous employer is required to hire them back at the same civil service rank they held at the time of their disability retirement¹. The employer may appeal if they disagree with the DRS determination.

Current Case

DRS is aware of one current case where they have made the determination that the member has recovered from their disability, but the previous employer has refused to hire them back. DRS has chosen to continue paying the members disability benefit while the appeal works its way through the process.

Who determines that the member is no longer disabled?

All pension statutes are written giving DRS that determination authority. As soon as DRS says the member is no longer disabled, all of the pension statutes are written to say that the member's disability benefit is terminated. In this instance, there are two parties trying to decide whether the member is disabled: DRS and the previous employer.

These parties have a differing opinion about whether the member is actually recovered from their disability. This is the area in statute where the member can be caught in limbo. Sometimes it's a good faith disagreement between the two parties on the member's level of recovery. Sometimes, though, it's the employer not wanting to follow the statute, so they use the appeal process to delay their rehiring as long as possible.

The question then is: If DRS determines the member has recovered, what do they do in the situation where the employer disagrees? If the determination is upheld during the appeal process, who pays for those extra disability payments? The way it works now, the benefits are paid for by the fund, which means all the other members, employers, and state pay for those extra disability payments that were made during the appeals process.

¹RCW 41.26.470 (2)

POLICY ISSUES

- Should DRS continue to pay a disability benefit to members who are in the appeals process?
- Should DRS be able to bill the employer for the disability payments they made to the member while they were stuck in limbo?

SUPPORTING INFORMATION

Appendix A: Different types of disabilities

APPENDIX A: DIFFERENT TYPES OF DISABILITIES²

Temporary Duty Disability

If you do not earn full service credit because of leave associated with a duty disability, you have the option to purchase up to 24 months of service credit for each covered duty disability. To establish service credit, you must meet the following criteria:

- Your disability must have occurred in the line of duty.
- You must have received your injury on or after July 1, 2002, and be eligible to receive workers' compensation benefits.
- You and your employer must make employer and member contributions on the compensation you would have earned had you been working. If the payments are made for a retroactive period, interest is charged. If your employer offers a disability leave supplement or similar benefit, your first six months of service credit are interest free.

If your duty disability occurred between July 23, 1989, and June 30, 2002, the amount of service credit you can purchase is limited to six months and requires that you be receiving a disability leave supplement or similar benefit from your employer.

Duty Disability

If your disability occurred in the line of duty, you may choose between a nontaxable:

- One-time payment equal to 150% of your eligible retirement contributions
- Minimum monthly benefit of at least 10% of your FAS

If you have fewer than 60 service credit months when you become disabled, the average will be based on your actual total of service credit months. If the normal retirement benefit calculation rule yields a monthly benefit greater than 10% of your FAS, you will receive the higher benefit amount. However, only the amount equal to 10% of your FAS is nontaxable. Contributions made to restore service credit after the deadline are refunded at 100% only.

Disaster Response Disability

There are certain circumstances, on or after March 22, 2014, when you might qualify for disaster response benefits and service credit. In the two situations listed below, your disability must have occurred while you were in eligible federal service providing eligible emergency management services.

Working for a LEOFF Plan 2 employer: You might qualify for a disability benefit if you leave the employment of your LEOFF Plan 2 employer to provide a disaster response, and you become

² <http://www.drs.wa.gov/publications/member/leoff/leoff2disability.htm>

disabled on or after March 22, 2014. Your benefit won't be reduced if you retire early. The benefit will be a minimum 10% of your Final Average Salary.

Working in eligible federal service: You might qualify for service credit for a leave of absence if you become disabled when you leave the employment of your LEOFF Plan 2 employer to provide a disaster response, on or after March 22, 2014.

Non-duty Disability

If your disability didn't occur in the line of duty, you might receive a monthly benefit calculated as follows: $2\% \times \text{FAS} \times \text{service credit years}$

Final Average Salary (FAS) is the monthly average of your 60 consecutive, highest-paid service credit months. Your monthly benefit will be reduced to reflect the difference between your age at the time of your disability retirement and age 53. If you are age 50 and have 20 years of service credit, the reduction is 3% per year (prorated monthly) from age 53.

Catastrophic Duty Disability

If your disability occurred in the line of duty and is so severe it prevents you from performing substantial gainful activity or substantial gainful employment in any capacity in the future, you might be entitled to receive a catastrophic duty disability benefit.

The Social Security Administration defines "substantial gainful employment" as working in a position whose average earnings are more than a set dollar amount each month, a figure it updates annually.

The catastrophic duty disability benefit can be calculated in three ways:

- 70% of your FAS
- 100% of your FAS, offset by Social Security disability and workers' compensation disability payments
- $<2\% \times \text{FAS} \times \text{service credit years}$

In addition to your monthly benefit, you will be reimbursed for premiums you pay for employer-provided health insurance, COBRA, and Medicare Parts A and B.

If you are entitled to Medicare, you must enroll and maintain enrollment in both Medicare Parts A and B to remain eligible for the reimbursement. These premium reimbursements are not taxable. Medical insurance reimbursements are available for current, past and eligible COBRA enrollees. Reimbursement for these members is never greater than the COBRA coverage they are eligible for.



Disabled Members Return to Work

Comprehensive Report – November 15, 2017

Issue

- Members who recover from their disabilities are stuck in limbo if their previous employer refuses to hire them back.

Overview

- Issue came out of working with the Department of Retirement Systems (DRS) on the duty disability rule making project.
- Current disability statute for LEOFF 2 members.
 - When a member is determined to have recovered from their disability, the members' previous employer is required to hire them back at their previous rank.
- Issues arise when the employer disagrees with DRS decision that the member has fully recovered from their disability.
- This leaves the member in limbo pending the appeals decision because:
 - Disability payments have been stopped.
 - They are not earning a salary, because their previous employer refuses to hire them back.

Limbo

Disability Payments Stopped

- Any member who receives a disability allowance is subject to comprehensive medical examinations as required by DRS.
- If those medical examinations reveal that the member has recovered from their incapacitating disability, they are no longer entitled to their duty disability benefit.
- The members' retirement allowance is therefore canceled and the member shall be restored to duty.

Limbo cont.

Previous Employer

- Once the determination has been made that the member has recovered from their disability, the member's previous employer is required to hire them back at the same civil service rank they held at the time of their disability retirement. 41.26.470 (2)

Background

Current Case

- DRS is aware of one current case where they have made the determination that the member has recovered from their disability, but the previous employer has refused to hire them back.
- DRS has chosen to continue paying the members disability benefit while the appeal works its way through the process.

Who determines that the member is no longer disabled?

- All pension statutes are written giving DRS disability determination authority.
 - As soon as DRS says the member is no longer disabled, all of the pension statutes are written to say that the member's disability benefit is terminated.
- In this instance, there are two parties trying to decide whether the member is disabled:
 - DRS
 - Previous employer
- These parties have a differing opinion about whether the member is actually recovered from their disability.

Determination cont.

- This is the area in statute where the member can be caught in limbo.
 - Could be a good faith disagreement between the two parties on the member's level of recovery.
 - Or the employer not wanting to follow the statute and is using the appeal process to delay their rehiring as long as possible.
- The question: If DRS determines that the member has recovered, what do they do in the situation where the employer disagrees?
 - If the determination is upheld during the appeal process, who pays for those extra disability payments?
 - The way it works now, the benefits are paid for by the fund, which means all the other members, employers, and state pay for those extra disability payments that were made during the appeals process.

Policy Issues

- Should DRS continue to pay a disability benefit to members who are in the appeals process?
- Should DRS be able to bill the employer for the disability payments they made to the member while they were stuck in limbo?

Questions?

Ryan Frost

Research and Policy Manager

ryan.frost@leoff.wa.gov

360-586-2325



2018 Calendar Adoption

Date Presented:

11/15/2017

ATTACHMENTS:

Description	Type
▣ Proposed dates 2018	Report



2018 PROPOSED MEETING DATES

JANUARY

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
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APRIL

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JULY

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OCTOBER

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28	29	30	31			

STATE HOLIDAYS

PROPOSED DATES

JANUARY 17

FEBRUARY 28

MARCH 28

APRIL 25

MAY 23

JUNE 20

JULY 25

AUGUST 22

SEPTEMBER 26

OCTOBER 24

NOVEMBER 28

DECEMBER 19

FEBRUARY

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MAY

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AUGUST

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NOVEMBER

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MARCH

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JUNE

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SEPTEMBER

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DECEMBER

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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

MEETING LOCATION

State Investment Board
Large Conference Room
Suite 100
2100 Evergreen Park Drive SW
Olympia, WA 98502

CONTACT

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MEETING DATE	AGENDA ITEMS
Jan 25	Legislative Update
Feb 22	Legislative Update
March 22	Legislative Update
April 19	Legislative Update
May 31	Legislative Update
June 28	Legislative Update
July 26	Legislative Update Actuarial Valuation and Economic Experience Study Preview – Lisa Won, OSA 2017 Interim Planning Interruptive Military Service Credit Executive Director COLA Budget Update
August 23	<i>CANCELLED</i>
Sept 27	Board Officer Elections CEM Benchmarking Results – Mark Feldhausen, DRS Independent Audit Results – Steve Davis, Davis Accounting Tax & Audit Services Interruptive Military Service Credit Study Interruptive Military Service Credits Plans 2 and 3 – Seth Miller, DRS Benefit Improvement Pricing Report on Financial Conditions & Recommendation on Long-Term Economic Assumptions –Lisa Won, OSA Catastrophic Disability Medical Insurance Disabled Members Return to Work
Oct 18	<i>Proposed 2017 Meeting Calendar</i> <i>Strategic Plan Review</i>
Nov 15	DRS Annual Update – Tracy Guerin, DRS WSIB Annual Update – Theresa Whitmarsh, WSIB LEOFF 2 Actuarial Valuation Report – Lisa Won, OSA Long Term Economic Assumptions – Lisa Won, OSA Economic Assumptions Adoption Annual Trustee Training – Tor Jernudd, AGO Interruptive Military Service Credit Study Benefit Improvement Pricing Catastrophic Disability Medical Insurance Off Duty LEOFF Employment Disabled Members Return to Work 2018 Meeting Calendar Adoption
Dec 20	