

# BOARD MEETING AGENDA

NOVEMBER 20, 2019 • 9:30AM



## LOCATION

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

## TRUSTEES

DENNIS LAWSON, CHAIR  
Central Pierce Fire and Rescue

JASON GRANNEMAN, VICE CHAIR  
Clark County Sheriff's Office

ADE' ARIWOOLA  
City of Federal Way

MARK JOHNSTON  
Vancouver Fire Department

AJ JOHNSON  
Snohomish County Fire

SENATOR JEFF HOLY  
Spokane Police Department (Ret)

TARINA ROSE-WATSON  
Spokane Int'l Airport Police Dept

PAT MCELLIGOTT  
Pierce County Fire and Rescue

REPRESENTATIVE STEVE BERGQUIST  
WA State Representative

WOLF OPITZ  
Pierce County

## STAFF

Steve Nelsen, Executive Director  
Tim Valencia, Deputy Director  
Jessie Jackson, Executive Assistant  
Jessica Burkhart, Administrative Services Manager  
Jacob White, Senior Research and Policy Manager  
Karen Durant, Senior Research and Policy Manager  
Tammy Harman, Benefits Ombudsman  
Tor Jernudd, Assistant Attorney General

THEY KEEP US SAFE,  
WE KEEP THEM SECURE.

- |     |  |          |
|-----|--|----------|
| 1.  | <b>Approval of Minutes</b><br><i>September and October</i>   | 9:30 AM  |
| 2.  | <b>DRS Annual Update</b><br>Tracy Guerin, Executive Director   | 9:35 AM  |
| 3.  | <b>SAO Audit Results</b><br><i>Justin Brackett, Assistant State Auditor<br/>Michael Hutchinson, Assistant Audit Manager<br/>Jim Brownell, Single Audit &amp; Whistleblower Manager</i> | 9:55 AM  |
| 4.  | <b>Tribal Participation Study – Comprehensive</b><br><i>Jacob White, Senior Research &amp; Policy Manager</i>  | 10:15AM  |
| 5.  | <b>LEOFF Actuarial Valuation (LAVR) Results</b><br><i>Mitch DeCamp, Senior Actuarial Analyst, OSA<br/>Frank Serra, Actuarial Analyst, OSA</i>  | 11:00 AM |
| 6.  | <b>Administrative Update</b> <ul style="list-style-type: none"><li>• Agency Move Update</li><li>• Outreach</li></ul>   | 11:30 AM |
| 7.  | <b>Funding Work Session</b><br><i>Steve Nelsen, Executive Director<br/>Lisa Won, Deputy State Actuary, OSA</i>   | 12:00 PM |
| 8.  | <b>PEBB Coverage for Catastrophic Retirees – Comprehensive</b><br><i>Jacob White, Senior Research &amp; Policy Manager</i>   | 1:00 PM  |
| 9.  | <b>Survivor Option Election – Comprehensive Follow Up</b><br><i>Jacob White, Senior Research &amp; Policy Manager</i>  | 1:30 PM  |
| 10. | <b>Benefit Improvement Account Update</b><br><i>Steve Nelsen, Executive Director</i>   | 1:45 PM  |
| 11. | <b>2020 Meeting Calendar Adoption</b><br><i>Steve Nelsen, Executive Director</i>   | 2:15 PM  |
| 12. | <b>Agenda Items for Future Meetings</b>  | 2:30 PM  |

*\*Lunch is served as an integral part of the meeting.*

*In accordance with RCW 42.30.110, the Board may call an Executive Session for the purpose of deliberating such matters as provided by law. Final actions contemplated by the Board in Executive Session will be taken in open session. The Board may elect to take action on any item appearing on this agenda.*

# BOARD MEETING MINUTES

SEPTEMBER 25, 2019 – DRAFT



## TRUSTEE AND STAFF ATTENDANCE

Teleconference	Dennis Lawson, Chair – Central Pierce Fire and Rescue
In Attendance	Jason Granneman, Vice Chair – Clark County Sheriff's Office
In Attendance	Adé Ariwoola – City of Federal Way
Teleconference	Mark Johnston – Vancouver Fire Department
Teleconference	AJ Johnson – Snohomish County Fire District #1
In Attendance	Representative Jeff Holy – Spokane Police Department (Retired)
In Attendance	Tarina Rose-Watson – Spokane Int'l Airport Police Dept
In Attendance	Pat McElligott – Pierce County Fire and Rescue
In Attendance	Senator Judy Warnick – WA State Senator
In Attendance	Representative Steve Bergquist – WA State Representative
In Attendance	Steve Nelsen – Executive Director
In Attendance	Tim Valencia – Deputy Director
In Attendance	Jessie Jackson – Executive Assistant
In Attendance	Jessica Burkhart – Administrative Services Manager
In Attendance	Tammy Harman – Benefits Ombudsman
In Attendance	Jacob White – Senior Research and Policy Manager
In Attendance	Karen Durant – Senior Research and Policy Manager
In Attendance	Tor Jernudd – Assistant Attorney General

## Call to Order

The LEOFF Plan 2 Retirement Board met in the Washington State Investment conference room in Olympia, Washington on September 25, 2019. A quorum of the members was present at this meeting.

Vice Chair Jason Granneman called the meeting to order at 9:29AM and requested those present to take a moment of silence to honor those who had fallen since the last the Board meeting.

## 1. APPROVAL OF MINUTES

Minutes from the July 24, 2019 meeting are for the Board for approval.

ACTION	It was moved to approve the Board meeting minutes from July 24, 2019. Motion seconded. The Board approved the minutes without objection.
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## 2. BOARD OFFICER ELECTIONS

Elections for Chairman, Vice-Chairman and the Employer Representative for the Administrative Committee shall be held during the regularly scheduled September board meeting. Terms for these positions shall be for a period of two years commencing immediately following the officers' election.

ACTION	<p>A motion was made to elect Dennis Lawson for Chair. Motion was seconded. Motion passed unanimously.</p> <p>A motion was made to elect Jason Granneman for Vice Chair. Motion was seconded. Motion passed unanimously.</p> <p>A motion was made to elect Ade Ariwoola for the Employer position on the Administrative Committee. Motion was seconded. Motion passed unanimously.</p>
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# BOARD MEETING MINUTES

SEPTEMBER 25, 2019 – DRAFT



## 3. STATE ACTUARY'S RECOMMENDATION ON LONG TERM ECONOMIC ASSUMPTIONS

Matt Smith, FCA, EA, MAAA State Actuary and Mitch DeCamp, Actuarial Analyst for the Office of the State Actuary presented to the Board with their recommendation on long term economic assumptions. They provided highlights of the Economic Experience Study and recommended no change to the economic assumptions for the Board. No action was taken.

## 4. PREVIEW OF DEMOGRAPHIC EXPERIENCE STUDY RESULTS

Michael Harbour, ASA, MAAA from the Office of the State Actuary gave an educational presentation to the Board on the Demographic Experience Study Results. Another update will be given to the Board next interim. No action was taken.

## 5. PENSION FUNDING PART 1 FOLLOW-UP

Mitch DeCamp, Actuarial Analyst and Lisa Won, ASA, FCA, MAAA Deputy State Actuary from the Office of the State Actuary presented a follow up to the Board on Pension Funding Part 1. The Board has the opportunity to affirm the current cost method or adopt new actuarial cost method, today or at a future meeting. A funding policy discussion will occur at the October Board meeting.

## 6. DRS PUBLIC PENSION ADMINISTRATION BENCHMARKING

Mark Feldhausen, Budget and Performance Management Director for the Department of Retirement Systems presented a summary of Fiscal Year 2018 data for Public Pension Administration Benchmarking. No action was taken.

## 7. ADMINISTRATIVE UPDATE

Karen Durant, Senior Research and Policy Manager gave the Board an update on the 2020 Supplemental Budget and the agency move.

SCPP	Met September 17 <sup>th</sup> . Jacob White attended. The Chair sent a letter to SCPP identifying what the Board is working on. Coordination with the SCPP will occur on the Month of Death issue.
Financial Audit	The State Auditor's office has begun the annual financial audit. Results will be presented at the November meeting.
October Meeting	Strategic offsite meeting will be held at the Indian Summer Golf & Country Club.

## 8. MONTH OF DEATH

Jacob White, Senior Research and Policy Manager gave a comprehensive presentation to the Board on Month of Death. In the month a retiree or survivor passes away, the last month benefit payment is prorated based on the number of days the person was alive in the month.

Frequently this results in an overpayment and an invoice being sent to the family or estate to collect any amount that should have been prorated. In 2018 the Department of Retirement Systems requested the

# BOARD MEETING MINUTES

SEPTEMBER 25, 2019 – DRAFT



LEOFF 2 Board and Select Committee on Pension Policy endorse legislative action to pay the full month of death payment. At the SCPP meeting they voted to pay full month of death payment and coordinate with the LEOFF 2 Board for legislation.

The following policy options are before the Board for consideration:

- Option 1 – Pay full month of death payment
- Option 2 – Members purchase full month of death payment
- Option 3 – Continue current practice

ACTION	It was moved and seconded to adopt option 1 and pay full month of death payment and coordinate with SCPP. Motion passed unanimously.
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## 9. SURVIVOR OPTION ELECTION

Jacob White, Senior Research and Policy Manager gave a comprehensive presentation to the Board on Survivor Option Election. Current law does not allow for a member to change their survivor option election. The following options are before the Board for consideration:

Policy Option 1 – Window for all L2 members at the time of retirement

- a) 60 day window
- b) 90 day window
- c) 120 day window

Policy Option 2 – Qualifying Event Window

- a) Any change in benefit amount
- b) 5%
- c) 10%

Policy Option 3 – Qualifying Event Window with Further Anti-selection Risks Mitigation

- If a retiree's benefit increases due to a recalculation they may only select a larger survivor option
- If a retiree's benefit decreases due to a recalculation they may only select a smaller survivor option

Option 4 – Option 1 (a), (b), or (c) and Option 2 (a), (b), or (c)

Option 5 – Option 1 (a), (b), or (c) and Option 3 (a), (b), or (c)

ACTION	It was moved that further discussion take place at the November meeting. Motion was seconded. Motion passed unanimously.
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## 10. INTERRUPTIVE MILITARY SERVICE CREDIT

Jacob White, Senior Research and Policy Manager gave a comprehensive presentation to the Board on Interruptive Military Service Credit. The following policy options are before the Board for consideration:

Option 1 – Move definition of “veteran” to pension statutes and rewrite to include all past and future armed conflicts where Campaign Badges are awarded

# BOARD MEETING MINUTES

SEPTEMBER 25, 2019 – DRAFT



Option 2 – Same as Option 1, plus expand no-cost interruptive military service to include Expeditionary Medals

Option 3 – Update existing list of armed conflicts to include any additional campaign medals not currently included in law

Option 4 – No changes to existing law

ACTION | It was moved and seconded to adopt option 2. Motion passed unanimously.

## 11. PEBB COVERAGE FOR CATASTROPHIC RETIREES

Jacob White, Senior Research and Policy Manager gave an initial presentation to the Board on PEBB Coverage for Catastrophic Retirees. LEOFF Plan 2 catastrophic disability retirees and their survivors have different medical insurance access than survivors of members killed in the line of duty.

ACTION | It was moved and seconded that staff continue research and present a comprehensive report at the December meeting. Motion passed unanimously.

## 12. BENEFIT IMPROVEMENT ACCOUNT POTENTIAL GOALS AND POLICIES

Steve Nelsen, Executive Director presented to the Board on the Benefit Improvement Account and potential goals and policies. Possible benefit improvements and benefit improvement policy goals were discussed.

## 13. AGENDA ITEMS FOR FUTURE MEETINGS

Steve Nelsen, Executive Director discussed the October 16<sup>th</sup> meeting which will be held offsite. The Board was asked to clarify their desired start time for this offsite meeting and the meeting will start at 9:30AM.

## ADJOURNMENT

There being no further business, the meeting was adjourned at 1:53PM.

The next meeting of the LEOFF Plan 2 Retirement Board is scheduled for October 16, 2019 at the Indian Summer Golf and Country Club 5900 Troon Ln SE, Olympia, WA 98501.

# BOARD MEETING MINUTES

OCTOBER 16, 2019 – DRAFT



## TRUSTEE AND STAFF ATTENDANCE

In Attendance	Dennis Lawson, Chair – Central Pierce Fire and Rescue
Absent	Jason Granneman, Vice Chair – Clark County Sheriff's Office
In Attendance	Adé Ariwoola – City of Federal Way
In Attendance	Mark Johnston – Vancouver Fire Department
In Attendance	AJ Johnson – Snohomish County Fire District #1
In Attendance	Senator Jeff Holy – Spokane Police Department (Retired)
In Attendance	Tarina Rose-Watson – Spokane Int'l Airport Police Dept
In Attendance	Wolf Opitz – Pierce County
In Attendance	Pat McElligott – Pierce County Fire and Rescue
In Attendance	Representative Steve Bergquist – WA State Representative
In Attendance	Steve Nelsen – Executive Director
In Attendance	Tim Valencia – Deputy Director
In Attendance	Jessie Jackson – Executive Assistant
In Attendance	Jessica Burkhart – Administrative Services Manager
In Attendance	Tammy Harman – Benefits Ombudsman
In Attendance	Jacob White – Senior Research and Policy Manager
In Attendance	Karen Durant – Senior Research and Policy Manager
In Attendance	Tor Jernudd – Assistant Attorney General

## CALL TO ORDER

The LEOFF Plan 2 Retirement Board met at 5900 Troon Ln SE, in Olympia, Washington on October 16, 2019. A quorum of the members was present at this meeting.

Steve Nelsen, Executive Director called the meeting to order at 9:30AM.

## 1. WELCOME & AGENDA OVERVIEW

Steve Nelsen, Executive Director introduced Wolf Opitz as the new Employer Representative appointed to the Board and gave an overview of the agenda for the day.

## 2. FUNDING CORRIDOR DISCUSSION

Mitch DeCamp, Actuarial Analyst and Lisa Won, Deputy State Actuary from the Office of the State Actuary presented the second part in their Pension Funding discussion series. No action was taken by the Board.

## 3. TRUSTEE EDUCATION POLICY

Steve Nelsen, Executive Director reviewed a draft policy for Trustee Education which sets forth principles and guidelines for introductory and ongoing educational activities for Board Members.

## 4. TRUSTEE ATTENDANCE POLICY

Steve Nelsen, Executive Director reviewed a draft policy for Trustee Attendance which sets a clear shared expectation for meeting participation whereby the Board members hold themselves accountable as well as the organizations and membership which they represent.

# BOARD MEETING MINUTES

OCTOBER 16, 2019 – DRAFT



## 5. BOARD EXPECTATIONS

Tim Valencia, Deputy Director presented results of the expectation interviews Director Nelsen conducted with Board members this year.

## 6. BENEFIT IMPROVEMENT ACCOUNT GOALS & POLICIES

Steve Nelsen, Executive Director gave an update on a survey of plan members regarding the benefit improvement account that was conducted by WSCFF, WACOPS, FOP and COMPASS.

## 7. 2020 PROPOSED CALENDAR

A calendar of proposed meeting dates for 2020 was given to the Board for consideration and adoption at the November meeting.

## Adjournment

There being no further business, the meeting was adjourned at 1:55PM.

The next meeting of the LEOFF Plan 2 Retirement Board is scheduled for November 20, 2019 at the Washington State Investment Board located at 2100 Evergreen Park Drive S.W. Olympia, WA 98502.

Department of Retirement Systems

# DRS Update

*Tracy Guerin, Director*

LEOFF 2 Retirement Board

November 20, 2019

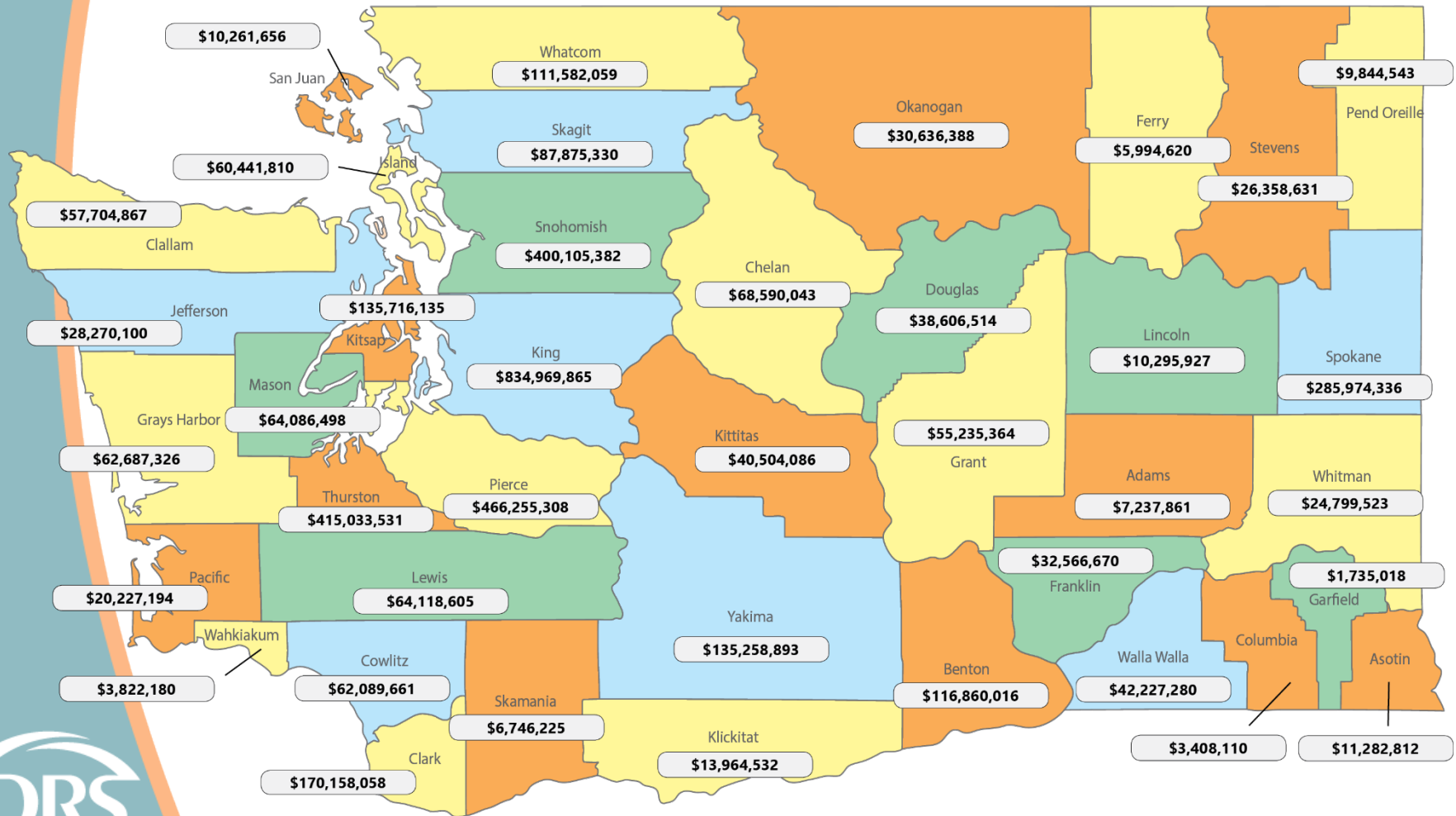




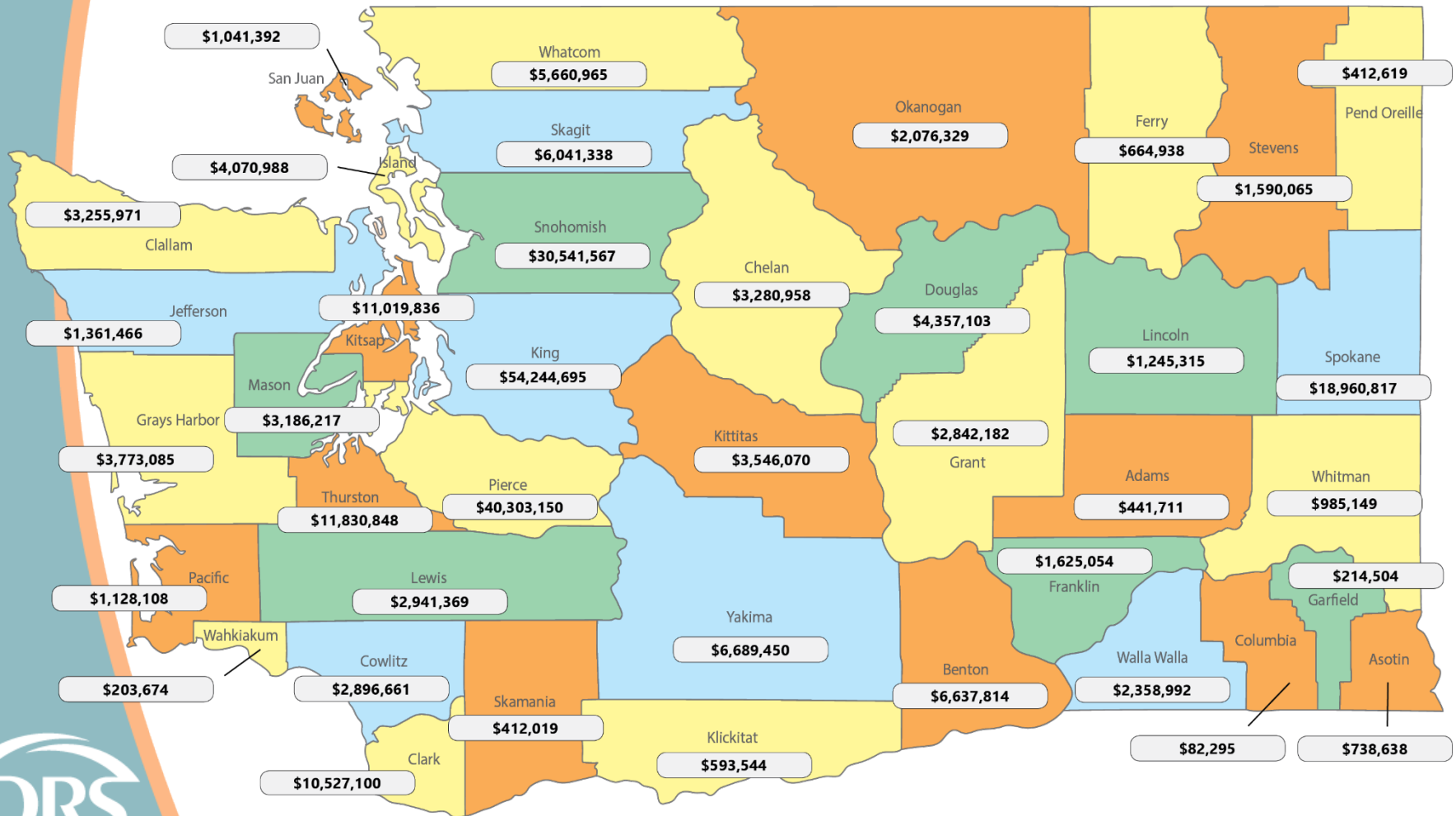
# Pensions at a Glance

- ❑ 810,798 Plan Members
- ❑ 1,357 Employers
- ❑ \$125.6B in Retirement Trust Funds
- ❑ \$4.7B in Contributions
- ❑ \$4.5B in Benefits

# Benefits Paid by County – FY 2019



# L2 Benefits by County – FY 2019



# DRS: Low Cost, High Service

- ❑ Compared to our peers, DRS' administrative cost is lower and our service scores are higher
- ❑ We're the fifth-most complex pension system in North America
- ❑ Delivering responsive customer service even as retirements grow and staffing holds constant

# Growing Participation in DCP

- ❑ Now at 54,000 participants contributing
- ❑ More than 21,000 auto-enrolled since Jan. 2017
- ❑ Average auto-enroll retention rate is 92%
- ❑ Exploring more ways to expand participation

# Safeguarding Our Customers

- ❑ In many ways DRS is a financial institution — and we're one of the largest in the state
- ❑ We're entrusted with members' money and personal data
- ❑ We use industry-standard security practices and rigor

# Supporting Our Team Members

- ☐ Renovating the DRS building in Tumwater
- ☐ Offering flexible/compressed work schedules
- ☐ Trying out telecommuting
- ☐ Piloting infants at work

# Implementing Legislation

- ❑ Streamlining written consent requirements for survivorship options (*HB 1408*)
- ❑ Extending option to purchase WSIB annuities to all systems and plans (*SB 5350*)
- ❑ Changing membership default in PERS, SERS and TRS to Plan 2 (*SB 5360*)
- ❑ Return-to-work restrictions lifted for TRS/SERS retirees who used the 2008 ERFs (*HB 1139*)



# Charting Our Future

- ❑ Record Keeper Transition
- ❑ CORE – Legacy System Modernization
- ❑ Mainframe Re-hosting Project

# Exploring Policy Initiatives

- ☐ Protect the privacy of member and retiree medical information
- ☐ Review interest rate paid on inactive accounts
- ☐ Reduce the number of non-vested inactive accounts

# Questions?





**Office of the Washington State Auditor**  
**Pat McCarthy**

**Financial Schedule Audit Report**  
**Law Enforcement Officers and Fire**  
**Fighters Plan 2 Retirement Board**

**For the period July 1, 2018 through June 30, 2019**

**Published (Inserted by OS)**

**Report No. 1025065**





**Office of the Washington State Auditor  
Pat McCarthy**

Issue Date – (Inserted by OS)

Mr. Steve Nelsen, Executive Director  
Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board  
Olympia, Washington

**Report on the Financial Schedule**

Please find attached our report on the Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board's Schedule of Expenditures – Budget Allotment to Actual.

We are issuing this report in order to provide information on specific financial activity of the Board.

Sincerely,

Pat McCarthy  
State Auditor  
Olympia, WA

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# INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL SCHEDULE PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

## Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board July 1, 2018 through June 30, 2019

Mr. Steve Nelsen, Executive Director  
Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board  
Olympia, Washington

We have audited the Schedule of Expenditures – Budget Allotment to Actual and related notes (the schedule) of the Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board, for the year ended June 30, 2019. We performed the audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States and have issued our report thereon dated November 7, 2019.

### INTERNAL CONTROL OVER SCHEDULE REPORTING

In planning and performing our audit of the schedule, we considered the Board's internal control over schedule reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the schedule, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control. Accordingly, we do not express an opinion on the effectiveness of the Board's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Board's schedule will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be

material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

## COMPLIANCE AND OTHER MATTERS

As part of obtaining reasonable assurance about whether the Board's schedule is free from material misstatement, we performed tests of the Board's compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of schedule amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

## PURPOSE OF THIS REPORT

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Board's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Board's internal control and compliance. Accordingly, this communication is not suitable for any other purpose. However, this report is a matter of public record and its distribution is not limited. It also serves to disseminate information to the public as a reporting tool to help citizens assess government operations.



Pat McCarthy

State Auditor

Olympia, WA

November 7, 2019



## INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL SCHEDULE

### Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board July 1, 2018 through June 30, 2019

Mr. Steve Nelsen, Executive Director  
Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board  
Olympia, Washington

### REPORT ON THE FINANCIAL SCHEDULE

We have audited the accompanying Schedule of Expenditures – Budget Allotment to Actual of the Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board, for the year ended June 30, 2019, and the related notes, which collectively comprise the Board's schedule, as listed on page 9.

#### Management's Responsibility for the Schedule

Management is responsible for the preparation and fair presentation of this schedule in accordance with accounting principles generally accepted in the United States of America. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a schedule that is free from material misstatement, whether due to fraud or error.

#### Auditor's Responsibility

Our responsibility is to express an opinion on the schedule based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the schedule is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the schedule. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the schedule, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Board's preparation and fair presentation of the schedule in order to design audit

procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant account estimates made by management, as well as evaluating the overall presentation of the schedule.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

## **Opinion**

In our opinion, the schedule referred to above presents fairly, in all material respects, the budgeted and actual expenditures of the Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board, for the year ended June 30, 2019, in accordance with accounting principles generally accepted in the United States of America.

## **Other Matters**

### ***Other Information***

Our audit was conducted for the purpose of forming an opinion on the schedule as a whole. The Supplemental Table – Prior Year Expenditure Comparison is presented for purposes of additional analysis and is not a required part of the schedule. Such information has not been subjected to the auditing procedures applied in the audit of the schedule, and accordingly, we do not express an opinion or provide any assurance on it.

## **OTHER REPORTING REQUIRED BY GOVERNMENT AUDITING STANDARDS**

In accordance with *Government Auditing Standards*, we have also issued our report dated November 7, 2019 on our consideration of the Board's internal control over schedule reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over schedule reporting and compliance and the results of that testing, and not to provide an opinion on internal control over schedule reporting or on compliance. That report is an

integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Board's internal control over schedule reporting and compliance.



Pat McCarthy

State Auditor

Olympia, WA

November 7, 2019

## FINANCIAL SECTION

### **Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board July 1, 2018 through June 30, 2019**

#### **SCHEDULE**

Schedule of Expenditures – Budget Allotment to Actual – 2019

Notes to Schedule of Expenditures – 2019

#### **OTHER INFORMATION**

Supplemental Table – Prior Year Expenditure Comparison – 2019

## ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the state's Constitution and is part of the executive branch of state government. The State Auditor is elected by the citizens of Washington and serves four-year terms.

We work with our audit clients and citizens to achieve our vision of government that works for citizens, by helping governments work better, cost less, deliver higher value, and earn greater public trust.

In fulfilling our mission to hold state and local governments accountable for the use of public resources, we also hold ourselves accountable by continually improving our audit quality and operational efficiency and developing highly engaged and committed employees.

As an elected agency, the State Auditor's Office has the independence necessary to objectively perform audits and investigations. Our audits are designed to comply with professional standards as well as to satisfy the requirements of federal, state, and local laws.

Our audits look at financial information and compliance with state, federal and local laws on the part of all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits of state agencies and local governments as well as [fraud](#), state [whistleblower](#) and [citizen hotline](#) investigations.

The results of our work are widely distributed through a variety of reports, which are available on our [website](#) and through our free, electronic [subscription](#) service.

We take our role as partners in accountability seriously, and provide training and technical assistance to governments, and have an extensive quality assurance program.

Contact information for the State Auditor's Office	
Public Records requests	<a href="mailto:PublicRecords@sao.wa.gov">PublicRecords@sao.wa.gov</a>
Main telephone	(360) 902-0370
Toll-free Citizen Hotline	(866) 902-3900
Website	<a href="http://www.sao.wa.gov">www.sao.wa.gov</a>



Office of the Washington State Auditor

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Pat McCarthy

# **Exit Conference**

Presented to LEOFF Plan 2 Retirement  
Board

November 20, 2019

# About Our Office

- The Washington State Auditor's Office's vision is an increased trust in government.
- Our goal is to make government work better through increased accountability, efficiency and transparency.

# Your Audit Team



**Jim Brownell, Audit Manager** – Jim has been with the Washington State Auditor's Office since 2005 and manages the Single Audit teams. His notable work experiences include audits of the state's Comprehensive Annual Financial Report (CAFR), Statewide Single Audit - including Medicaid and financial statement audits for the Departments of Labor and Industries, Ecology and Health. He has also managed accountability audits at multiple state agencies and the state employee whistleblower program.



**Michael Hutchinson, CPA, Assistant Audit Manager** – Mike has been with the State Auditor's Office since 1996. Notable work experiences include audits of local governments for nine years and supervising the Medicaid audit for seven years. He has also supervised accountability audits at multiple state agencies since 2009.

Mike supervised this engagement.



**Justin Brackett, Assistant State Auditor**- Justin has been with the Office since 2015. Notable work experiences include Whistleblower investigations, Statewide Single and Medicaid Audits, and various accountability audits.

Justin was the audit lead for this engagement.



# SAO Executive Management



**Sadie Armijo, CFE, Director of State Audit** – Sadie has been with the Washington State Auditor’s Office since 1998. She oversees most of the state audits our Office performs. Teams under her direction include the Financial Audit team, which conducts accountability audits, as well as the annual audit of the State of Washington Comprehensive Annual Financial Report and other financial statement audits. The Single Audit team performs accountability audits and the State of Washington Single Audit, which examines state agencies’ compliance with federal grant requirements. The third team Sadie leads is the Whistleblower team, which investigates assertions of improper governmental actions at state agencies. She previously was an Assistant Director of Local Audit for five years.



**Troy Niemeyer, Assistant Director of State Audit** – Troy has been with the Washington State Auditor’s Office since 2006. As Assistant Director he assists with the statewide oversight and management of most audits of state government, including fraud and whistleblower investigations. He previously managed two local audit teams, along with the Whistleblower Program, and the Statewide Technology Audit Team (STAT). Troy is a member of the Institute of Internal Auditors.

# Audit Scope

- We performed a financial statement audit of the LEOFF Board's Schedule of Expenditures
- The schedule included expenditures that occurred for the fiscal year ending June 30, 2019

## Financial Statement Audit Results

***Unmodified*** (clean) opinion on the financial statement

- The financial statement was presented fairly, in all material respects.

# Audit Highlights

- Board staff responded to audit requests in a timely manner and were helpful and cooperative throughout the audit process.
- There were no uncorrected misstatements in the audited financial statement.
- There were no material misstatements in the financial statement corrected by management during the audit.

# What happens during a financial statement audit?

- We evaluate state agency internal controls over key financial systems and processes
- We evaluate whether there are adequate internal controls over the financial statement preparation process
- We test transactions (expenditures)
- We examine note disclosures to ensure they are fairly and clearly presented

# Areas of focus for your audit

## **Completeness -**

**Were all expenses recorded in the financial statement?**

- ❑ Testing of Board salaries & wages

## **Classification -**

**Were expenses properly classified in the financial statement?**

- ❑ Random selection and tests of Board expenses for other purchased services

# More areas of focus for your audit

## Presentation and disclosures

- ❑ Was the financial statement clearly and appropriately presented?
- ❑ Were note disclosures complete and accurate?
- ❑ If significant financial events occurred, were they properly disclosed in the statement notes?

# Audit Recommendations

We made no recommendations to management.



# Required Communications

- In your materials is a draft copy of the audit report
- The final report is scheduled to be published on our public website next week.
  - <https://portal.sao.wa.gov/saoportal/Login.aspx>
- We are pleased to report the audit identified no material misstatements requiring correction

# Audit Cost

- The cost of the audit was \$4,400
  - ▢ 40 hours x \$110 per hour
- Should the Board choose to contract with our Office next year, we estimate the number of hours and cost to be the same as this year.

# Concluding remarks

We appreciate the opportunity to work with the Board and your staff



November 20, 2019  
Tribal Police Study

## COMPREHENSIVE REPORT

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## ISSUE STATEMENT

The legislature tasked the Law Enforcement Officer and Fire Fighter (LEOFF) Plan 2 Board with studying the tax, legal, fiscal, policy, and administrative issues related to allowing Tribal Police Officers to become members of LEOFF Plan 2.<sup>1</sup> The report is due to the legislature by January 1, 2020.<sup>2</sup>

## OVERVIEW

The Pension Protection Act of 2006 changed the definition of governmental plans to include Indian tribal plans “covering workers doing governmental work”.<sup>3</sup> This made it possible for tribes to create their own governmental plans and state or local government plans to allow tribes to join their pension systems. However, there are federal restrictions and state laws that prevent some tribal employees from joining state governmental plans, including LEOFF Plan 2.

## BACKGROUND AND POLICY ISSUES

### Nongovernmental Employees Risk

Federal restrictions for tribal employees joining a governmental plan include barring tribal employees engaged in commercial activities.<sup>4</sup> Tribal employees performing commercial activities would instead be covered by the Employee Retirement Income Security Act (ERISA), like a private sector employer. If a governmental plan covers even one commercial employee, the plan risks losing its governmental plan status.<sup>5</sup>

The determination of whether a position may be covered by a governmental plan or must be covered by ERISA is further addressed by the Internal Revenue Service (IRS) through a two part test.<sup>6</sup> The first part of the test is to determine whether the activities are commercial or

<sup>1</sup> Engrossed Substitute House Bill 1109. (2019). *Operating Budget*. [online] Available at: <http://lawfilesexext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/1109-S.SL.pdf>

<sup>2</sup> id.

<sup>3</sup> Govinfo.gov. (2019). *Pension Protection Act of 2006*. [online] Available at: <https://www.govinfo.gov/content/pkg/PLAW-109publ280/html/PLAW-109publ280.htm>

<sup>4</sup> Grinde, I. (2019). *Transition Relief for Indian Tribal Governmental Plans*. [online] Irs.gov. Available at: <https://www.irs.gov/pub/irs-drop/n-06-89.pdf>

<sup>5</sup> Irs.gov. (2019). *Advance notice of proposed rulemaking*. [online] Available at: [https://www.irs.gov/pub/irs-tege/reg\\_133223\\_08.pdf](https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf)

<sup>6</sup> id.

governmental. Examples of commercial activities include activities relating to the operation of a hotel, casino, service station, convenience store, or marina.<sup>7</sup> Governmental activities include “activities relating to providing criminal protection services such as police and fire departments”.<sup>8</sup> The IRS utilizes a “facts and circumstances test” to determine whether an activity is commercial or governmental.<sup>9</sup>

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

- Operated to earn a profit;
- Typically performed by private businesses; and,
- For customers who are substantially from outside of the Indian tribal community, including whether the activity is located or conducted outside of Indian tribal land.<sup>10</sup>

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

- The activity provides a public benefit to members of the Indian tribal government (not treating the generation of profits from commercial acts as providing a public benefit); and,
- The absence of one or more of the relevant factors listed for determining whether an activity is commercial.<sup>11</sup>

The second part of the IRS government plan test requires determining whether an employee’s duties are substantially in the performance of a governmental activity or a commercial activity.<sup>12</sup> In making this determination, the IRS considers the location of the employee’s services, along with the source of the employee’s payroll, and the employee’s assigned duties and responsibilities.<sup>13</sup>

According to the IRS, if an employee is on the payroll of an Indian Tribal Government (ITG) entity engaged in a commercial activity, the employee’s assigned duties and responsibilities are treated as being for a commercial activity and, thus, the employee is a commercial ITG employee.<sup>14</sup>

When determining whether an employee's services are in the performance of a governmental activity, the IRS does not require that the funds from commercial activities and the funds from governmental activities remain completely separate. The tribal police department may

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<sup>7</sup> 26 CFR Sec 7871(e)

<sup>8</sup> Irs.gov. (2019). *Advance notice of proposed rulemaking*. [online] Available at: [https://www.irs.gov/pub/irs-tege/reg\\_133223\\_08.pdf](https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf).

<sup>9</sup> id.

<sup>10</sup> id.

<sup>11</sup> id.

<sup>12</sup> id.

<sup>13</sup> id.

<sup>14</sup> id.

indirectly receive funding from revenue generated by commercial activity; however, the police officers must be on the payroll for the police department, not the commercial entity (see Appendix A).

For tribes in Washington, money from commercial activities (such as casinos) is collected by the tribal government and then allocated out to the different tribal departments, including the tribal police department. The Tribal Police Officers are on the payroll of the police department, so a tribal police department receiving funding which originated from commercial activities does not disqualify the Tribal Police Officers from government employee status (see Appendix A).

### **Waiver of Sovereign Immunity**

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

In order for Tribal Police Officers to become members of LEOFF Plan 2, a retirement compact would need to be negotiated and signed between the tribe and the State. This compact must include a limited waiver of the tribe's sovereign immunity for purposes of enforcing the laws, rules, and regulations of the LEOFF Plan 2.

### **Compact Process**

Based on existing tribal compacts between Washington State and tribal governments, the process of creating a tribal compact for tribes to join LEOFF Plan 2 would likely start with the tribe expressing their interest in joining LEOFF Plan 2 to the State. The tribe would then meet with the state to discuss a compact, which should include discussing their goals, the general terms of the compact, and the waiver of sovereign rights. After the initial discussion, the drafting of the compact would begin.

Most tribal compacts with the state (i.e. Gaming Compacts, Cigarette Compacts, and Marijuana Compacts) rely on the use of templates, to ensure a consistent and efficient process. It may be useful to have a compact template created for all tribes to use. This would enable tribes to make their compacts unique to their own wants and needs, while maintaining a similar structure to the other tribes.

Once a compact draft has been made, the tribe and the State will work together to edit and make recommendations. After the final compact language is agreed upon, the compact becomes official when it receives all required signatures of approval.

If tribal police departments are made eligible to join LEOFF Plan 2, then the retirement compacts should include the following:

- Acknowledgment by the tribal police department that it affirmatively chooses to participate in LEOFF Plan 2.
- Evidence that the person or persons who sign the compact on behalf of a tribe have authority under tribal or community law to bind the tribe to all provisions in the compact, including any waiver of sovereign immunity.
- Agreement by the tribal police department that it meets the definition of a LEOFF Plan 2 employer as defined in RCW 41.26.030.
- Agreement by the tribal police department to adhere to all reporting, contribution, and auditing requirements and rules as defined in Chapter 41.26 RCW.
- Agreement by the tribe to a limited waiver of sovereign immunity and consent to the jurisdiction of the Washington state courts for the purpose of enforcing the reporting, contribution, and auditing requirements defined in Chapter 41.26 RCW.

Below are some questions tribes and the state should consider before drafting the compact:

- Who should represent the tribe in the LEOFF Plan 2 tribal compact process?
- Who should represent the state in the LEOFF Plan 2 tribal compact process?
- Who will need to sign the final compacts for the state and for the tribe?
- What would be the ongoing costs to the tribe?
- Should the tribe be required to complete an actuarial survey to have a full understanding of the costs associated with membership?
- How would this affect LEOFF Plan 2 retirees currently working for the tribe?
- How will this affect officers who have already been working for the tribe for many years?
- What sovereign rights is the tribe giving up?

## LEOFF Plan 2 Eligibility

For Tribal Police Officers to be eligible for LEOFF Plan 2 both the officers and the employers would need to meet the eligibility requirements of LEOFF Plan 2. The state definition of “Tribal Police Officer” is:

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

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

- Employed by a LEOFF Plan 2 employer;
- Commissioned;
- Full-Time; and,

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<sup>15</sup> App.leg.wa.gov. (2019). *RCW 10.92.010: Definitions*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=10.92.010>.

- Fully Compensated.<sup>16</sup>

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

- The legislative authority of any city, town, county, district, or public corporation established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;
- The elected officials of any municipal corporation;
- The governing body of any other general authority law enforcement agency;
- A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or,
- The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.<sup>17</sup>

For Tribal Police Officers to be eligible for LEOFF Plan 2, the definition of “employer” needs to be amended to include tribal police departments. Currently, if an employer falls within the definition for LEOFF Plan 2, then they are automatically a LEOFF Plan 2 employer. While the Public Employees’ Retirement System (PERS) allows for certain types of employers to opt-in to membership, LEOFF Plan 2 does not. This would create an issue related to tribal sovereignty, as the state could not require a tribe to be subject to the requirements of LEOFF Plan 2 without the tribe waiving sovereign immunity. Therefore, for tribes to be eligible for LEOFF Plan 2 the law would need to include an opt-in process for tribes. This would be a change in policy for LEOFF Plan 2.

There currently is a process for tribal compact schools to opt-in as an employer under the Teachers’ Retirement System (TRS) and School Employees’ Retirement System (SERS).<sup>18</sup> Tribal compact schools are the only TRS and SERS employer not mandated into membership. The legislature could create a similar process for tribal police departments to opt-in to LEOFF Plan 2 Membership.

Once a Law Enforcement Officer is employed by an eligible employer, they must next be “commissioned”. Under WAC 415-104-011, the Department of Retirement Systems (DRS) defines “commissioned” as “an employee is employed as an officer of a general authority Washington law enforcement agency and is empowered by that employer to enforce the criminal laws of the state of Washington”. RCW 10.93.020(3) defines “general authority Washington peace officer” as “any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is

<sup>16</sup> App.leg.wa.gov. (2019). *RCW 41.26.030: Definitions*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=41.26.030>.

<sup>17</sup> id.

<sup>18</sup> App.leg.wa.gov. (2019). *Chapter 28A.715.010 RCW: Authority to enter into compacts—Process—Rules—Retirement systems*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.715.010>



commissioned to enforce the criminal laws of the state of Washington generally.” Therefore, Tribal Police Officers with general authority would be eligible for LEOFF Plan 2 if tribal police departments were added to the definition of “employer”.

### **General vs. Limited Authority**

As explained above, Law Enforcement Officers are required to have general authority to be eligible for membership in LEOFF Plan 2. A general authority Washington State Peace Officer is any full-time, fully compensated and elected, appointed, or employed officer of a general authority law enforcement agency in the state.<sup>19</sup> This includes local governments, the Washington State Patrol, and the Department of Fish and Wildlife. General authority peace officers may enforce criminal or traffic laws of the state throughout the territorial boundaries in the following circumstances: with the support and approval of an inter-local agreement; in response to an emergency involving immediate threat to human life or property; in response to a request for assistance pursuant to a law enforcement assistance agreement; when transporting prisoners; when executing an arrest warrant or search warrant; or, when in fresh pursuit.<sup>20</sup>

A limited authority Washington State Peace Officer is “any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible.”<sup>21</sup> Limited authority officers include, but are not limited to, Liquor and Cannabis Board Enforcement Officers, Gambling Commission Special Agents, and Department of Natural Resources Police Officers. There have been bills proposed to the legislature to include limited authority officers in LEOFF Plan 2; however, none of those bills have been endorsed by the LEOFF Plan 2 Board. Instead, limited authority officers are typically covered by the Public Safety Employees’ Retirement System (PSERS).<sup>22</sup>

Tribal police officers may have general authority or limited authority. In 2008, HB 2476 authorized Tribal Police Officers to act as general authority officers if the tribal government met specific requirements regarding certification, insurance liability, and administration.<sup>23</sup> The certification requirement is conducted through the Criminal Justice Training Commission (CJTC). Tribal governments must enter into a written agreement with the CJTC to receive this training and certification. These written agreements require the tribal law enforcement agency and its

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<sup>19</sup> App.leg.wa.gov. (2019). *Chapter 10.93.020 RCW: DEFINITIONS*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=10.93.020>.

<sup>20</sup> Lawfilesext.leg.wa.gov. (2019). *FINAL BILL REPORT-EHB 2476*. [online] Available at: <http://lawfilesext.leg.wa.gov/biennium/2007-08/Pdf/Bill%20Reports/House/2476.FBR.pdf>.

<sup>21</sup> App. leg.wa.gov. (2019). *Chapter 10.93.020 RCW: DEFINITIONS*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=10.93.020>.

<sup>22</sup> App.leg.wa.gov. (2019). *Chapter 41.37 RCW: WASHINGTON PUBLIC SAFETY EMPLOYEES’ RETIREMENT SYSTEM*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=41.37>.

<sup>23</sup> App.leg.wa.gov. (2019). *Chapter 10.92 RCW: TRIBAL POLICE OFFICERS*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=10.92>.

officers to comply with all of the requirements for granting, denying, and revoking certification as they are applied to state general authority peace officers. However, tribes may have agreements with CJTC for training and certifying officers without the tribe meeting the other requirements for general authority.

Eleven tribal police departments have met the general authority requirements and their Tribal Police Officers are considered general authority Washington State Peace Officers. Tribal police officers working for the other tribal police departments are considered limited authority Washington State Peace Officers. The legislature may want to consider whether to allow for limited authority Tribal Police Officers to be eligible for membership in PSERS. Similar to LEOFF Plan 2, PSERS would need to be amended to allow for tribes to be eligible employers and Tribal Police Officers to be eligible members.

The chart below displays the certifications described above for each tribal police department, and identifies those departments which contract out their police services:

Tribal Police Department	General Authority Certification	CJTC Certification	Contract Out Police Services
Chehalis	X	X	
Colville		X	
Cowlitz		X	
Elwha		X	
Hoh			X
Jamestown S'Klallam			
Kalispel	X	X	
Lummi			
Makah			X
Muckleshoot		X	X
Nisqually	X	X	
Nooksack		X	
Port Gamble S'Klallam	X	X	
Puyallup		X	
Quileute		X	
Quinault	X	X	
Sauk-Suiattle	X	X	
Shoalwater Bay	X	X	
Skokomish		X	
Snoqualmie		X	
Spokane		X	
Squaxin Island		X	
Stillaguamish	X	X	

Suquamish	X	X	
Swinomish	X	X	
Tulalip	X	X	
Upper Skagit		X	
Yakama			

## Preliminary Results of Tribal Survey

In July of 2019, LEOFF Plan 2 Board staff sent a brief survey to each tribal police department. The survey asked the tribal police department's interest in joining LEOFF Plan 2; the average age, years of service, and salary of all the full time officers employed by the tribe; the current pension plan offered to their officers; and, any concerns or questions they have about joining LEOFF Plan 2.

Twelve tribes responded to the survey questions and nine of those tribes expressed their interest in being a part of LEOFF Plan 2, along with questions and concerns about the system. The three tribes that did not express interest in joining the system cited the following reasons:

- Muckleshoot Tribal Police Department – They contract with the King County Sheriff's Office, and therefore their officers are already in the LEOFF Plan 2 system.
- Stillaguamish Tribal Police Department - They responded that they are not interested in joining LEOFF Plan 2 because the majority of their officers are LEOFF Plan 2 retirees and the impact joining LEOFF Plan 2 would have on those officers.
- The Spokane tribe responded that they were not interested in joining LEOFF Plan 2 at this time. They did not provide any additional detail.

Some of the shared concerns among the tribes included:

- How retired LEOFF Plan 2 members working for the tribe would be affected;
- What the general costs and benefits of the system are;
- Whether all officers in a participating tribe would be required to join or if it would be optional;
- Whether every tribe need to be a part of the system; and,
- How tribal sovereignty would be impacted if they were to join LEOFF Plan 2?

The most cited reason why the tribal police departments were interested in joining LEOFF Plan 2 was for the recruitment and retention of high quality police officers. The responses to the questions regarding salary and demographic data of the full time officers employed by the tribes varied substantially. These results are shown in the chart below:

Tribal Police Department	Number of Full Time Officers	Average Salary	Average Age	Average Years of Service
Chehalis	18	\$80,154.49	37.4	6.7
Muckleshoot				

Nooksack	8	\$61,380	33	5
Port Gamble S'Klallam	10	\$45,760	30	
Puyallup		\$96,063	45	14.5
Quileute		\$62,400.00	32	8
Quinault	10		37	6
Shoalwater Bay	5	\$60,000 - \$70,000	43	4
Spokane				
Stillaguamish	11	\$76,695	54	25-30
Suquamish		\$77,400	44.5	12.46
Upper Skagit	7	\$65,000	45	3

LEOFF Plan 2 staff requested this data in part to assist the Office of the State Actuary (OSA) with analyzing the potential financial costs to LEOFF Plan 2 of having Tribal Police Officers eligible for membership. LEOFF Plan 2 staff is continuing to work with OSA on the potential financial impacts.

In response to the survey question regarding current pension plans offered by the tribal police department, nine of the tribes currently offer a 401(k) retirement plan. One tribe also offers their officers a Profit Sharing Plan and a Tax Exempt Retirement Savings Plan, in addition to a 401(k) plan. Most of these 401(k) plans require matching contributions by the employee. The term “matching contribution” refers to a certain dollar amount contributed by an employer to the retirement savings account of an employee who makes a similar contribution. The maximum percentage of employer contribution rate for these 401(k) plans were all less than the current LEOFF Plan 2 employer contribution rate of 8.59 percent<sup>24</sup>.

### **Retiree Return to Work Impacts**

State pension plans, including LEOFF Plan 2, include restrictions on retirees returning to work and receiving pension payments. Currently, tribal police departments are not subject to these retiree return to work laws since they are not a DRS covered employer. If tribal police departments became LEOFF Plan 2 employers, their employees would be subject to retiree return to work restrictions.

LEOFF Plan 2 retirees are subject to the retiree return to work law known as “career choice”. Under career choice, a retiree of LEOFF Plan 2 who becomes employed in a non-LEOFF eligible position may choose to either: receive LEOFF Plan 2 retirement benefits while employed in the non-LEOFF position and be prohibited from entering a new retirement plan; or enter into the membership of his or her new position's retirement plan, make contributions and accrue

<sup>24</sup> 8.59 percent is the combined percentage paid by the employer and the state for LEOFF Plan 2.

service credit, and have their LEOFF Plan 2 retirement benefit suspended until the employment covered by the new retirement plan ends.<sup>25</sup>

If a LEOFF Plan 2 retiree becomes employed in a LEOFF Plan 2 covered position they are no longer considered a retiree. Instead, they become active LEOFF Plan 2 members and reenter LEOFF Plan 2 membership, accruing additional service credit and paying member contributions. When they re-retire their LEOFF Plan 2 pension benefit is recalculated with the additional service credit and potentially with a new Final Average Salary.

Currently, tribal police departments have a competitive advantage hiring LEOFF Plan 2 retirees over other public employers in Washington because LEOFF Plan 2 retirees can work as Law Enforcement Officers for a tribe while still receiving their pension payments. If tribal police departments become LEOFF Plan 2 employers, LEOFF Plan 2 retirees who work for those tribes as Law Enforcement Officers would have to rejoin LEOFF Plan 2 membership and stop receiving their LEOFF Plan 2 retirement benefit.

There may also be return to work implications for tribal employees who have retired from other state pension systems, working for the tribal police departments, and potentially for the tribe. For example, the 2008 Early Retirement Factors (ERF) return to work restrictions prohibit a 2008 ERF retiree to return to work for a DRS employer in any capacity without having their pension benefit stopped.<sup>26</sup> Currently, it is unclear how the 2008 ERF return to work restrictions would impact a tribe if the tribal police department became a LEOFF Plan 2 employer. Specifically, whether the tribe as a whole would be considered a DRS employer as a result of the tribal police department becoming a LEOFF Plan 2 employer. If the tribe is considered a DRS employer then all of the tribe's employees would be subject to the 2008 ERF return to work restrictions. This issue, for first class cities, is currently being litigated in *Romero v. Department of Retirement Systems*.<sup>27</sup> Similar to the position tribes would be in if they became LEOFF employers, first class cities are LEOFF employers only; they have their own pension system for other city employees. In *Romero*, DRS determined that a 2008 ERF PERS retiree was subject to the 2008 ERF return to work restrictions for returning to work for the City of Spokane. Mr. Romero argues that the 2008 ERF restrictions do not apply to first class cities because they are not DRS-covered employers.

## State Contributions

If Tribal Police Officers are allowed into LEOFF Plan 2 the law will need to address what percentage of contributions the employer and state pay. The current cost-sharing method utilized by a majority of LEOFF Plan 2 is 50 percent of contributions are paid by the member, 30

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<sup>25</sup> App.leg.wa.gov. (2019). *Chapter 41.26.500 RCW: Suspension of retirement allowance upon reemployment—Reinstatement—Option to enter into membership*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=41.26.500>.

<sup>26</sup> App.leg.wa.gov. (2019). *Chapter 41.40.630 RCW: RETIREMENT FOR SERVICE* [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=41.40.630>.

<sup>27</sup> *Romero v. Department of Retirement Systems*, Cause No. 18-2-04400-1

percent by the employer and 20 percent by the State.<sup>28</sup> However, for Port Districts and institutions of higher education, the member and employer pay 50 percent and the State pays zero percent.<sup>29</sup>

### **Retroactive Service Credit**

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

When this occurs the law must address who will pay the full actuarial cost of the benefit. Typically, the member is responsible for the full actuarial cost of the service credit, however there have been instances in which the employer and/or pension plan has shouldered a portion of that cost. Members may be able to pay for that service credit by rolling over funds from other retirement savings accounts, so long as that account is eligible for a rollover under IRS regulations.<sup>30</sup>

### **Withdrawing from LEOFF Plan 2**

If tribes are allowed to join LEOFF Plan 2, the law should address whether this decision is irrevocable. If it is not irrevocable, the law should include what the process and liability of withdrawing from membership includes. Currently, LEOFF Plan 2 does not address these issues because membership is mandatory and there is no option to leave membership so long as an employer continues to employ eligible members. In PERS, which allows for certain employers to opt-in, that decision is irrevocable.<sup>31</sup> An employer can only get out of membership by dissolving. When an employer dissolves, the plan subsidizes the costs associated with the liability of the employer.

While the majority of states do not allow employers to withdraw from their pension systems, there are states do allow for withdrawal. These plans typically follow procedures similar to those required of private ERISA covered multi-employer plans. Under ERISA, employers are

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<sup>28</sup> App.leg.wa.gov. (2019). *RCW 41.26.725: Board of trustees—Contributions—Minimum and increased benefits*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=41.26.725>.

<sup>29</sup> App.leg.wa.gov. (2019). *RCW 41.26.450: Port districts and institutions of higher education—Employer and state contributions—Recovery of contributions*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=41.26.450>.

<sup>30</sup> Rollover Chart. (2019). Available at: [https://www.irs.gov/pub/irs-tege/rollover\\_chart.pdf](https://www.irs.gov/pub/irs-tege/rollover_chart.pdf).

<sup>31</sup> App.leg.wa.gov. (2019). *RCW 41.40.111: Retirement system employer—Unit of government*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=41.40.111>.

required to pay “withdrawal liability” to leave the plan.<sup>32</sup> Under ERISA, withdrawal liability is the amount of Unfunded Vested Benefits (an amount equal to the value of nonforfeitable benefits under the plan, less the value of the assets of the plan).<sup>33</sup>

The process to withdraw for public pension systems typically involves the following steps: decision by employer to withdraw; employee vote to withdraw; notification to the pension system; accounting of liabilities; payment of liabilities; and, handling of vested and non-vested member accounts.<sup>34</sup>

To help prevent the underlying issues that may result in withdrawal, it would be beneficial for tribes to have as much information as possible about the costs and obligations of being a LEOFF Plan 2 employer. Arizona Public Safety Personnel Retirement System sought to address this concern for tribes seeking to join their pension system, by requiring the tribe to pay for “[...] a preliminary actuarial survey to determine the estimated cost of participation, the benefits to be derived and other such information as may be deemed appropriate.”<sup>35</sup> Two tribal police departments and one tribal fire department in Arizona are currently participating in the Arizona Public Safety Personnel Retirement System.<sup>36</sup> According to the Office of the State Actuary, the term “actuarial survey” is not a recognized actuarial term. Therefore, if the legislature wanted to require or recommend that tribes opting-in to LEOFF Plan 2 get an actuarial survey, they should clearly define the requirements of the actuarial survey.

In the legislation authorizing tribal compact schools to become members of TRS and SERS, the legislature addressed the risks of tribal compact schools withdrawing from the pension systems by including language in the bill which required the compact agreement to address “expectations and duties if the compact terminates [...]”.<sup>37</sup> Furthermore, the compact must include:

Acknowledgment by the tribal school that it has been advised that choosing to no longer participate in the retirement systems may result in federal tax implications for the governing body and its employees that are outside the control of the state of Washington, the department of retirement systems, and the superintendent of public

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<sup>32</sup> Law.cornell.edu/uscode. (2019). *U.S. Code § 1381. Withdrawal liability established; criteria and definitions*. [online] Available at: <https://www.law.cornell.edu/uscode/text/29/1381>.

<sup>33</sup> id.

<sup>34</sup> Handling Withdrawals from Multi-Employer Public Pension Plans. (2015). [online] Available at: [https://www.nappa.org/assets/docs/ArchivedConferenceMaterials/2015ConferenceAustin/nappa\\_2015%20wed\\_t erminatingemployersoutsourcingemployees.pdf](https://www.nappa.org/assets/docs/ArchivedConferenceMaterials/2015ConferenceAustin/nappa_2015%20wed_t erminatingemployersoutsourcingemployees.pdf)

<sup>35</sup> Azleg.gov. (2019). *Arizona Revised Statutes*. [online] Available at: <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/38/00851.htm>.

<sup>36</sup> Psprs.com. (2019). *Participating Employers of the Public Safety Personnel Retirement System (PSPRS)*. [online] Available at: [http://www.psprs.com/uploads/sites/1/Participating\\_Employers\\_of\\_PSPRS.pdf](http://www.psprs.com/uploads/sites/1/Participating_Employers_of_PSPRS.pdf).

<sup>37</sup> App.leg.wa.gov. (2019). *Chapter 28A.715.010 RCW: Authority to enter into compacts—Process—Rules— Retirement systems*. [online] Available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.715.010>

instruction, and that the tribal school is encouraged to seek counsel before agreeing to any dissolution procedures in the compact.

Tribal compact schools have a greater risk of the issue of withdrawal arising because of the temporary nature of their existence. Only tribal compact schools, not tribal schools, are eligible for membership in the state retirement systems. Tribal schools can become tribal compact schools through entering into a compact agreement with the Office of Superintendent of Public Instruction (OSPI). These agreements are typically only two year agreements, meaning that every two years there is a risk that the tribal compact school will dissolve and no longer be eligible for membership in TRS and SERS.

In the tribal compact school legislation, the legislature also addressed potential risks associated with employees of tribal compact schools claiming they had “Bakenhus” rights to remain in the pension plan if their employer withdrew from membership. The legislation stated “[f]or tribal schools that opt out of pension plan participation, such schools' employees shall have no right to earn additional service credit in the plan.”


## SUPPORTING INFORMATION


Appendix A: Ice Miller Legal Advice Memo



**PRIVILEGED AND CONFIDENTIAL MEMORANDUM**

**TO:** Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 Retirement Board

**FROM:** Ice Miller LLP (Robert L. Gauss and Audra Ferguson-Allen) 

**DATE:** October 14, 2019 

**RE:** Overview Regarding Admission of Tribal Police to Public Retirement System

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*This memorandum is provided in confidence and subject to the attorney-client privilege. We have not provided copies to anyone other than you. To preserve the attorney-client privilege, you should disclose the contents of this memorandum only to persons making decisions on the matters discussed herein.*

*Moreover, as you requested, this memorandum provides a brief overview. This memorandum was prepared for another client and has been edited to remove identifying information. If you would like us to provide a more comprehensive memorandum tailored to your issue, please let us know.*

**I. OVERVIEW OF LAW GOVERNING NATIVE AMERICAN TRIBES**

**A. History of Native American Tribal Retirement Plan**

When the Small Business Jobs Protection Act of 1996 ("SBJPA") was enacted, it amended the Internal Revenue Code ("Code") to provide that Indian tribal government employers could include a qualified cash or deferred arrangement ("CODA") as part of a plan maintained by a tribe. This Act confirmed that, unlike state and local governments, tribes could sponsor 401(k) plans under ERISA. This led to the conclusion that the tribes were not considered state or local governments for purposes of ERISA. Thus, after the enactment of the SBJPA, tribes were treated as subject to ERISA.

On August 17, 2006, the Pension Protection Act ("PPA") became law. Section 906 of the PPA amended Code Section 414(d) and ERISA Section 3(32) to revise the definition of "governmental plan" to include certain functions of tribes. Specifically, the definition was amended to add the following:

The term 'governmental plan' includes a plan which is established and maintained by an Indian tribal government (as defined in § 7701(a)(40) of the Internal revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with § 7871(d) of such Code), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential governmental function).

Code Section 414(d).

Furthermore, Notice 2006-89 sets forth that a governmental plan includes the teachers in tribal schools, "but a governmental plan does not include a plan covering tribal employees who are employed by a hotel, casino, service station, convenience store, or marina operated by a tribal government." Notice 2006-89 provided transitional relief based on a reasonable and good faith interpretation. However, Notice 2006-89 specifically states that it is not a reasonable and good faith interpretation for "employees who perform the following commercial activities to continue to accrue benefits" under a tribal plan: "employees who are employed by a hotel, casino, service station, convenience store, or marina operated by the [tribe] from the first day of the first plan year beginning on or after August 17, 2006." Notice 2006-89 also provided a method for tribal employer plans which covered both commercial employees and governmental employees to split their plans and assign the employees to the proper plans. Notice 2007-67 extended the transitional relief of Notice 2006-89 to a date that is six months after guidance is issued under the new rules.

## **B. Advanced Notice of Proposed Rulemaking – November 7, 2011**

On November 7, 2011, the Department of Treasury and the Internal Revenue Service ("IRS") issued an Advance Notice of Proposed Rulemaking ("ANPR"). The ANPR proposes to amend Treasury Regulation Section 1.414(d)-1 to add paragraph (g). Under the ANPR, a governmental plan, as applied to an Indian tribal government would be defined as follows:

[A] governmental plan as it relates to an Indian tribal government is a plan that is established and maintained for its employees by an Indian tribal government, a subdivision of an Indian tribal government, or an agency or instrumentality of either (ITG), provided that the employees covered under the plan provide substantially all of their services in the performance of governmental activities as determined in paragraph (g)(6) of this section.

A commercial retirement plan for an Indian tribe would be defined as:

[A] plan of an ITG that covers any ITG employee who is not a governmental ITG employee under paragraph (g)(8) of this section or that covers any individual who is not an employee of an ITG.

The proposed regulations set forth a two-part test. The first part of the test is to determine whether the activities are commercial or governmental. Examples of commercial activities include activities relating to the operation of a hotel, casino, service station, convenience store, or marina. The facts and circumstances considerations related to commercial activities include the following:

- Whether the activity is a type of activity that is operated to earn a profit;
- Whether the activity is a type of activity that is typically performed by private businesses;

- Whether the activity is a type of activity where the customers are substantially from outside of the Indian tribal community, including whether the activity is located or conducted outside of Indian tribal land.

Examples of governmental activities include:

- Activities related to the building and maintaining of public roads, public sidewalks, public buildings, and related areas such as parking lots;
- Activities that are related to public sewer and drainage facilities, and related facilities such as a waste-water treatment plant;
- Activities relating to public works projects, such as schools and government buildings;
- Activities relating to public utilities, such as electricity and other power sources, including the development of newer or emerging technologies;
- Activities relating to providing criminal protection services such as police and fire departments, providing civil or public administrative services such as operating and managing public schools, managing and providing services as public hospitals and health clinics, operating the government's civil service system and other public services;
- Activities subject to a treaty or special rules that pertain to trust land ownership and use.

Prop. Reg. § 1.414(d)-1(g)(6). (Emphasis added.) The facts and circumstances related to whether an activity is a governmental activity include the following:

- Whether the activity produces a public benefit to members of the Indian tribal government;
- Whether there is an absence of one or more of the relevant factors listed for a commercial activity as provided in paragraph (g)(7), *e.g.* hotel, casino, service station, convenience store, or marina.

The second part of the test requires that a determination be made as to whether an employee is an employee substantially all of whose services are in the performance of a governmental activity or a commercial activity.

You have asked whether police officers can be members in a governmental plan if the tribal police department is funded, in part, through revenue generated from commercial activity. Specifically, you explain that the revenue from commercial activity does not go directly to the police department. Rather, the revenue goes to the tribal governmental and the tribal government allocates funding to the different departments. In making the determination of whether an employee's services constitute services in the performance of a governmental activity, the IRS guidance does not require that the funds from commercial activity and the funds from governmental activities remain completely segregated. Rather, the Proposed Regulations consider the following factors: (i) location of the activity, (ii) payroll records, and (iii) duties and responsibilities. To expand upon the "payroll records" factor, the Proposed Regulations provide as follows:

(iii) Payroll records. If an employee is on the payroll of an ITG [Indian Tribal Government] entity that is engaged in a commercial activity (within the meaning of paragraph (g)(7) of this section), the employee's assigned duties and responsibilities are being treated as for the commercial activity and, thus, the employee is a commercial ITG employee. For example, if a cashier is on the payroll of a convenience store (which is a commercial activity under paragraph (g)(7)(i)(D) of this section) owned by an ITG, the cashier is a commercial ITG employee within the meaning of paragraph (g)(8) of this section.

Prop. Reg. § 1.414(d)-1(g)(8)(iii) (emphasis added). As you note, the police officers may, indirectly, receive funding from revenue generated by commercial activity; however, importantly, the police officers are on the payroll for the police department, not the commercial entity. Thus, assuming the other factors are met, the fact that some of the funding may have been received from revenue generated by commercial activity is not determinative.

Importantly, there is no de minimis rule with respect to coverage of commercial employees. This means that if a plan covers even one commercial employee, the plan risks its governmental plan status. The proposed regulation provides that a plan will not be treated as failing to satisfy the proposed rules if a plan makes a reasonable, good faith interpretation of the rules. However, the reasonable, good faith relief only applies if the plans provide uniform benefit levels for employees of governmental and commercial plans.

## **C. Issues Related to Tribal Participation in Public Retirement Plan**

### **1. Sovereign Immunity**

As affirmed by the Supreme Court of the United States, the doctrine of tribal sovereign immunity continues in the United States. *See Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024 (2014). Moreover, tribal immunity applies to suits brought by a State and "tribal immunity is a matter of federal law and is not subject to diminution by the States." *Id.* at 2031 (citations omitted). The Supreme Court further stated that this immunity includes the "tribe's commercial activities, even when they take place off Indian lands." *Id.* The court noted that "if a State really wants to sue a tribe . . . , the State need only bargain for a waiver of immunity." *Id.*; *see also Oklahoma Tax Comm'n v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, 498 U.S. 505, 509 (1991) ("Suits against Indian tribes are thus barred by sovereign immunity absent a clear waiver by the tribe or congressional abrogation.").

Thus, in order to enforce the rules and requirements of a Retirement System, a tribal compact or agreement would need to include a waiver of sovereign immunity. Undoubtedly, a waiver of sovereign immunity will be carefully scrutinized by a tribe. Moreover, the plan should be amended to note that by participating in the Retirement System, a tribal government waives sovereign immunity and agrees to be subjected to all statutory provisions and any other applicable laws as they relate to the Retirement System. Further, the plan should be amended to provide a binding guarantee of payment options and that participation in the Retirement System would continue into perpetuity.

## 2. Social Security

A tribal employee's participation in the Retirement System will not impact his or her Social Security coverage. State and local employees who are members of a "qualified replacement plan" may only be covered under Social Security under an agreement between the State and the Social Security Administration called a Section 218 Agreement.

Indian tribal governments are not treated as states for purposes of Social Security and Medicare taxes, and they may not enter into Section 218 Agreements.<sup>1</sup> Code Section 7871; IRS Publication 963 (2014), p. 5-17. Therefore, tribal employees generally are treated as private employees for purposes of Social Security. Their coverage under Social Security is mandatory and will continue if they join the Retirement System, notwithstanding its status as a "qualified replacement plan."

## 3. Dual Status as a Governmental and Non-Governmental Employer

Given the multi-facet composition of a Native American Tribe, the tribe may consist of employees who perform governmental functions and may participate in a governmental plan, and employees who perform commercial functions who will be governed by ERISA. To properly determine whether an employee performs a governmental function or a commercial function, the tribe will need to undertake the facts and circumstances test as set forth above. This likely would need to be done by the tribe, which will be in the best position to understand the role of each employee. However, the risk will fall upon the Retirement System if an employee has been misclassified. Additionally, the tribe could obtain a Private Letter Ruling ("PLR") from the IRS that the specific group of employees would be considered employees for whom substantially all of the services performed by the employee are in the performance of a governmental activity. However, as noted below, we think that it is unlikely that the IRS will issue a PLR while the Proposed Treasury Regulations are still pending. Furthermore, as noted above, admission of even one tribal government commercial employee into a governmental plan can jeopardize the status of the governmental plan.

## II. RECOMMENDATIONS

In addition to the recommendations set forth above, we recommend the following:

- Sovereign Immunity<sup>2</sup> – Whether set out in the plan or provided for specifically in the agreement with the tribe (or both), it should be clearly set forth that participation in the Retirement Systems is contingent on a resolution from the tribe waiving sovereign immunity with respect to all disputes involving the interpretation of state statutes, plan language, and laws applicable to the

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<sup>1</sup> In 2018, the "Tribal Social Security Fairness Act of 2018" was passed to allow tribal council members to enter into a Section 218 Agreement with the Social Security Administration. This addressed a 1959 IRS ruling which found that services performed by tribal council members did not constitute "employment" for FICA purposes.

<sup>2</sup> The language of the agreement with the tribe may determine how much and to what extent sovereign immunity will need to be waived.

Retirement System and that such disputes will be resolved in state court. The tribe should also agree to any requirements with respect to the timely payment of contributions and amounts due by the employer, including enforcement of the collection of such payments. Moreover, the tribe should agree to participation in perpetuity.

- Actuarial Survey – The Retirement System may want to consider requiring an actuarial survey. This would assist the tribe in determining whether it would be economically feasible for the tribe to participate in the retirement program.
- Nongovernmental Employees – Procedures should be put in place to ensure that the Retirement Systems do not allow admission of nongovernmental tribal employees. Ideally, this would be performed through a PLR process with admission contingent on a favorable PLR from the IRS. However, given that the Proposed Treasury Regulations have not been finalized, we do not think it is likely that the IRS would issue a PLR at this time. In fact, the IRS has not issued a PLR regarding the admission of tribal governments in a state plan since 2005. Moreover, given the change in administration, it is unclear whether the proposed regulations will proceed, and we cannot predict how this will impact the IRS' willingness to issue a PLR. As noted above, admission of even one tribal government commercial employee into a governmental plan can jeopardize the status of the governmental plan.
- Withdrawal Considerations – Any agreement with a tribal government to participate in the retirement system should take into consideration potential withdrawal of the entity. For example, it should be considered whether the tribal government's decision to withdraw results in a "soft-freeze" (meaning contributions will continue to be made for current members and the current members will continue to accrue service and benefits but the plan will be closed to new tribal government employees), a "hard-freeze" (contributions and continued accrual of benefits cease but the contributions remain in the plan until a distributable event occurs), a "spin off" to a new plan with a transfer of contributions (Code § 414(l), is not directly applicable to a governmental plan but provides useful guidance and Rev. Rul. 67-213 provides guidance regarding plan to plan transfers), or an employer termination (this would constitute a distributable event). Depending on the potential avenue LEOFF would like to consider, we can provide additional information regarding implementation of these options. In addition, LEOFF will want to consult with its actuaries regarding withdrawal liability and the amount of contributions which should be made to LEOFF prior to withdrawal. Importantly, we think consideration should be given to how the tribe and the system will handle the transient nature (from commercial to governmental and back to commercial) of some of the tribal employees, including educating the tribe on the need for accurate employee status reporting.

### III. CONCLUSION

Very few states allow admission of tribal government employees into the state retirement system. With the exception of Arizona, those few states that have done so have typically limited admission to a select group of tribal government employees who perform state functions or have been empowered with authority under state law. For example, some states have allowed tribal police departments to participate when the tribal police departments have been empowered with state authority. See Appendix A.

There are several reasons which may contribute to the lack of inclusion of tribal employees in public retirement systems. For most public retirement systems, the definition of "employers" would not include Indian tribes. Furthermore, for the reasons stated above, admission in public retirement systems would necessarily require that the tribe waive sovereign immunity, and waiving sovereign immunity would be a step not taken lightly by a tribal government. In addition to the waiver of sovereign immunity, the tribe would also lose control over the retirement plan provisions if the tribe participated in the state retirement system. Another factor which may contribute to the lack of participation is the cost. Participation in a state retirement system may result in substantially higher costs than if the tribe participated in its own retirement plans. Furthermore, absent a PLR, admission of a tribe or a group of tribal employees carries risk that if a nongovernmental employee is allowed to participate in the governmental plan, the state plan's status as a qualified governmental plan could be jeopardized.

When it comes to retirement planning, it should be noted that tribal governments have other options. Tribal governments can create their own retirement plans. The retirement plans can be administered by the tribe or certain financial institutions can administer plan for the tribe. This allows tribal governments to maintain the protection of tribal sovereignty and independence from state governments. Tribal governments could also participate in a multiple employer plan with other tribes. These options would allow the tribes the ability to maintain sovereign immunity, independence from state governance and regulation, and retain control over the costs and plan provisions.

In sum, if a tribal government is allowed to participate in a public retirement system, caution must be exercised to limit admission to only those employee groups which perform essential governmental functions, and admission must be contingent on a waiver of sovereign immunity.

## **APPENDIX A: ANALYSIS OF OTHER STATES AND TRIBAL GOVERNMENTS**

### **A. Private Letter Rulings**

1. PLR 200404059 (01/23/2004)

In PLR 200404059, the state passed statutes which authorized the tribe to exercise the powers of a state law enforcement agency and to appoint state licensed peace officers with the same powers as peace officers employed by municipalities and counties if certain requirements were met. Specifically, the peace officers had to be licensed by state and comply with the state training standards. Moreover, the statute required that the tribal police department enter into mutual aid agreements with the county and city to define and regulate the law enforcement services and provide for mutual aid. In addition, the tribal police officers were required to agree to be subject to the supervision of the county sheriff's office and county attorney. Based on the facts and circumstances, the IRS concluded that the tribal police department would be considered an agency or instrumentality of the state and that participation in the state retirement system would not adversely affect the status of the Plan as a governmental plan. (Emphasis added.)

2. PLR 200514024 (04/08/2005)<sup>3</sup>

In PLR 200514024, it was requested that the IRS rule on whether a tribal police department was considered an agency of instrumentality of the state and could participate in the state retirement plan without adversely affecting the plan's status as a governmental plan. Specifically, the "State passed legislation treating the tribal police department as state law enforcement agencies and treating their police officers as state peace officers, provided certain requirements were met." To exercise state police powers, the tribal police department had to do the following: agree to be subject to liability for torts for its officers and employees acting within the scope of their employment, file a bond or certificate of insurance for liability coverage with the Board, and agree to be subject to the state laws relating to data practices of law enforcement agencies. The tribal police officers also had to meet the same licensure and training standards as other law enforcement officers in the state. Moreover, the tribal police department had to enter into mutual aid cooperative agreements with the county and city to define, coordinate, and regulate the law enforcement services on the reservation. Under the cooperative agreement, the tribal police department is under the supervision of the county sheriff and county attorney. The IRS determined that the tribal police department was an agency or instrumentality of the state for purposes of enforcing state law and that the contributions made by the tribal police department were contributions to a governmental plan within the meaning of Code Section 414(d), which would not adversely affect the status of the governmental plan. (Emphasis added.)

### **B. Arizona**

ARIZ. REV. STAT. § 38-851(A) provides that any Indian tribe "may request to become a participating employer in the system on behalf of a designated eligible employee group. Upon a resolution from the Indian tribe, the tribe "shall be considered as a participating employer on proper execution of a joinder agreement in which the employer unconditionally accepts the

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<sup>3</sup> In addition, PLR 200541048 (10/14/2005) reached a similar conclusion and appears to be based on the same statutory language and facts as PLR 200514024.



provisions of the system and binds the employer's designated eligible employees to those provisions." Prior to participation, the Indian tribe must "request a preliminary actuarial survey to determine the estimated cost of participation, the benefits to be derived and other such information as may be deemed appropriate. The cost of such a survey shall be paid by [the] . . . Indian tribe . . . ." *Id.* at § 38-851(D). Additionally, the Indian tribe employer, by resolution, shall:

1. Agree that all disputes involving interpretation of state statutes involving the system, and any amendments to such statutes, will be resolved through the court system of this state.
2. Agree to be bound by statute statutes and laws that regulate and interpret the provisions of the system, including eligibility to membership in the system, service credits and the rights of any claimant to benefits and the amount of such benefits.
3. Agree to meet any requirements that the board may prescribe to ensure timely payment of member and employer contributions and any other amounts due from the employer to the system.
4. Include in the joinder agreement any other provision deemed necessary by the board for the administration or enforcement of the agreement.

ARIZ. REV. STAT. § 38-851(E). In addition, employees of the Indian Oasis Unified School District, which consists of five schools that serve as the education center for the Tohono O'odham Nation, participate in the Arizona Teachers' Retirement System because the school is deemed a state public school.

### **C. Florida**

Florida created two special improvement districts within the reservations for the Seminole and Miccosukee tribes. FLA. STAT. § 285.17. The statute designated the governing bodies of the tribes as governing bodies of the special improvement districts. FLA. STAT. § 285.18. Specifically, the statute provides that law enforcement personnel shall have the privileges, protections, and benefits other peace officers receive under Florida law. FLA. STAT. § 285.18(2)(c)(2). It also requires that the officers meet state training standards. FLA. STAT. § 285.18(2)(d). Moreover, the statute provides that the special improvement districts may apply for coverage of their officers "under the state retirement system subject to necessary action by the districts to pay employer contributions into the state retirement fund." FLA. STAT. § 285.18(2)(d).

### **D. Michigan**

In Michigan, the JKL Bahweting School had previously served as a tribal school sponsored by the Sault tribe. However, the school is now deemed a "public school academy" under the Michigan Revised School Code. The school is chartered by the Northern Michigan University and is funded through the state and the BIA. Given that it is deemed a "public school academy," the teachers participate in the Michigan Teachers' Retirement System.

**E. Minnesota**

Minnesota Statute 353.64, subdivision 11 provides the following:

- (a) The governing body of a tribal police department which is exercising state arrest powers under section 626.90, 626.91, 626.92, or 626.93 may request by resolution to the executive director that its police officers be considered public employees under section 353.01, subdivision 2, be considered a police officer under section 353.64, subdivision 1, and become members of the public employees police and fire retirement plan and that the tribal police department be considered a governmental subdivision under section 353.01, subdivision 6.
- (b) Following the approval of the request by the executive director, the head of the police department or that person's designee must immediately report for membership in the police and fire fund a person who is employed as a full-time or part-time police officer in a position that meets the conditions in sections 353.01, subdivision 2a, and 353.64, subdivisions 1 and 2. The police department head or that person's designee must deduct the employee contributions from the salary of each eligible police officer as required by section 353.65, subdivision 2, and make the employer contributions required by section 353.65, subdivision 3. The head of the police department or that person's designee must meet the reporting requirements in section 353.65, subdivision 4.

Notably, the original statutory language in 2000 required that the tribal police department obtain a PLR providing that (1) the tribal police department is an agency or instrumentality of the state of Minnesota for purposes of enforcing state law; and (2) contributions made by the tribal police department to a retirement plan on behalf of employees of the tribal police department are contributions to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code.<sup>4</sup> In 2008, the statute was amended to remove the PLR requirement.

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<sup>4</sup> PLR 200405015 references a state statute passed in 2000 authorizing a tribe's peace officers to become participants in the state plan contingent on receiving a favorable ruling from the IRS. Similar to the other PLRs above, the IRS noted that the state controlled the scope and conditions of the tribal peace officers, and the statute treated the officers as a political subdivision of the state. Thus, the IRS concluded that the peace officers were an instrumentality of the state and participation in the state plan would not adversely affect the status of the plan as a governmental plan.



# Tribal Law Enforcement Study

Comprehensive Report  
November 20, 2019

# Issue

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

# Overview

- The Pension Protection Act of 2006 changed the definition of governmental plans to include Indian tribal plans “covering workers doing governmental work”
- However, there are federal restrictions and state laws that prevent some tribal employees from joining state governmental plans, including LEOFF 2

# Issues

- Nongovernmental employee risk
- General Authority vs Limited Authority Tribal Police Officers
- Tribal Police survey results
- Retiree return to work impacts
- Withdrawal liability
- “Bakenhus” concerns

# Nongovernmental Employee Risk

- Employees engaged in commercial activities are barred from joining
- If a governmental plan covers even one commercial employee, the plan risks losing its governmental plan status
- Police Departments are identified by the IRS as a governmental activity

# IRS Test

1. **Whether the activities are commercial or governmental**
  - **Facts and Circumstances test**
2. **Whether an employee's duties are substantially in the performance of a governmental activity or a commercial activity**
  - the location of the employee's services
  - the source of the employee's payroll
  - the employee's assigned duties and responsibilities



# Source of Employee's Payroll

- The IRS does not require that the funds from commercial activities and the funds from governmental activities remain completely separate
- The tribal police department may indirectly receive funding from revenue generated by commercial activity; however, the police officers must be on the payroll for the police department, not the commercial entity

# LEOFF 2 Eligibility

- **Employer Eligibility**
  - Definition of employer would need to be amended to include tribal police departments
  - Opt-in vs. Mandated
- **Member Eligibility**
  - Employed by a LEOFF 2 employer
  - Full-time
  - Fully Compensated
  - Commissioned

# Commissioned

- **General Authority**
  - any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.
- **Limited authority**
  - Typically covered by the Public Safety Employees' Retirement System (PSERS)

# General vs. Limited Authority

- In 2008, tribal police officers gained the ability to act as general authority officers if the tribal government meets specific requirements regarding certification, insurance liability, and administration
- A general authority officer is any officer of a general authority law enforcement agency in the State

# Tribal Police Department Certifications

- **11 Tribes have General Authority certification**
- **23 Tribes have CJTC certification for training officers**

# Tribal Police Department Survey

- LEOFF 2 Board staff sent a short survey to all tribal police chiefs in Washington
- Twelve tribes responded
- Nine tribes expressed interest in joining LEOFF 2

# Tribal Survey Results

- Interest - Recruitment and retention of high quality police officers
- Concerns -
  - How retired LEOFF 2 members would be affected?
  - What the general costs and benefits of the system are?
  - Whether all officers in a participating tribe would be required to join?
  - Whether every tribe would need to be a part of the system?
  - How tribal sovereignty would be impacted?

<b>Tribal Police Department</b>	<b>Number of Full Time Officers</b>	<b>Average Salary</b>	<b>Average Age</b>	<b>Average Years of Service</b>
<b>Chehalis</b>	<b>18</b>	<b>\$80,154</b>	<b>37</b>	<b>7</b>
<b>Nooksack</b>	<b>8</b>	<b>\$61,380</b>	<b>33</b>	<b>5</b>
<b>Port Gamble S'Klallam</b>	<b>10</b>	<b>\$45,760</b>	<b>30</b>	
<b>Puyallup</b>		<b>\$96,063</b>	<b>45</b>	<b>15</b>
<b>Quileute</b>		<b>\$62,400</b>	<b>32</b>	<b>8</b>
<b>Quinault</b>	<b>10</b>		<b>37</b>	<b>6</b>
<b>Shoalwater Bay</b>	<b>5</b>	<b>\$60,000 - \$70,000</b>	<b>43</b>	<b>4</b>
<b>Stillaguamish</b>	<b>11</b>	<b>\$76,695</b>	<b>54</b>	<b>25 - 30</b>
<b>Suquamish</b>		<b>\$77,400</b>	<b>45</b>	<b>12</b>
<b>Upper Skagit</b>	<b>7</b>	<b>\$65,000</b>	<b>45</b>	<b>3</b>



# Retire Return to Work Impacts

- LEOFF 2 retirees who work for tribes would no longer be able to work for them without rejoining LEOFF 2 membership and stopping their LEOFF 2 retirement benefit
- 2008 Early Retirement Factor restrictions for non-LEOFF 2 members working for the tribal police departments and potentially the tribe

# Withdrawing from LEOFF 2

- **Joining a WA pension system is a permanent decision**
  - Cannot withdraw
  - Employers may dissolve
- **Tribal Compact Schools and Charter Schools**
- **Arizona Public Safety Personnel Retirement System**
  - Preliminary actuarial survey to determine cost of participation

# Withdrawal Liability

- Some states do allow employers to withdraw
- Typical process requires:
  - decision by employer to withdraw;
  - employee vote to withdraw;
  - notification to the pension system;
  - accounting of liabilities;
  - payment of liabilities; and,
  - handling of vested and non-vested member accounts

# “Bakenhus” Concerns

- **Tribal Compact Schools**

- Legislation allowing membership in TRS stated “[f]or tribal schools that opt out of pension plan participation, such schools' employees shall have no right to earn additional service credit in the plan.”

# Decision Checklist for Policy Makers

- Who represents the State in compact process?
- Should a tribe's decision to join LEOFF 2 be irrevocable?
- Should limited authority tribal police officers be eligible for LEOFF 2?
- Should the State pay a percentage of contributions for tribes?
- Should tribes be required to complete an actuarial survey to have a full understanding of the costs associated with membership?
- Should tribal police officers be able to purchase retroactive service credit?

# Next Steps

- No action required by the Board
- December Board Meeting
  - Final Presentation, including draft report to the legislature
  - Will include information from OSA regarding fiscal impacts
- Any issues/questions the Board would like to see addressed or expanded on in final report?



# Thank You

**Jacob White**

**Senior Research & Policy Manager**

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**[jacob.white@leoff.wa.gov](mailto:jacob.white@leoff.wa.gov)**

# Tribal Compact Process

- Initial discussion between tribe and state
  - Who represents the parties?
- Draft the compact
  - Who is responsible for drafting?
- Signatures of approval
  - Who should sign?



# Tribal Compact Outline

- Acknowledgment by the tribe that it affirmatively chooses to participate in LEOFF Plan 2
- Acknowledgement that the person(s) signing the compact on behalf of the tribe has authority to do so
- Agreement by the tribe that it meets the definition of a LEOFF Plan 2 employer
- Agreement by the tribe to adhere to all reporting, contribution, and auditing requirements and rules

# Tribal Compact Outline

- Agreement by the tribe to a limited waiver of sovereign immunity and consent to the jurisdiction of the Washington State courts for the purpose of enforcing the reporting, contribution, and auditing requirements
- Agreement by the tribe that their decision to join LEOFF 2 is irrevocable

# 2018 LEOFF 2 Actuarial Valuation Results

*Mitch DeCamp*  
*Senior Actuarial Analyst*

*Frank Serra*  
*Actuarial Analyst*

*Presentation to: LEOFF Plan 2 Retirement Board*

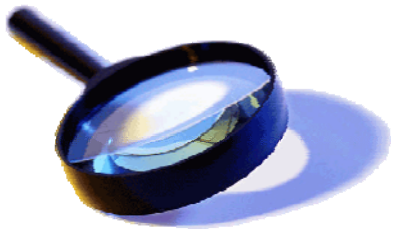


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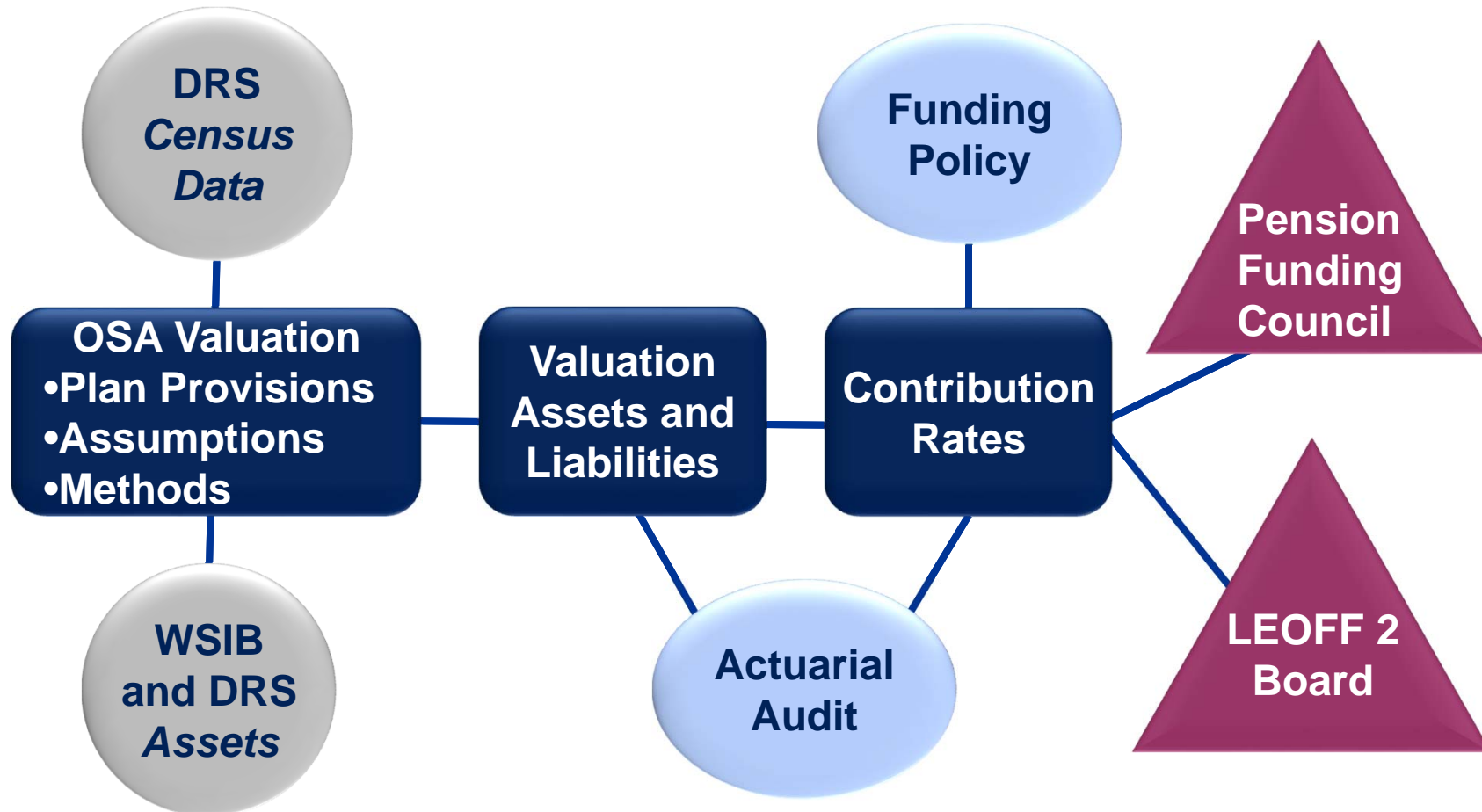
*November 20, 2019*

## Today's Presentation

- Background on actuarial valuations
- 2018 Actuarial Valuation results
- Look ahead to next year's valuation
  - No Board action needed today



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



## 2018 “Off-Cycle” Valuation

- Under the current contribution rate-setting cycle, even-numbered valuation years (e.g., 2018) are “off-cycle”, or non-rate setting
- “Off-cycle” valuations provide an informational-only update on contribution rate calculations, funding progress, and plan developments over the past year
  - Reflects new data, assets, and legislation
  - The contribution rates calculated in this valuation are not collected



## Highlights Of 2018 Valuation

### Participant Data

- Annuitant growth outpaced active membership growth
- Ratio of actives to annuitants declines in the short-term

### Assets

- Investment return of 9.56%, higher than assumed return of 7.40%
- 2019 asset transfer of \$300M to the Benefit Improvement Account
  - Removed \$279M from 2018 assets to account for transfer

### Funded Status

- Funded status decreased from 109% to 108%
- Decrease primarily from BIA asset transfer

### Contribution Rates

- Rates increased under Aggregate Cost Method and Minimum Contribution Rate policy compared to prior valuation

## Participant Data: Historical Trends

LEOFF 2				
	2015	2016	2017	2018
<b>Actives</b>				
<b>Headcount</b>	17,019	17,186	17,694	18,130
<b>Average Annual Salary</b>	\$102,400	\$103,900	\$106,200	\$109,300
<b>Average Age</b>	43.6	43.5	43.2	43.1
<b>Average Service</b>	14.7	14.5	14.2	13.9
<b>Annuitants</b>				
<b>Headcount</b>	3,710	4,259	4,851	5,436
<b>Average Annual Benefit</b>	\$42,300	\$44,700	\$46,700	\$48,800
<b>Actives to Annuitants</b>	4.6	4.0	3.6	3.3



## Participant Data: Projected Demographics

LEOFF 2				
	2018	5 Years	10 Years	15 Years
<b>Actives</b>				
<b>Headcount</b>	18,130	18,900	19,700	20,500
<b>Average Age</b>	43.1	43	42	42
<b>Average Service</b>	13.9	14	13	13
<b>Annuitants</b>				
<b>Headcount</b>	5,436	8,200	10,900	13,300
<b>Actives to Annuitants</b>	3.3	2.3	1.8	1.5

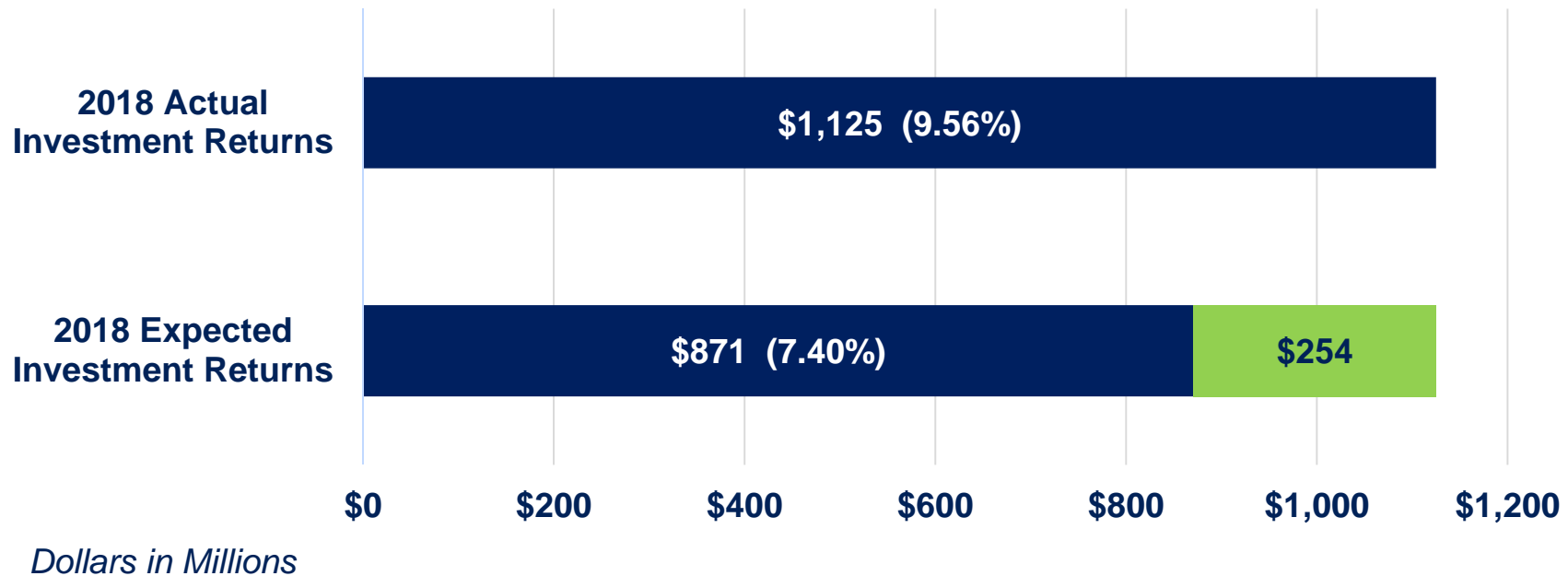
## Assets: Changes In Market Value From Last Valuation

	LEOFF 2		
<i>(Dollars in Millions)</i>	2017	2018	Difference
<b>Market Value</b>	\$11,758	\$12,706	\$948
<b>Contributions Less Disbursements*</b>	\$117	(\$175)	(\$292)
<b>Investment Return</b>	\$1,446	\$1,125	(\$321)
<b>Return on Assets</b>	14.14%	9.56%	(4.58%)

*\*Includes transfers, restorations, and payables. 2018 includes (\$279M) transfer to the BIA.*

## Assets: Calculating Actuarial Value Of Assets

- AVA smooths market fluctuations which leads to less volatility when calculating funded status and underlying contribution rates



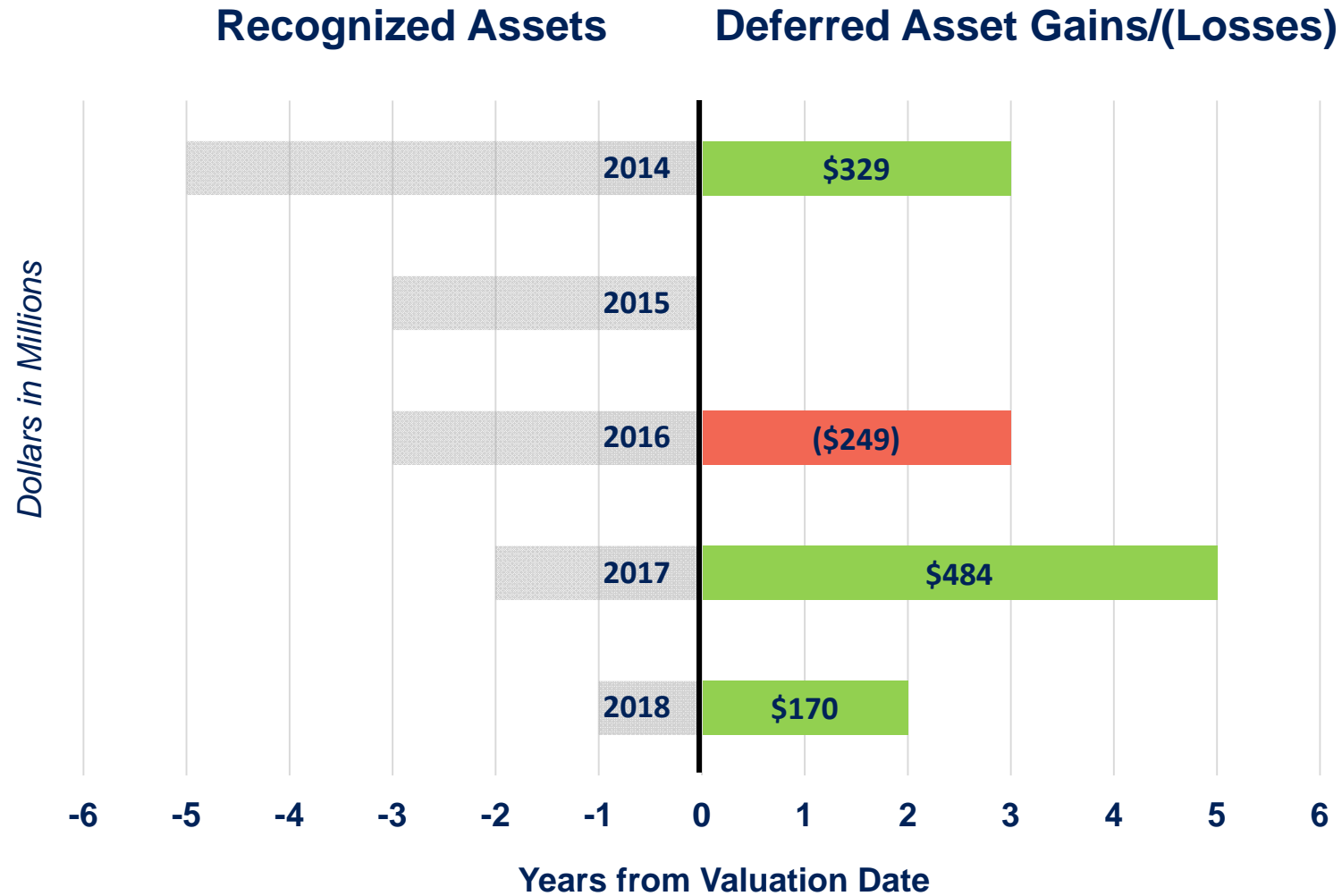
## Assets: Calculating Actuarial Value Of Assets

- AVA method smooths out investment gains and losses over a period of time...in this case, over three years.



*Note: Totals do not agree due to rounding.*

## Assets: Calculating Actuarial Value Of Assets



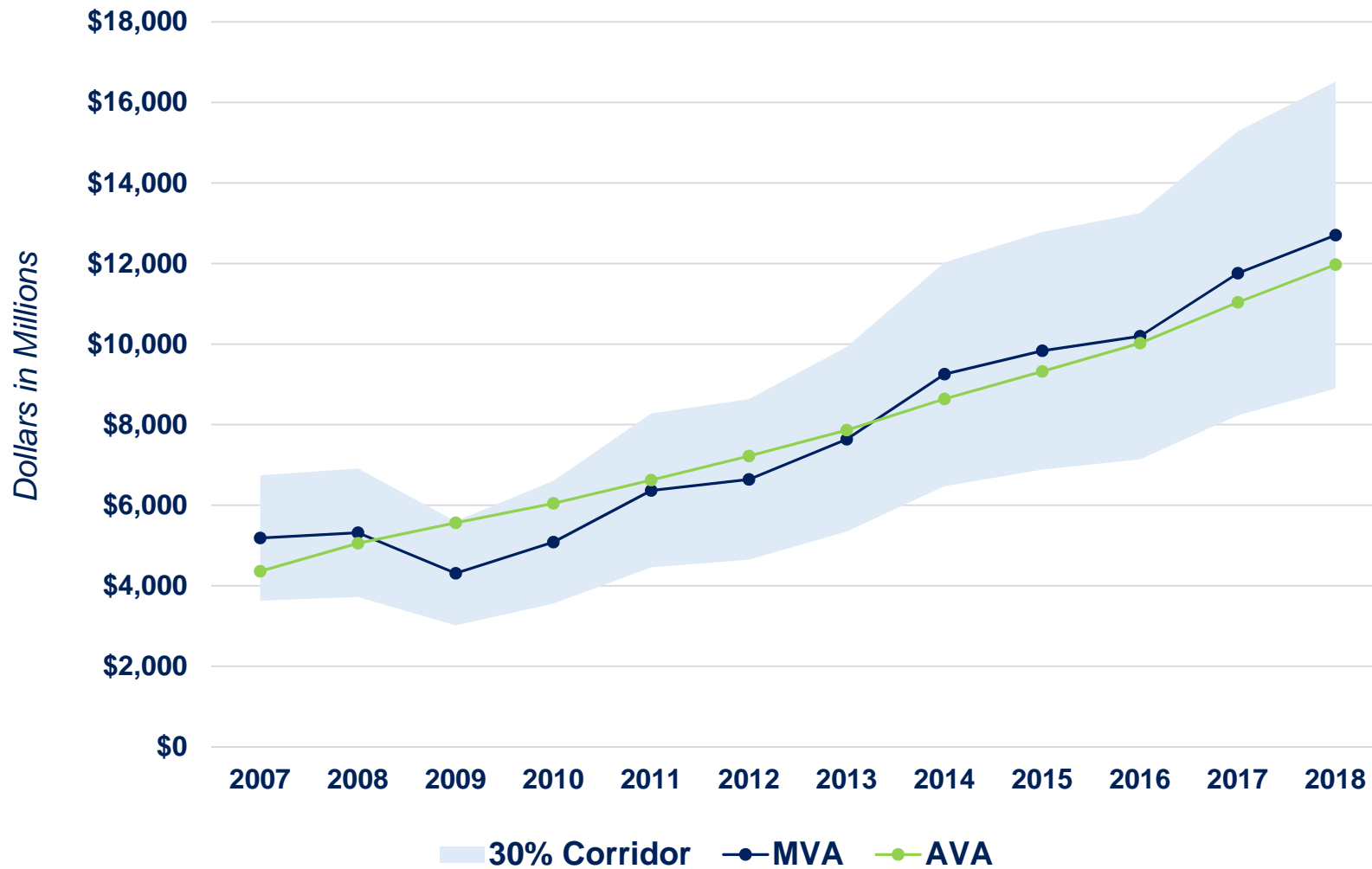
## Assets: Calculating Actuarial Value Of Assets

Calculation of Actuarial Value of Assets				
LEOFF 2				
(Dollars in Millions)				2018
Market Value of Assets				\$12,706
Plan Year Ending	Return on Assets	Years Deferred	Years Remaining	Amount Deferred*
6/30/2018	9.56%	3	2	170
6/30/2017	14.14%	7	5	484
6/30/2016	2.48%	6	3	(249)
6/30/2014	18.93%	8	3	329
Total Deferral				734
Actuarial Value of Assets**				\$11,972

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

\*\*Actuarial Value of Assets can never be less than 70% (\$8,894) or greater than 130% (\$16,518) of the Market Value of Assets.

## Actuarial Value Of Assets Less Volatile Than Market Value



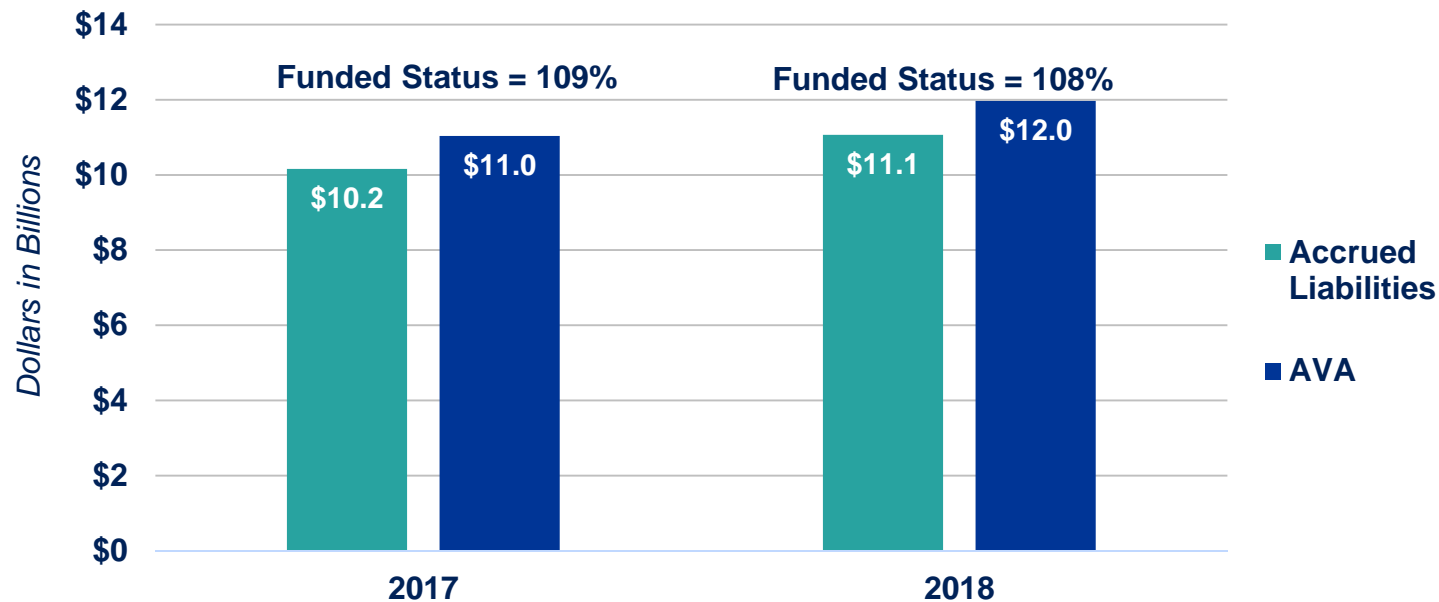
## Liabilities: Change From Last Valuation

LEOFF 2			
<i>(Dollars in Millions)</i>	2017	2018	Difference
<b>Present Value of Future Benefits</b>	\$13,689	\$14,846	\$1,157
<b>Accrued Liability</b>	\$10,160	\$11,066	\$906

- 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



## Funded Status: Changes From Last Valuation



- Funded status =  $\frac{\$ \text{Actuarial Value of Assets}}{\$ \text{Accrued Liabilities}}$
- 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

## Contribution Rates: Changes From 2017 Valuation

LEOFF 2 Member Contribution Rate			
	2017	2018	Difference
<b>Aggregate Rate</b>	6.44%	6.58%	0.14%
<b>Minimum Rate*</b>	8.59%	8.67%	0.08%
<b>Adopted 2019-23</b>	8.59%		

*\*Calculated from Normal Cost of Entry Age Normal Cost Method.*

- Aggregate rates increase primarily from BIA asset transfer and 2019 legislation expanding occupational disease presumptions.
- Minimum rates increase mainly from 2019 legislation.

## Summary Of 2018 Actuarial Valuation

- Participant Data: Annuitant growth outpaces active membership growth
- Assets: Investments returned more than expected; BIA asset transfer reduced LEOFF 2 fund assets
- Funded Status: Decreased slightly from last year
- Contribution Rates: Increased under Aggregate Cost Method and Minimum Contribution Rate policy compared to prior valuation
- Actuarial valuation is snap-shot in time measurement
  - The plan is considered healthy

## Looking Ahead To The 2019 Actuarial Valuation

- Rate-setting valuation which is the basis for contribution rates during the 2021-23 Biennium
- Updates from demographic experience study
  - Includes mortality, retirement, and termination assumptions
- Actuarial audit of valuation and demographic experience study
- Potentially new information on our website

## Additional Education On OSA's Website



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**What's New**

- The 2018 Actuarial Valuation Report is now complete. Please click the Actuarial Valuation Report link below to view the report.
- New to our website is a Commentary on Risk webpage, where readers can learn more about the risks inherent in our actuarial measurements. Please click the Commentary on Risk link below for more information.

**2018 Actuarial Valuation Report**

**Contribution Rates**

**OPEB Reports and Tools**

**Commentary on Risk**

**Interactive Reports**

■ <http://leg.wa.gov/osa/Pages/default.aspx>

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## Additional Education On OSA's Website

(Dollars in Millions)	2018		2017		2016		2015	
	Plan 1	Plan 2	Plan 1	Plan 2	Plan 1	Plan 2	Plan 1	Plan 2
Contribution Information								
Employer Rate	0.00%	5.20%	0.00%	5.15%	0.00%	4.75%	0.00%	4.73%
State Rate	0.00%	3.47%	0.00%	3.44%	0.00%	3.16%	0.00%	3.15%
Employee Rate	0.00%	8.67%	0.00%	8.59%	0.00%	7.91%	0.00%	7.88%
Funded Status <sup>2</sup>								
Entry Age Normal Liability	\$4,095	\$11,066	\$4,121	\$10,160	\$4,197	\$9,571	\$4,307	\$8,838
Market Value of Assets	\$5,903	\$12,706	\$5,736	\$11,758	\$5,371	\$10,194	\$5,610	\$9,833
Actuarial Value of Assets	\$5,538	\$11,972	\$5,403	\$11,037	\$5,275	\$10,021	\$5,404	\$9,320
Unfunded Liability	(\$1,444)	(\$906)	(\$1,282)	(\$878)	(\$1,078)	(\$450)	(\$1,097)	(\$482)
Funded Ratio	135.3%	108.2%	131.1%	108.6%	125.7%	104.7%	125.5%	105.5%
Participant Data								
Number of Actives	26	18,130	40	17,694	62	17,186	82	17,019
Total Annual Salaries	\$3	\$1,982	\$5	\$1,879	\$7	\$1,786	\$9	\$1,743
Number of Terminated Vested	1	934	0	863	1	953	0	785
Number of Terminated, Not Vested	29	2,055	29	1,917	31	1,806	32	1,693
Number of Annuitants	7,074	5,436	7,228	4,851	7,378	4,259	7,507	3,710
Total Annual Benefits	\$369	\$266	\$363	\$227	\$360	\$190	\$361	\$157
Ratio of Actives to Annuitants	0.00	3.34	0.01	3.65	0.01	4.04	0.01	4.59
Economic Assumptions for Funding Valuation								
Interest Rate	7.50%		7.50%		7.70%		7.70%	
General Salary Growth	3.50%		3.50%		3.75%		3.75%	
Inflation Rate	2.75%		2.75%		3.00%		3.00%	
Actual vs. Assumed Experience for Actuarial Gain/Loss								
Return on Market Value	9.55%	9.56%	13.95%	14.14%	2.24%	2.48%	4.51%	4.64%
Return on Actuarial Value	9.55%	10.02%	9.55%	8.92%	4.43%	6.21%	4.92%	6.26%
Assumed Investment Return	7.50%	7.40%	7.70%	7.50%	7.70%	7.50%	7.80%	7.50%

■ <http://leg.wa.gov/osa/supportinformation/Pages/HistoricalData.aspx>

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# Questions



## Appendix: Contribution Rates Detail

LEOFF 2					
	Aggregate Rate		Minimum Rate*		Adopted
	2017	2018	2017	2018	2019-23
<b>Member</b>	6.44%	6.58%	8.59%	8.67%	8.59%
<b>Employer**</b>	3.86%	3.95%	5.15%	5.20%	5.15%
<b>State</b>	2.58%	2.63%	3.44%	3.47%	3.44%

\*Calculated from Normal Cost of Entry Age Normal Cost Method.

\*\*Excludes current administrative expense rate of 0.18%.





# Funding Work Session

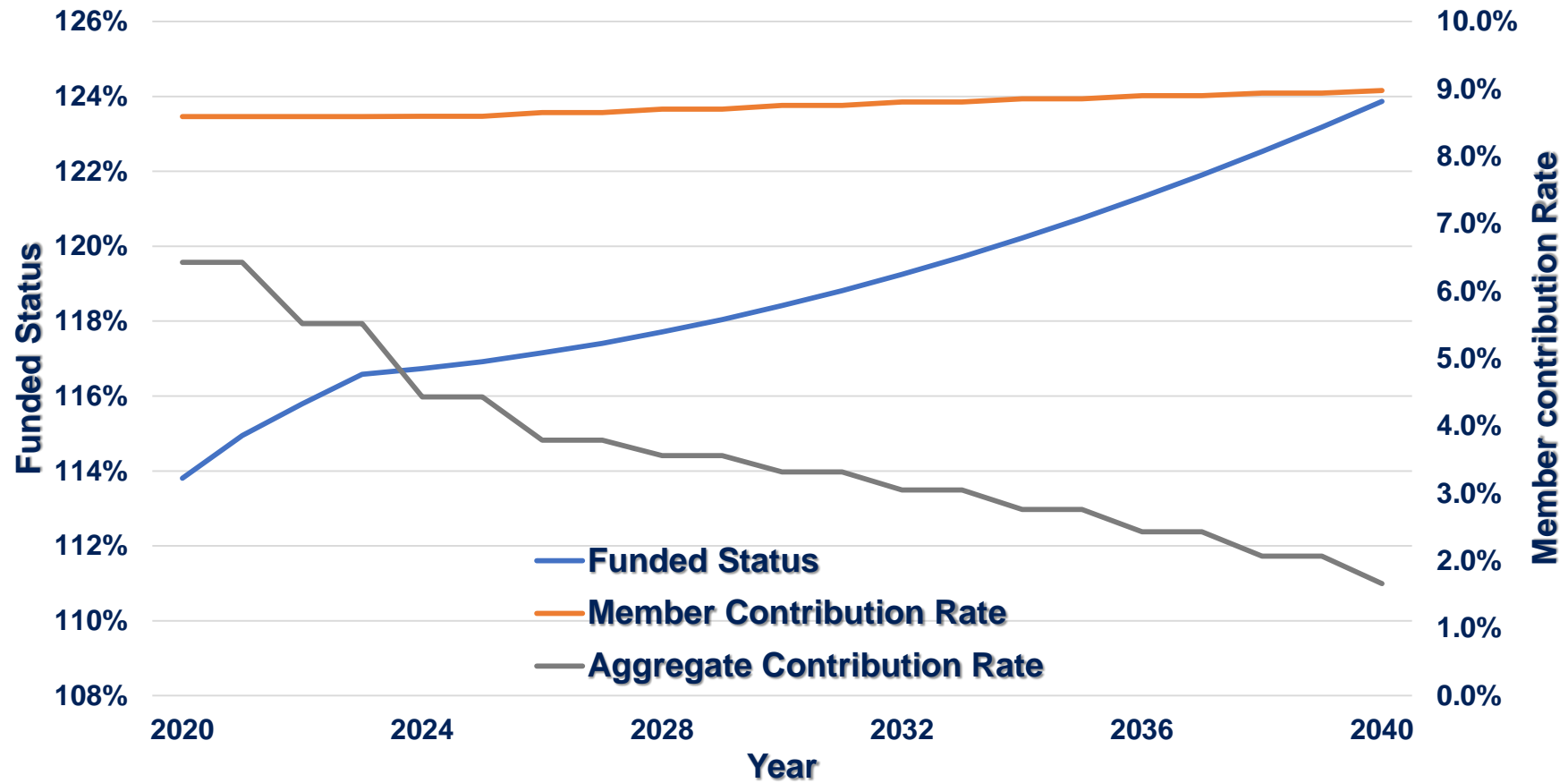
November 20, 2019

# Today's Follow Up

- Expected Funded Status Trigger at Lower Trigger Point
- Contribution Rates - Great Recession Repeat
- Plan Maturity Measure – Negative Cash Flow
- Key Questions & Next Steps

# LEOFF 2 Projected Funded Status And Member Contributions\*

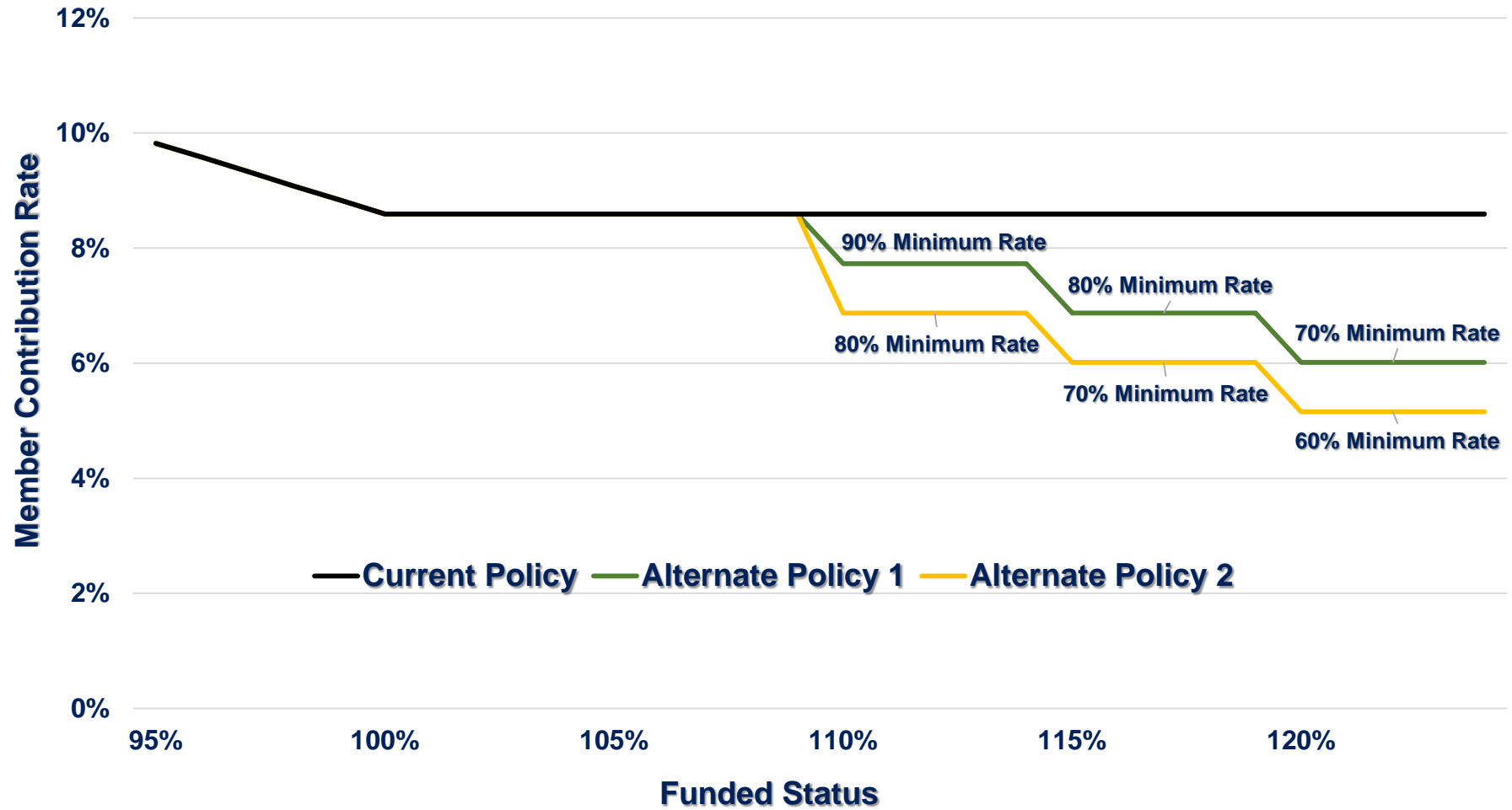
Presented October 16, 2019



*\*Under current cost method and polices and assuming all future experience matches assumptions.*

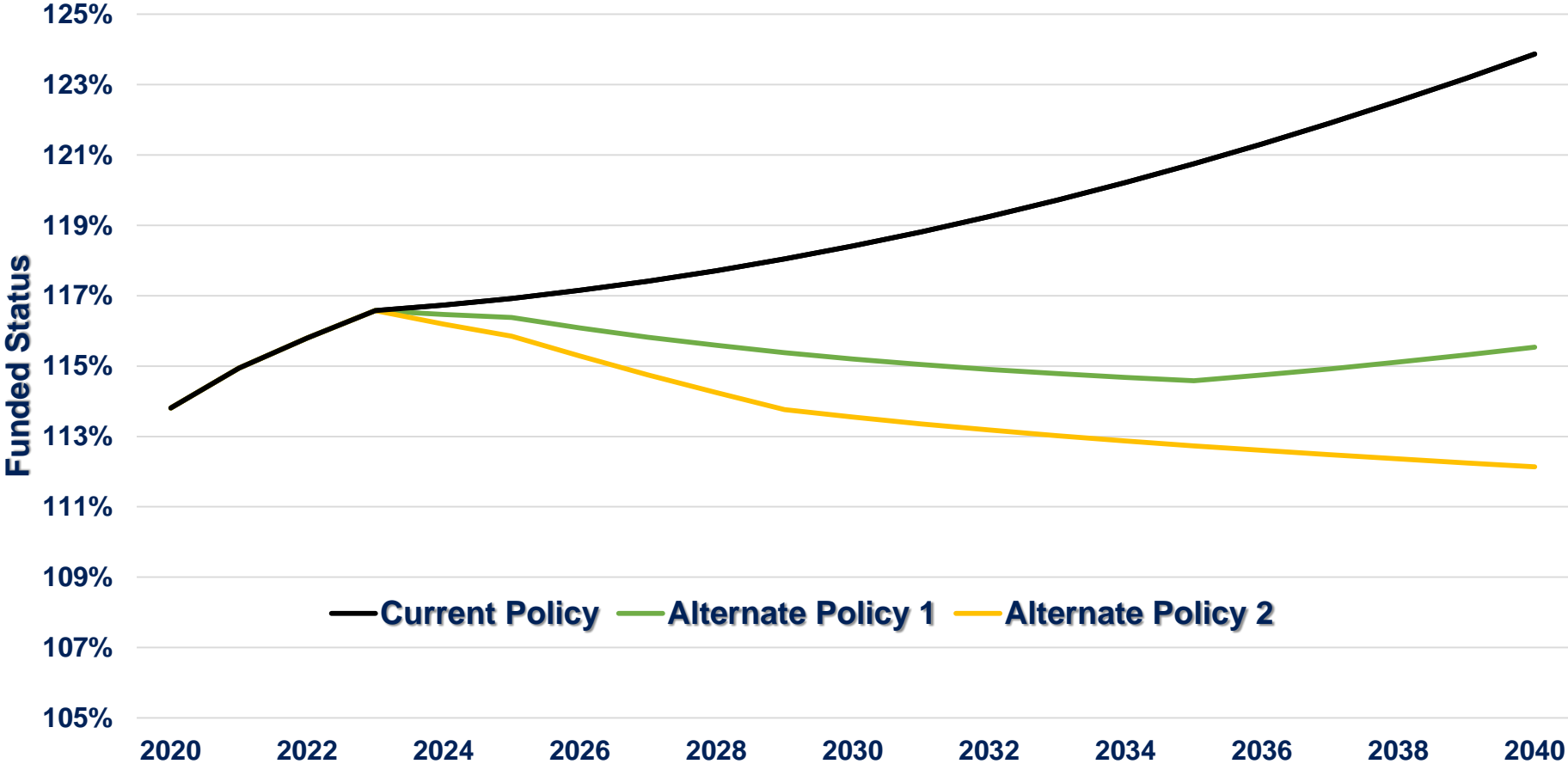
# Member Contribution Rates Under Alternate Policies

Presented October 16, 2019



# Expected Funded Status Under Alternate Policies

Presented October 16, 2019



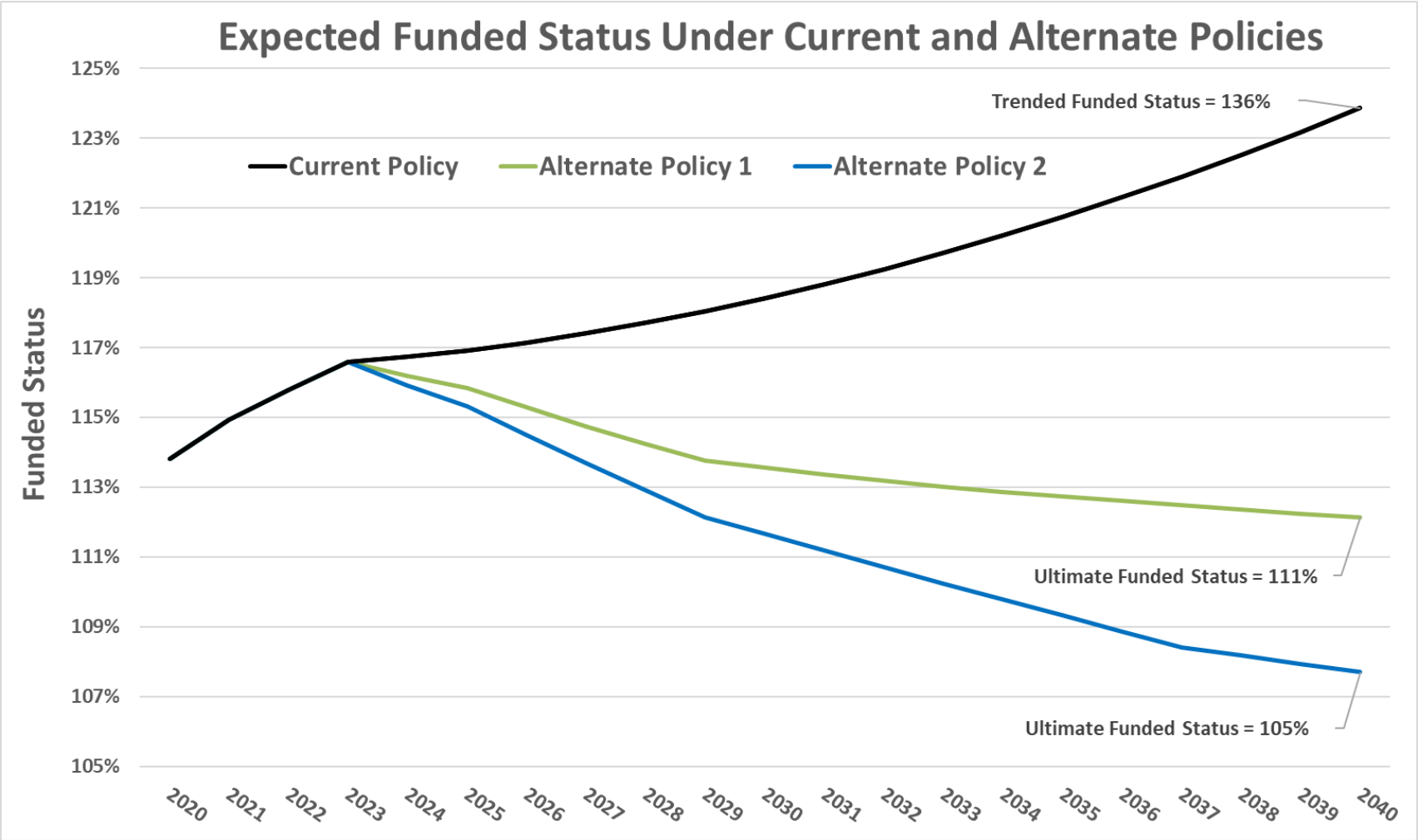
Policy	Current	Alternate 1	Alternate 2
Percent of Minimum Rate	100%	90% / 80% / 70%	80% / 70% / 60%
Funded Status Trigger	None	110% / 115% / 120%	110% / 115% / 120%

Request 1. Model the same scenarios presented at the offsite but start the Funded Status trigger at 105% instead of 110%. Show the projected funded status and change to 65% likelihood that the fund remains above 100%.

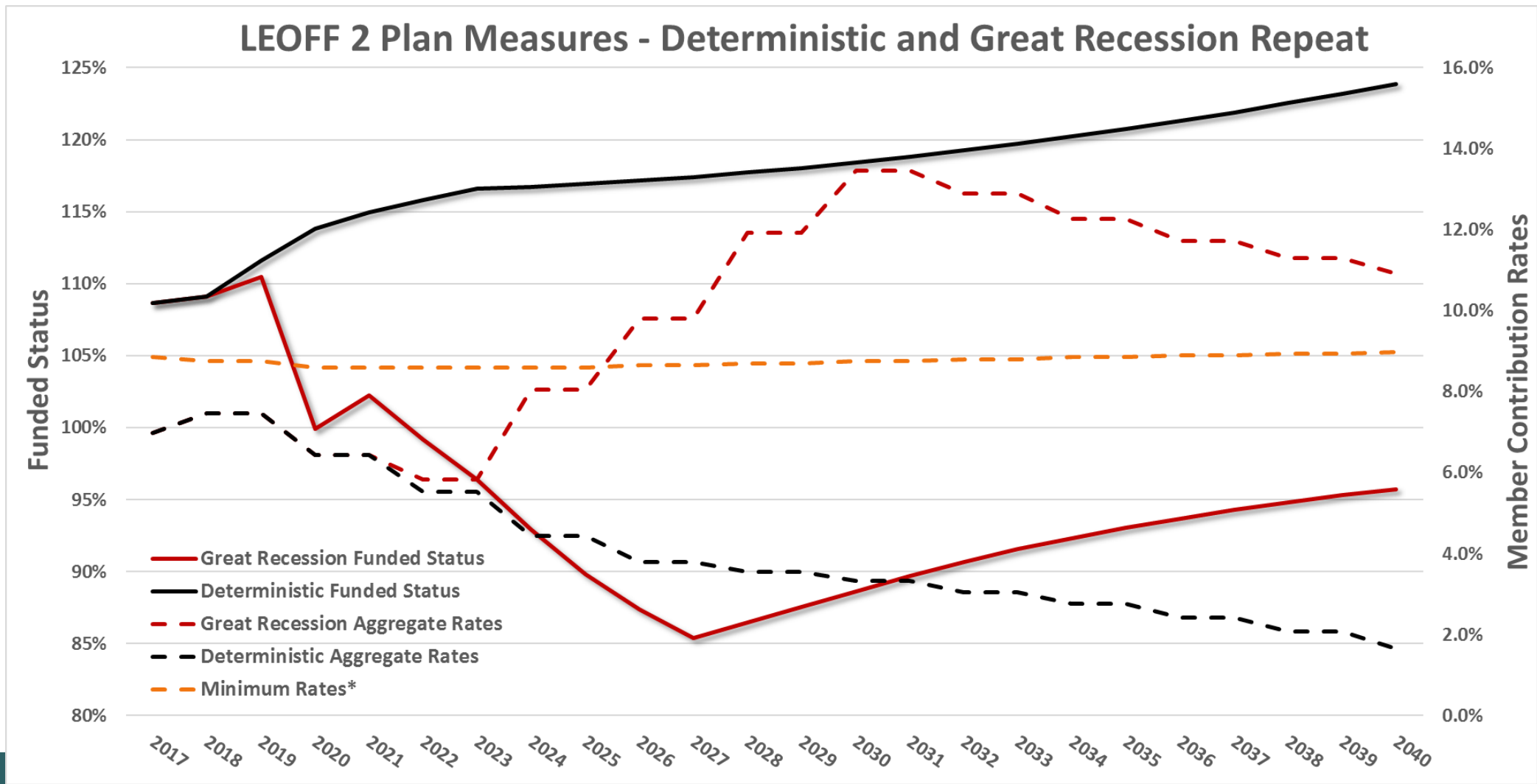
Alternate Minimum Rate Policy Options			
Funded Status Trigger	Current Policy	Alternate Policy 1	Alternate Policy 2
105%	100%	90%	80%
110%	100%	80%	70%
115%	100%	70%	60%

Probability of Funded Status Greater Than Target			
Funded Status Target	Current Policy	Alternate Policy 1	Alternate Policy 2
FS >= 120%	48%	44%	43%
FS >= 110%	57%	53%	52%
FS >= 100%	66%	63%	62%
FS >= 90%	74%	72%	71%
FS >= 80%	82%	81%	80%

Note: Probabilities considered are from 2025 to 2040. Probabilities presented above are results of stochastic analysis. Please see the email provided with this analysis for details and disclosures.



Request 2. Provide the projected Aggregate and Entry Age Normal Cost contribution rates under the Great Recession scenario that was shared with the Board last fall.



Request 3. Provide information on the expected date when LEOFF 2 becomes cash flow negative.

10-Year Expected Cash Flows - LEOFF 2 <i>(Dollars in Millions)</i>										
Valuation/Fiscal Year	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Benefit Payments (A)	-322	-362	-412	-463	-519	-577	-640	-706	-774	-846
Contributions (B)	367	375	389	404	420	436	453	473	492	514
Cash Flow (A)+(B)	45	13	-23	-59	-99	-141	-187	-233	-282	-332

- Cash flow is calculated by subtracting benefit payments from total contributions into the trust fund.
- According to projection system, LEOFF 2 becomes cash flow negative in 2021.
- As a point of context, PERS 2/3 also becomes cash flow negative in 2021. Most other opens plans shift to cash flow negative between 2021-2024.



# Key Questions and Next Steps

1. What funding percentage should serve as the trigger for rate reductions or other actions?
2. How much reserve is reasonable?
3. Next Step - Adoption of actuarial cost method and associated funding policies at December 18, 2019 meeting.



# Thank You

**Steve Nelsen, Executive Director**

**[steve.nelsen@leoff.wa.gov](mailto:steve.nelsen@leoff.wa.gov)**

**(360) 586-2323**



November 20, 2019

## PEBB Coverage/Catastrophic Retiree

### COMPREHENSIVE REPORT

By Jacob White

Senior Research & Policy Manager

360-586-2327

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### ISSUE STATEMENT

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

### OVERVIEW

This report will provide information on health insurance premium reimbursement benefits for survivors of members who are killed in the line of duty and to members who are retired for catastrophic disability.

### BACKGROUND AND POLICY ISSUES

#### Survivor Premium Reimbursement

Legislation enacted in 2001<sup>1</sup> enabled surviving spouses of emergency service personnel killed in the line of duty on or after January 1, 1998, to purchase health care benefits from the Public Employees Benefit Board (PEBB). "Emergency service personnel" for this purpose included fire fighter and law enforcement members of the Law Enforcement Officers' and Fire Fighters' Retirement System and the Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System. Under the 2001 legislation, the cost of the insurance was paid by the surviving spouses and dependent children.

Under legislation enacted in 2006<sup>2</sup>, the retirement allowance paid to survivors of all LEOFF Plan 2 members killed in the course of employment includes reimbursement for the cost of participating in a PEBB health insurance plan. The survivors of members killed in the line of duty prior to January 1, 1998, as well as on or after January 1, 1998, are eligible to participate in the PEBB health insurance plans under the 2006 bill. This benefit (right to reimbursement for the health care insurance costs) is not considered a contractual right, and the Legislature reserved the right to amend or repeal the 2006 act for future reimbursements.

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<sup>1</sup> Engrossed Substitute House Bill 1371 (2001)

<sup>2</sup> Senate Bill 6723 (2006)

## **Catastrophic Disability Premium Reimbursement**

LEOFF Plan 2 does not provide access to health care insurance for any disability retirees. A disability retiree may have access to health care insurance through employer or employee associations or the open market. Catastrophic disability retirees/survivors do not have access to benefits through PEBB unless they were already receiving PEBB benefits through their employer. This means these members are receiving benefits through the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) coverage (18 months only), through coverage offered to retirees through their employer, or individual coverage from the open market. Shopping for private coverage can be challenging and expensive. Tracking and paying a diverse and shifting field of individual providers creates administrative challenges for the Department of Retirement Systems (DRS). The cost for coverage can be much greater under private coverage, then under PEBB<sup>3</sup>.

Since 2010, LEOFF Plan 2 has provided a reimbursement to the disability allowance of a LEOFF Plan 2 member that is totally disabled in the line of duty that includes reimbursement for any payments made for employer-provided health insurance. This includes health insurance offered under the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and Medicare Parts A and B<sup>4</sup>. The reimbursement is capped at the former employer's current COBRA amount or other employer provided retiree health insurance premium amount<sup>5</sup>. The actual amount reimbursed depends on the health insurance plan selected by the retiree or surviving spouse.

## **History of Catastrophic Health Insurance Premium Reimbursement**

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 2009 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 14 new catastrophic retirees added on January 1 of each year. The 2009 version of HB 1679 failed.

## **Experience May Lower Cost of Board's Original PEBB Proposal**

Writing a fiscal note requires predicting the future. Sometimes actual experience does not track those predictions. 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.

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<sup>3</sup> In 2019, retiree medical premiums for an individual and spouse in non-Medicare eligible PEBB (Uniform Medical Classic) are \$1,344.

<sup>4</sup> Medicare Part A is hospital insurance (inpatient) and Medicare Part B is health insurance (outpatient).

<sup>5</sup> RCW 41.26.470(10).

Both the actuarial and health care authority fiscal notes assumed a higher rate of catastrophic retirements than current experience demonstrates. OSA completed two experience studies since that time showing a lower catastrophic retirement rate.<sup>6</sup>

OSA 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. HCA has indicated to the LEOFF Plan 2 Board staff that they would use OSA's assumptions on a new bill.

From 2003 through 2018, there have been a total of 63 (an average of 3.9 approved a year) catastrophic disabilities.<sup>7</sup> However, the number of catastrophic disabilities may increase as the legislature has continued to add additional presumptive diseases to existing law, which makes it more likely members will qualify for duty and catastrophic disability benefits in the future. OSA is currently working on an updated Demographic and Experience Study which will include a new catastrophic retirement rate assumption.

Catastrophic Retirement Rates: Original vs. Revised vs. Actual	
2009 HCA Assumed Rate	14/year
Current Experience Study Rate	4.5/year
2003 – 2018 Actual Experience	3.9/year

## Administrative Process for Reimbursements

The process that a catastrophic disability retiree must navigate in order to find health care coverage and then receive a reimbursement from DRS for that coverage is complex and often exacerbated for members suffering from catastrophic disability conditions. In fact, there are currently four catastrophic disability retirees who have never received a reimbursement, presumably because they either do not have health care coverage or have not completed the process of applying for a reimbursement.

DRS annually sends catastrophic disability retirees a *LEOFF Plan 2 Request for Medical Premium Reimbursement Form* (See Appendix B) in November and again in May. The request for reimbursement is submitted for the previous six months. However, the retiree can submit more frequently if they would like to be reimbursed sooner. The retiree must submit copies of two document types: proof of insurance and proof of payment. If the retiree does not submit the paperwork for reimbursement, DRS reaches out to them via a phone call to see if they can assist them with the reimbursement paperwork. According to DRS, some catastrophic disability

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<sup>6</sup> The most recent OSA Demographic Experience Study is from 2007-2012.

<sup>7</sup> During that time period one catastrophic disability, which was approved on a temporary basis, was converted to a duty disability.

retirees have told them they have not applied for reimbursement because “it’s not worth it to them, or they don’t want to be bothered with more paperwork.”

This process is simpler if a catastrophic disability retiree is covered by a health insurance provider who has set up vendor pay with DRS. If a retiree is covered by a provider with vendor pay, they are able to skip the process of requesting a reimbursement. Instead DRS makes direct payments to the health insurance provider on behalf of the catastrophic disability retiree.

Determining whether to set up vendor pay is up to the discretion of the health insurance provider. A provider wanting to allow for vendor pay must complete the *DRS Broker/Vendor Packet* (See Appendix C). DRS does not initiate the request for vendor pay, instead the member must do so, unless their health insurance provider already has set up vendor pay. This deduction process is used for other retirees and other types of payments, not just health insurance premiums for Catastrophic Disability Retirees.

If Catastrophic Disability Retirees were enrolled in PEBB, like Line-of-Duty Death survivors, the process would be much simpler for retirees. When LEOFF Plan 2 has a Line-of-Duty Death, a copy of the Labor and Industries approval form is sent to PEBB – informing them who was approved for the duty death benefit and the surviving spouse’s name who will be contacting them for medical benefits. Each month, DRS receives a report detailing the Line-of-Duty Death medical premiums and the funds are transferred to PEBB to pay for the medical premiums. Once signed up with PEBB the spouse and the dependent children are covered and they do not have fill out any additional forms from DRS.

There is not a time limit for a Catastrophic Disability Retiree requesting reimbursement for health insurance premiums. In fact, DRS recently issued a reimbursement of \$73,764.36 to a member who completed their request for reimbursement after almost 10 years of being retired.

## POLICY OPTIONS

### **Option 1: PEBB coverage for Catastrophic Disability retirees**

Catastrophic Disability retirees and their families would be covered under PEBB, like Line-of-Duty Death survivors. Catastrophic Disability retirees could no longer choose their own health insurance provider.

### **Option 2: No change to current law**

Catastrophic Disability Retirees would continue to be responsible for finding health insurance coverage and seeking reimbursement for premiums from DRS.

## SUPPORTING INFORMATION

Appendix A: OSA Fiscal Note for SHB 1679

Appendix B: LEOFF Plan 2 Request for Medical Premium Reimbursement Form

Appendix C: Broker/Vendor Packet Forms and Instructions

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1679 E HB	<b>Title:</b> Catastrophic disability med
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## Estimated Cash Receipts

Agency Name	2009-11		2011-13		2013-15	
	GF- State	Total	GF- State	Total	GF- State	Total
Washington State Health Care Authority	0	1,669,985	0	0	0	0
<b>Total \$</b>	<b>0</b>	<b>1,669,985</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Local Gov. Courts *						
Local Gov. Other **						
Local Gov. Total						

## Estimated Expenditures

Agency Name	2009-11			2011-13			2013-15		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of the State Actuary	.0	2,300,000	2,300,000	.0	2,400,000	2,400,000	.0	2,400,000	2,400,000
Washington State Health Care Authority	.0	363,343	1,669,985	.0	0	0	.0	0	0
Department of Retirement Systems	.0	0	0	.0	0	0	.0	0	0
Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board	.0	0	0	.0	0	0	.0	0	0
<b>Total</b>	<b>0.0</b>	<b>\$2,663,343</b>	<b>\$3,969,985</b>	<b>0.0</b>	<b>\$2,400,000</b>	<b>\$2,400,000</b>	<b>0.0</b>	<b>\$2,400,000</b>	<b>\$2,400,000</b>

Local Gov. Courts *									
Local Gov. Other **									
Local Gov. Total									

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<b>Prepared by:</b> Jane Sakson, OFM	<b>Phone:</b> 360-902-0549	<b>Date Published:</b> Pending Distribution
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID 24437

FNS029 Multi Agency rollup



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1679 E HB	<b>Title:</b> Catastrophic disability med	<b>Agency:</b> 035-Office of State Actuary
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

FUND					
Total \$					

### Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
<b>Fund</b>					
General Fund-State 001-1	1,000,000	1,300,000	2,300,000	2,400,000	2,400,000
Total \$	1,000,000	1,300,000	2,300,000	2,400,000	2,400,000

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

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: David Pringle	Phone: 360-786-7310	Date: 03/10/2009
Agency Preparation: Nelsen Dave	Phone: 360-786-6144	Date: 04/21/2009
Agency Approval: Matthew M. Smith	Phone: 360-786-6140	Date: 04/21/2009
OFM Review: Jane Sakson	Phone: 360-902-0549	Date: 04/21/2009

Request # -2

Part II: Narrative Explanation

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

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

II. B - Cash receipts Impact

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

II. C - Expenditures

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

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Personal Service Contracts					
E-Goods and Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$0	\$0	\$0	\$0

Part IV: Capital Budget Impact

Part V: New Rule Making Required

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

# ACTUARY'S FISCAL NOTE

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	4/21/09	EHB 1679

## WHAT THE READER SHOULD KNOW

The Office of the State Actuary (“we”) prepared this fiscal note based on our understanding of the bill as of the date shown above. We intend this fiscal note to be used by the Legislature during the 2009 Legislative Session only.

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

## SUMMARY OF RESULTS

This bill will provide access to insurance products offered by the Public Employees' Benefits Board (PEBB) to members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2 who qualify for a total line-of-duty disability benefit. The cost of the insurance is paid by the member and the LEOFF Plan 2 retirement fund.

Impact on Pension Liability			
<i>(Dollars in Millions)</i>	Current	Increase	Total
<b>Today's Value of All Future Pensions</b>	\$10,507	\$63.3	\$10,570
<b>Earned Pensions Not Covered by Today's Assets</b>	N/A	N/A	N/A

Impact on Contribution Rates: (Effective 9/1/2009)	
2009-2011 State Budget	LEOFF
<b>Employee (Plan 2)</b>	0.21%
<b>Employer:</b>	
Current Annual Cost	0.13%
Plan 1 Past Cost	0.00%
<b>Total</b>	0.13%
<b>State</b>	0.08%

Budget Impacts			
<i>(Dollars in Millions)</i>	2009-2011	2011-2013	25-Year
<b>General Fund-State</b>	\$2.3	\$2.4	\$26.1
<b>Total Employer</b>	\$6.0	\$6.0	\$65.5

See the Actuarial Results section of this fiscal note for additional detail.

## **WHAT IS THE PROPOSED CHANGE?**

### **Summary Of Benefit Improvement**

A member of LEOFF Plan 2 who qualifies for a total line-of-duty disability benefit under RCW 41.26.470 (8) would be eligible to participate in health insurance products offered by PEBB. This eligibility is granted regardless of whether the member was covered by PEBB benefits as an active employee. The spouse and dependents of the member would also qualify for coverage.

The engrossed house bill differs from the original bill in that it requires the LEOFF Plan 2 retirement fund to pay the difference between the premium charged to the recipient and the increased cost to the corresponding risk pool created by adding the disabled members and/or dependents. Additionally, the engrossed bill ends the benefit provisions on July 1, 2011. After this date, new members of LEOFF Plan 2 would not be eligible for the PEBB coverage provided by this bill. Existing eligible retirees and members actively employed prior to July 1, 2011, would retain their eligibility for this benefit coverage after July 1, 2011.

Effective Date: Immediately upon signing.

### **What Is The Current Situation?**

LEOFF Plan 2 members who have coverage under PEBB as active employees are able to purchase PEBB benefits offered to retirees when they choose to retire, whether retiring for service or disability. While all local government employers are eligible to offer PEBB benefits to their employees, not all employers do so.

### **Who Is Impacted And How?**

We estimate this bill could affect all 16,099 active members of LEOFF Plan 2 through improved benefits. Of the 924 retirees and members with disabilities, there are currently four members with total disabilities incurred in the line of duty that would be affected. Furthermore, we expect approximately 16 additional members per year will actually receive improved benefits.

We estimate this bill will increase the benefits for a typical member by providing access to PEBB insurance products, along with the associated healthcare subsidies provided through PEBB.

This bill impacts all 16,099 active Plan 2 members through increased contribution rates.

## **WHY THIS BILL HAS A COST AND WHO PAYS FOR IT**

### **Why This Bill Has A Cost**

PEBB provides subsidized healthcare insurance for certain members of the state's retirement systems. This subsidy generally increases with age. Allowing more retirees to join PEBB increases the number of members receiving the subsidy and increases the associated costs. In addition, the population added under this bill is expected to be less healthy (and more costly) than the average member currently covered under PEBB.

### **Who Will Pay For These Costs?**

The pension system will pay for the subsidies arising from the affected members entering PEBB. The pension system will pre-fund the costs consistent with the approach for retirement benefits. Contribution rates will increase in advance, the money will be invested, and HCA will collect the money when it is due. The contributions will be funded 50 percent by the employees, 30 percent by the employers, and 20 percent by the state.

## **HOW WE VALUED THESE COSTS**

### **Assumptions We Made**

We assumed all members would join the Uniform Medical Plan (UMP). We based this assumption on the fact that the majority of members in PEBB select UMP.

Members who are affected by this bill meet the standard of disability used by the Social Security Administration, which allows access to Medicare Part A after 29 months. We assumed all of the members would enroll in Medicare Part B, which would allow access to PEBB's Medicare risk pool. Therefore, we assumed all members would transfer to the Medicare risk pool after two years, whereas their spouses would transfer to the Medicare risk pool at age 65.

We assumed HCA could charge the pension system for only six of the twenty expected members in the first year. We assumed HCA could charge the pension system for all expected members in years two and beyond.

We assumed all current members are eligible for this benefit regardless of the date of disablement. We believe it is uncertain whether this benefit would be considered contractual, so we have assumed it will continue past the sunset date of July 1, 2011. However, we do assume that the sunset will mean the benefits are not contractual for future entrants to the system.

Otherwise, we developed these costs using the same assumptions as disclosed in both the June 30, 2007, Actuarial Valuation Report (AVR) and the January 1, 2008, Other Post-Employment Benefits Actuarial Valuation Report (OPEB AVR).

## **How We Applied These Assumptions**

We relied on HCA's fiscal note to estimate the cost for full family coverage when both member and spouse are in the non-Medicare risk pool. We assumed the total cost per month was \$3,248 and the total premium paid by the family was \$1,158. We used the 2008 explicit subsidy amount of \$164 per month to value both the member and spouse while they were in the Medicare risk pool. We used implicit subsidy costs consistent with the OPEB AVR to value the cost of the spouse in the non-Medicare risk pool after the first two years.

We placed the members into the UMP. Consistent with the AVR, we used the expected rate of total disablement to determine how many active members would be expected to enroll in PEBB each year (approximately 18 percent of all duty-related disabilities). We flagged the four currently eligible members in the data as they are expected to join PEBB immediately if this bill passes.

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

## **Special Data Needed**

We relied on data provided by DRS to identify the four members that are currently eligible for this bill. We did not audit this data.

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

## ACTUARIAL RESULTS

### How The Liabilities Changed

This bill will impact the actuarial funding by increasing the present value of future benefits payable as shown below.

Impact on Pension Liability			
(Dollars in Millions)	Current	Increase	Total
<b>Actuarial Present Value of Projected Benefits</b>			
<i>(The Value of the Total Commitment to all Current Members)</i>			
LEOFF 1	\$4,358	\$0.0	\$4,358
LEOFF 2	<u>6,149</u>	<u>63.3</u>	<u>6,212</u>
<b>LEOFF Total</b>	<b>\$10,507</b>	<b>\$63.3</b>	<b>\$10,570</b>
<b>Unfunded PUC Liability</b>			
<i>(The Value of the Total Commitment to all Current Members Attributable to Past Service that is not covered by current assets)</i>			
LEOFF 1	(\$975)	\$0.0	(\$975)
LEOFF 2	<u>(974)</u>	<u>28.0</u>	<u>(946)</u>
<b>LEOFF Total</b>	<b>(\$1,949)</b>	<b>\$28.0</b>	<b>(\$1,921)</b>

*Note: Totals may not agree due to rounding.*

### How Contribution Rates Changed

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

<b>Impact on Contribution Rates: (Effective 9/1/2009)</b>	
<b>System/Plan</b>	<b>LEOFF</b>
<b>Current Members</b>	
<b>Employee (Plan 2)</b>	0.205%
<b>Employer:</b>	
Normal Cost	0.123%
Plan 1 UAAL	<u>0.000%</u>
<b>Total</b>	0.123%
<b>State</b>	0.082%
<b>New Entrants*</b>	
<b>Employee (Plan 2)</b>	0.000%
<b>Employer:</b>	
Normal Cost	0.000%
Plan 1 UAAL	<u>0.000%</u>
<b>Total</b>	0.000%
<b>State</b>	0.000%

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

### **How This Impacts Budgets And Employees**

<b>Budget Impacts</b>	
<i>(Dollars in Millions)</i>	<b>LEOFF</b>
<b>2009-2011</b>	
General Fund	\$2.3
Non-General Fund	<u>0.0</u>
<b>Total State</b>	<b>\$2.3</b>
Local Government	<u>3.7</u>
<b>Total Employer</b>	<b>\$6.0</b>
<b>Total Employee</b>	<b>\$6.0</b>
<b>2011-2013</b>	
General Fund	\$2.4
Non-General Fund	<u>0.0</u>
<b>Total State</b>	<b>\$2.4</b>
Local Government	<u>3.6</u>
<b>Total Employer</b>	<b>\$6.0</b>
<b>Total Employee</b>	<b>\$6.0</b>
<b>2009-2034</b>	
General Fund	\$26.1
Non-General Fund	<u>0.0</u>
<b>Total State</b>	<b>\$26.1</b>
Local Government	<u>39.4</u>
<b>Total Employer</b>	<b>\$65.5</b>
<b>Total Employee</b>	<b>\$65.5</b>

*Note: Totals may not agree due to rounding.*



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

As with the costs developed in the actuarial valuation, the emerging costs of the system will vary from those presented in the AVR or this fiscal note to the extent that actual experience differs from the actuarial assumptions.

## **HOW THE RESULTS CHANGE WHEN THE ASSUMPTIONS CHANGE**

To determine the sensitivity of the actuarial results to the best-estimate assumptions or methods selected for this pricing we varied the following assumptions and methods:

- The sunset provision does not remove eligible members from PEBB at July 1, 2011.
- The sunset provision does not stop current members who disable after July 1, 2011, from enrolling in PEBB.

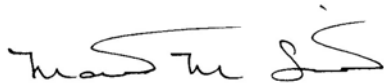
We determined the total liability if members were not allowed PEBB coverage after July 1, 2011, consistent with what we believe to be the bill's intent. The liability increase would be \$0.9 million instead of the expected \$63.3 million. The corresponding rate increase would be 0.003 percent for the member, 0.002 percent for the employer, and 0.001 percent for the state.

## ACTUARY'S CERTIFICATION

The undersigned hereby certifies that:

1. The actuarial cost methods are appropriate for the purposes of this pricing exercise.
2. The actuarial assumptions used are appropriate for the purposes of this pricing exercise.
3. The data on which this fiscal note is based are sufficient and reliable for the purposes of this pricing exercise.
4. Use of another set of methods, assumptions, and data may also be reasonable, and might produce different results.
5. We prepared this fiscal note for the Legislature during the 2009 Legislative Session.
6. We prepared this fiscal note and provided opinions in accordance with Washington State law and accepted actuarial standards of practice as of the date shown on page 1 of this fiscal note.

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

A handwritten signature in black ink, appearing to read 'Matthew M. Smith', with a stylized flourish at the end.

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

## GLOSSARY OF ACTUARIAL TERMS

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

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

**Aggregate Funding Method:** The Aggregate Funding Method is a standard actuarial funding method. The annual cost of benefits under the Aggregate Method is equal to the normal cost. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than on an individual basis.

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

- Normal cost.
- Amortization of the unfunded liability.

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

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

**Projected Unit Credit (PUC) Liability:** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

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

**Unfunded PUC Liability:** The excess, if any, of the Present Value of Benefits calculated under the PUC cost method over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1679 E HB	<b>Title:</b> Catastrophic disability med	<b>Agency:</b> 107-Wash State Health Care Authority
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

FUND	FY 2010	FY 2011	2009-11	2011-13	2013-15
Public Employees' and Retirees InsuranceAccount-Non-Appropriated 721-6	806,756	863,229	1,669,985		
<b>Total \$</b>	806,756	863,229	1,669,985		

### Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
Fund					
General Fund-State 001-1	363,343	0	363,343	0	0
Public Employees' and Retirees InsuranceAccount-Non-Appropriated 721-6	443,413	863,229	1,306,642	0	0
<b>Total \$</b>	806,756	863,229	1,669,985	0	0

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

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

Legislative Contact: David Pringle	Phone: 360-786-7310	Date: 03/10/2009
Agency Preparation: Kim Grindrod	Phone: 360 252-3377	Date: 03/12/2009
Agency Approval: Dennis Martin	Phone: (360) 923-2831	Date: 03/12/2009
OFM Review: Nick Lutes	Phone: 360-902-0570	Date: 03/18/2009

Request # 09-72-01-1

## Part II: Narrative Explanation

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

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

See attached narrative

### II. B - Cash receipts Impact

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

see attached narrative

### II. C - Expenditures

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

See attached narrative

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Personal Service Contracts					
E-Goods and Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	806,756	863,229	1,669,985		
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	<b>\$806,756</b>	<b>\$863,229</b>	<b>\$1,669,985</b>	<b>\$0</b>	<b>\$0</b>

## Part IV: Capital Budget Impact

See attached narrative

## Part V: New Rule Making Required

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

See attached narrative

## Part II: Narrative Explanation

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

The engrossed version of this bill directs the PEBB to charge the Law Enforcement Officers and Firefighters (LEOFF) pension plan the value of the implicit subsidy instead of the General Fund-State.

However, in the engrossed version of this bill, Section 1(4) limits the amount of the subsidy that can be charged to the LEOFF pension plan to the number of totally disabled members indentified in the actuarial valuation (RCW 41.26.480 (8) in the period immediately prior to the affected plan year.

In Section 5 of the engrossed version of this bill directs the act to expire July 1, 2011.

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This bill amends RCW 41.05.080 and 41.05.195 by expanding the Pubic Employees Benefits Board's (PEBB) eligibility to include:

1. Surviving spouses and dependent children of law enforcement officers and firefighters [LEOFF] who are totally disabled in the line of duty and receiving a retirement allowance as provided under RCW 41.26.470(8).
2. Law enforcement officers and firefighters [LEOFF] who are totally disabled in the line of duty and receiving a retirement allowance as provided under RCW 41.26.470 (8) and their dependents.

The bill provides the same eligibility and premium payment requirements as currently in place for the surviving spouses and dependent children of emergency service personnel killed in the line of duty.

#### Discussion:

For the period of July 1, 2009 through June 30, 2011, this bill would allow totally disabled (in the line of duty) law enforcement officers and firefighters and their families the option of moving out of their current insurance plans and into the PEBB insurance plans. **We believe the sunset clause in Section 5 of the bill would require the catastrophically disabled LEOFF members to leave the PEBB program on June 30, 2011.** At that time, due to the expected health status of this group, we believe the only likely option for health insurance coverage would be from the Washington State Health Insurance Pool, a high risk insurance pool.

The retirees discussed in this bill are totally disabled, and, therefore we assume the cost of healthcare for these members will significantly exceed the rates charged. The difference between the rate charged and the cost to provide the health care is known as an implicit subsidy. The "true cost" of this population is based on assumptions around greatly increased utilization. In lieu of more specific information regarding the types of disabilities and claims costs affecting these employees, we will use the PEBB Uniform Medical Plan (UMP) rate for a full family to estimate the premium that will be paid monthly by the disabled retiree and we will

## HCA Fiscal Note

Bill Number: EHB 1679

Catastrophic Disability Med

HCA Request #: 09-72-01

use the PEBB conversion plan full family rate<sup>1</sup> as a proxy for the increased costs. The difference between the two rates is the value of the subsidy.

The phrases “surviving spouse” and “child/children” are defined in RCW 41.26.030 (6) and (7) regarding the law enforcement officers’ and firefighters’ retirement system. However, the bill amends PEBB eligibility provisions. PEBB benefits provided in RCW 41.05.080 are subject to the terms, definitions and conditions set by the PEB Board. Therefore, under the bill, PEBB would cover any *PEBB-eligible* spouse or child dependent of a totally disabled officer or fire fighter.

The distinction between the 41.26.030 (6)/(7) definitions and PEBB’s 41.05.080 definitions of spouse and dependent children is subtle, but there is a difference. There would most likely be no difference in the definition of spouse (PEBB rules do not allow for ex-spouses, but we have historically allowed LEOFF 2 surviving ex-spouses if they qualified under 41.26.162), but PEBB’s definition of dependent children is a little more broad than the definition in 41.26.030. Specifically, 41.26.030 (7)(b) defines a student as a child up until they turn 21, while PEBB defines a student dependent as eligible up until they turn 24.

### Assumptions

The HCA has made several assumptions about this bill. Changes in the assumptions will have impacts on the expenditure estimates. HCA has made assumptions as to how the proposed legislation would be implemented as written. This fiscal analysis was made based upon those assumptions and the costs associated with any different interpretation of the bill are not estimated within this analysis.

- Enrollment: Updated enrollment assumptions have been provided by the Office of the State Actuary and we estimate 20 new “totally disabled” retirees would join PEBB effective July 1, 2009<sup>2</sup> and an additional 16 “totally disabled retirees would join PEBB effective January 1, 2011 for a total of 36. We assume the new subscriber would request full family coverage. The Office of the State Actuary provided the following enrollment assumptions:

Fiscal Year Ending	# of Expected Total Disabilities	# of Total Disabilities HCA can Charge Pension System
2008	2	N/A
2009	4	N/A
2010	20	6
2011	36	36
Beyond	52+	N/A

<sup>1</sup> PEBB conversion plan rates reflect a population no longer employed for the state and who have exhausted their COBRA benefits which includes right to remain in the community rated risk pool. The rates reflect an increased cost for high utilization of health care.

<sup>2</sup> Please note: In the earlier version of this fiscal note, we assumed the newly eligible enrollment would begin in January 2010. In this version, we assume the newly eligible enrollment will begin in July 2009.

## HCA Fiscal Note

Bill Number: EHB 1679

Catastrophic Disability Med

HCA Request #: 09-72-01

We assume there will be no disabled LEOFF member enrollment effective July 1, 2011 due to the expiration clause in Section 5

- **Risk Pool:** We assume the disabled retiree will be in the non-Medicare community rated risk pool. Many LEOFF members are exempt from contributing to the federal Social Security and Medicare programs. Due to this exemption, we assume the members are not eligible to join Medicare Parts A and B, and, therefore may not be moved to the PEBB Medicare community rated risk pool. A different set of assumptions and subsidies apply to the Medicare risk pool but are not considered in this analysis.
- **Plan Selection and Rate:** We assume the disabled retiree will select the Uniform Medical Plan. This is currently the lowest cost PEBB offering. In Calendar Year (CY) 2009 the Uniform Medical Plan Full Family paid to plan rate is \$1,158 per month. The PEBB Conversion Plan 1 full family rate is \$3,248 per month. Based on the current trend provided by our actuaries, we assume the rates will increase 7% per year.
- We assume it is not the intent of this legislation to pass the cost of the subsidies for this group on to the current PEBB employers and employees. Therefore, based on direction provided in the bill, we assume the implicit subsidy for six members will be charged to the LEOFF pension plan in FY 2010, and the implicit subsidy for the remaining members will be paid through a direct transfer from the General Fund-State into the PEBB fund in FY 2010. In FY 2011, we assume the entire implicit subsidy will be charged to the LEOFF pension plan.
- The proposed method of collecting funding for the subsidy will require tracking and reporting but can be accomplished within available resources.
- The bill broadens eligibility to include a small number of people and will require revisions to communications materials and amending WAC 182-12-250. This can be accomplished within existing resources.

### II. B – Cash Receipts Impact

The following chart shows the expected increased revenue receipts from Fiscal Year (FY) 2010 through FY 2015, in the Public Employees' and Retirees' Insurance Account (Fund 721).

Cash Receipts	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15
721 Benefits	\$ 806,756	\$ 863,229	\$ -	\$ -	\$ -	\$ -
Total	\$ 806,756	\$ 863,229	\$ -	\$ -	\$ -	\$ -

### II. C - Expenditures

The following table shows the expected expenditures from FY 2010 through FY 2015. The amount shown in the State Share: General Fund - State row reflects the cost of the implicit subsidy for 6 subscribers in FY 2010. The amount shown in the LEOFF 2 Pension Plan row reflects the amount of the implicit subsidy for 14 subscribers in FY 2010 and 36 subscribers in



## HCA Fiscal Note

Bill Number: EHB 1679

Catastrophic Disability Med

HCA Request #: 09-72-01

FY 2011. The amount shown in the LEOFF Disabled Retirees row reflects the premiums to be paid by subscriber.

<b>Expenditures</b>	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>	<b>FY 13</b>	<b>FY 14</b>	<b>FY 15</b>
State Share: General Fund State	\$ 363,343	\$ -	\$ -	\$ -	\$ -	\$ -
LEOFF 2 Pension Plan	\$ 155,718	\$ 555,396	\$ -	\$ -	\$ -	\$ -
LEOFF Disabled Retirees	\$ 287,694	\$ 307,833	\$ -	\$ -	\$ -	\$ -
Total	\$ 806,756	\$ 863,229	\$ -	\$ -	\$ -	\$ -

### Part IV: Capital Budget Impact

None

### Part V: New Rule Making Required

WAC 182-12-250 will need to be amended

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1679 E HB	<b>Title:</b> Catastrophic disability med	<b>Agency:</b> 124-Department of Retirement Systems
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## Part I: Estimates

☒

No Fiscal Impact

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

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: David Pringle	Phone: 360-786-7310	Date: 03/10/2009
Agency Preparation: Michelle Hardesty	Phone: 360-664-7193	Date: 03/10/2009
Agency Approval: Cathy Cale	Phone: 360-664-7305	Date: 03/10/2009
OFM Review: Ryan Black	Phone: 360-902-0417	Date: 03/10/2009

Request # 09-057-1

## Part II: Narrative Explanation

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

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

This bill expands access to health care benefits, available through the Health Care Authority, to Plan 2 members of the Law Enforcement Officers' and Fire Fighters' Retirement System who are totally incapacitated in the line of duty and receiving a retirement benefit as provided in RCW 41.26.470(8). The benefits are also expanded to their surviving spouses and eligible children.

The engrossed version of the bill changes how the additional cost of the health care benefit would be funded, and it adds an emergency clause and an expiration date (of July 1, 2011).

The bill does not have a fiscal impact on the Department of Retirement Systems.

### II. B - Cash receipts Impact

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

No impact.

### II. C - Expenditures

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

No impact.

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

No impact.

## Part V: New Rule Making Required

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

No impact.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1679 E HB	<b>Title:</b> Catastrophic disability med	<b>Agency:</b> 341-LEOFF 2 Retirement Board
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## Part I: Estimates

☒ No Fiscal Impact

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

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: David Pringle	Phone: 360-786-7310	Date: 03/10/2009
Agency Preparation: Dianna Wilks	Phone: (360) 664-7666	Date: 03/10/2009
Agency Approval: Steve Nelsen	Phone: 360-586-2323	Date: 03/10/2009
OFM Review: Jane Sakson	Phone: 360-902-0549	Date: 03/10/2009

Request # -1

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

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

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

## **Part IV: Capital Budget Impact**



# LEOFF Plan 2 Request for Medical Premium Reimbursement

This form is for Law Enforcement Officers' and Fire Fighters' Retirement System retirees to use to request their medical premium payments be reimbursed.

Send completed form to:  
Department of Retirement Systems  
PO Box 48380  
Olympia, WA 98504-8380  
[www.drs.wa.gov](http://www.drs.wa.gov) • 800.547.6657  
360.664.7000 • TTY: 711

## Important Information

Please fill in all sections of this form. Incomplete forms will be returned.

**Insurance Information:** If you are eligible for Medicare and want to receive reimbursements, you must enroll in and stay enrolled in Medicare Parts A and B. You must submit proof of both your premium payment and insurance rate for each insurance type you have. More information is on the back of this form.

If you qualify for automatic payment directly to your insurance company, you will receive a separate notice with instructions.

## Retiree Information

Retiree Name (Last, First, Middle)		Social Security Number	
Mailing Address	City	State	ZIP
Email Address		Phone Number	

## Insurance Information

Insurance Types You Have (Check All That Apply)			
<input type="checkbox"/> COBRA (Coverage Ends [mm/dd/yyyy] _____)		<input type="checkbox"/> Spouse or Registered Domestic Partner Employer	
<input type="checkbox"/> Medicare Parts A and B		<input type="checkbox"/> DRS Direct Pay to Insurer	
<input type="checkbox"/> Self-Pay			
Retiree's Last Employer	Contact Name	Contact Phone Number	
Primary Insurance Provider		Phone Number	
Mailing Address	City	State	ZIP
Secondary Insurance Provider		Phone Number	
Mailing Address	City	State	ZIP
Premium Payment Schedule	Premium Payment Amount	Date This Rate Took Effect	
<input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Yearly	\$		

Please complete the other side of this form as well.



Your Social Security number is needed so DRS can report to the IRS any funds paid to you. DRS will not disclose your Social Security number unless required to do so by law. See IRC sections 6041(a) and 6109.



## Instructions

**Insured Information:** List each family member, including yourself if applicable, in this section.

**Proof of Coverage and Payment:** We require proof of insurance coverage and payment for each type of insurance coverage you have. Please send in copies of documents that include your or your spouse's or registered domestic partner's name, the name of your insurance provider, payment amount, and payment date. Do not send originals; they cannot be returned. Write your name and the last four digits of your Social Security number on all documents.

### Insured Information (if insured, include yourself first below)

Name (Last, First, Middle)		Social Security Number
Relationship to Retiree	Date of Birth (mm/dd/yyyy)	Gender <input type="checkbox"/> Female <input type="checkbox"/> Male
Name (Last, First, Middle)		Social Security Number
Relationship to Retiree	Date of Birth (mm/dd/yyyy)	Gender <input type="checkbox"/> Female <input type="checkbox"/> Male
Name (Last, First, Middle)		Social Security Number
Relationship to Retiree	Date of Birth (mm/dd/yyyy)	Gender <input type="checkbox"/> Female <input type="checkbox"/> Male
Name (Last, First, Middle)		Social Security Number
Relationship to Retiree	Date of Birth (mm/dd/yyyy)	Gender <input type="checkbox"/> Female <input type="checkbox"/> Male

### Proof of Insurance and Payment

Check and submit copies of two document types: one proof of insurance and one proof of payment. Or move to the right-hand column and check and submit a copy of a document type that proves both.

<b>Proof of Insurance</b> <input type="checkbox"/> Invoice from Insurance Provider <input type="checkbox"/> Certificate from Insurance Provider Showing Premium Amount <input type="checkbox"/> Invoice from Medicare <input type="checkbox"/> Social Security Form SSA-1099	<b>Proof of Payment</b> <input type="checkbox"/> Letter from Medicare <input type="checkbox"/> Bank or Credit Card Statement Showing Insurance Payment <input type="checkbox"/> Receipt from Insurance Provider <input type="checkbox"/> Copies of Both Sides of Cashed Check <input type="checkbox"/> Letter from Social Security Showing Amount Deducted	<b>Proof of Both</b> <input type="checkbox"/> Premium Deduction Authorization, Which Your Insurance Provider Sends to You (Only Available If DRS Is Paying Provider Directly) <input type="checkbox"/> Copy of Spouse's or Partner's Pay Stub Showing Amount Deducted for Insurance
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### Retiree Signature

The statements in this document, including my full name and Social Security number, are correct. I know I must provide proof of the premium payment amount and that I paid it. I know that only documents listed on this form will be accepted as proof.

If a change to my premium amount or covered persons occurs, I must inform the Department of Retirement Systems immediately about the change by submitting a new *Request for Medical Premiums Reimbursement* form.

I agree to repay any overpayment issued on my behalf.

Retiree Signature	Date
-------------------	------

**Please fill in all sections of this form. Incomplete forms will be returned.**

# Procedure DD-01-01

## **BROKER/VENDOR PACKET FORMS and INSTRUCTIONS**

Page 2-9            Ins. Providers Covering Public Safety Officer (PSO) Retirees as Broker/Vendors

Page 10-17            Insurance Providers Covering NON-PSO Retirees as Broker/Vendors

Page 18-25            Union/Voluntary Payment Broker/Vendors



## SAMPLE PSO INSURER BROKER/VENDOR REQUEST LETTER FROM DRS TO VENDOR

January 15, 2016

Name  
Address  
City State Zip

Dear Insurance Provider:

On behalf of your insured client(s) wanting to participate in the Public Safety Officer (PSO) tax savings program, the federal Pension Protection Act of 2006, please review the DRS pension deduction requirements and procedures for setting up automated health, accident and long term care insurance premium deductions from their Department of Retirement System retirement allowance. We're happy to guide you through the deduction process.

To begin, please follow these eight steps:

1. Send your request for this service to us in writing along with contact information for the person in your organization who will administer the process. We require at least one contact person, but back-ups are highly encouraged.
2. Please review the samples and guidelines with this letter.
3. The enclosed sample request letter details what we need from you to set up the deductions. Fill in the necessary information and have it signed by the appropriate authority.
4. We prefer that you use the *Retirement Health Insurance Deduction Authorization* form provided. If you modify the form or develop your own, you must include all of the "hold harmless" text.
5. We will provide you with a Broker ID and Vendor ID once your request is approved.
6. Return the completed, signed Insurance Deduction Authorization form(s). Once we set up the deductions in our system, you'll have the option to send us changes electronically (updates for 20 or more participants must be submitted electronically) or by email.
7. Follow the guidelines in the *Health Care Premium Deduction Requirements and Procedures* to begin the automatic deduction process.
8. The last enclosure, *Vendor Insurance Premium Deduction Reporting Process*, lists what we need from you when you submit the initial participant list and rates, and provides instructions about submitting electronic or email reports for periodic updates.

I encourage you to contact the Deductions Desk at any time if you have questions. You can reach us at 1-800-547-6657, ext. 47059 or (360) 664-7059.

Sincerely,

Office Assistant 3 - Deductions Desk  
1-800-547-6657 ext. 47059 or (360) 664-7059  
[Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

**SAMPLE REQUEST LETTER FROM VENDOR TO DRS ON THEIR LETTERHEAD**

(Date)

Washington State Department of Retirement Systems  
Retirement Services Division  
P. O. Box 48380  
Olympia, WA 98504-8380

Subject: Initiate automatic insurance premium deductions

This letter is to request that automatic health, accident and long term care insurance premium deductions be initiated for (Broker's Company Name).

Name and address where monthly premiums will be sent:

Broker: (Broker/Organization Name and Mailing Address for payment register)

(Contact Person, Phone, E-mail address, FAX number)

Vendor information (list vendors receiving deduction services under this request):

Vendor: (Complete Vendor Name – contact information is not needed/required)

**Enclosure Required: Broker Authorization Form for Direct Deposit**

We will use the DRS Retirement Insurance Premium Deduction Authorization form (or we will use our own premium deduction authorization form with the required DRS language. A sample is enclosed.)

By signing this request letter (Name of Representative) on behalf of (Broker Company Name) and any subsidiary relationships are agreeing to all terms and conditions laid out in the Deduction Requirements and Procedures, and Vendor Deduction Reporting Process. We acknowledge as such that these two policies regarding Deduction Requirements and Procedures and Vendor Deduction Reporting Process are subject to change.

Sincerely,

(Name and Title)



## RETIREMENT HEALTH INSURANCE PREMIUM DEDUCTION AUTHORIZATION

P.O. Box 48380 Olympia, WA 98504-8380 • [www.drs.wa.gov](http://www.drs.wa.gov)  
Toll Free: 800.547.6657 • Olympia Area: 360.664.7000 • TTY: 711

Complete, sign and send to your insurance company.

### Retiree Information

Retiree Name	Social Security Number
--------------	------------------------

### Retirement System/Plan Code (check one):

<input type="checkbox"/> P1 = PERS 1	<input type="checkbox"/> T1 = TRS 1	<input type="checkbox"/> E2 = SERS 2	<input type="checkbox"/> L1 = LEOFF 1	<input type="checkbox"/> S1 = WSPRS 1	<input type="checkbox"/> U1 = JUDICIAL
<input type="checkbox"/> P2 = PERS 2	<input type="checkbox"/> T2 = TRS 2	<input type="checkbox"/> E3 = SERS 3	<input type="checkbox"/> L2 = LEOFF 2	<input type="checkbox"/> S2 = WSPRS 2	<input type="checkbox"/> J1 = JUDGES
<input type="checkbox"/> P3 = PERS 3	<input type="checkbox"/> T3 = TRS 3	<input type="checkbox"/> N2 = PSERS 2			

I authorize the Department of Retirement Systems (DRS) to regularly deduct a sufficient amount from my retirement benefit to pay the premiums for my insurance coverage. I will not hold DRS responsible for any problems on coverage or premium charges that occur between the insurance carrier and myself.

The deductions will continue until:

- I write to the insurance company and DRS, asking for my deductions to stop; or
- I terminate the insurance plan.

I understand that DRS cannot answer questions about my insurance.

### Authorization and Signature

Policy in the Name of	
Retiree Signature	Date

.....

### Insurance Broker/Vendor Use Only

Broker Name	Phone Number		
Address	City	State	ZIP
Deduction Starts (payroll date)	Vendor ID	Amount	

DRS MS 418 (8/12)



## Health Care Premium Deduction Requirements and Procedures

We want to remind you of the following:

- Retirees' requests for premium deductions must go through the broker's administrative process before being sent to DRS with a properly executed premium deduction authorization form. ***We must have this form on file for each individual retiree before beginning deductions.*** The insurance broker determines eligibility and coverage. DRS will refer any related questions to the broker.
- The premium deduction authorization form must include a hold harmless agreement and be on file with DRS.
- The broker must notify DRS by the 15<sup>th</sup> day of the month of any additions, deletions or individual rate changes to ensure processing for the end of the month vendor payment. This may be sent as a "secure" e-mail attachment or "secure" e-mail, listing name, last 4 of the Social Security Number and new rates. If an e-mail attachment is used, please secure the file with a password, and then provide the password to DRS by a separate e-mail message.
- DRS will not reconcile or pay premiums based on carrier billings. A deduction register will be issued to the Broker by the 15<sup>th</sup> of the month following the month in which deductions were taken. You may choose to receive your deduction register as an alphabetical listing by name, or the last 4 of the Social Security Number order along with the premium amount.
- Premiums erroneously withheld and paid to a Broker will be refunded to the retiree by the Broker, except in the case of death of a retiree or deduction errors made by DRS. Those incidents will be adjusted on subsequent deduction registers by DRS. If there is not sufficient balance in subsequent vendor payments, DRS will seek recovery of overpayment.

# Broker/Vendor Authorization for Direct Deposit



## VENDOR/BROKER AUTHORIZATION FOR DIRECT DEPOSIT

PO Box 9018 Olympia, WA 98507-9018 ♦ www.drs.wa.gov  
Toll Free: 800.547.6657 ♦ Olympia Area: 360.664.7000 ♦ TTY: 711

Vendor/Broker Information	
Vendor/Broker Name	Vendor/Broker ID
Mailing Address                      City                      State                      ZIP	Phone Number
Contact Name	Contact Phone Number
Email Address	

Financial Institution Information	
Name of Financial Institution	Transit/Routing Number
Phone Number	Account Type <input type="checkbox"/> Checking <input type="checkbox"/> Savings
Account Number	

By signing this form, I authorize and request:	
<ul style="list-style-type: none"> <li>• The Department of Retirement Systems (DRS) to transfer the full amount of authorized payments and/or deductions to the designated financial institution for deposit.</li> <li>• The designated financial institution to provide information to DRS regarding address changes and/or account information, to ensure proper and timely processing of deposit transactions.</li> <li>• The designated financial institution to refund to DRS any overpayments or payments made in error.</li> </ul>	
Authorized Representative Name	
Authorized Representative Signature	Date



## **Vendor Insurance Premium Deduction Reporting Process**

For those not covered under the Public Employees' Benefit Board (PEBB)

Benefit carriers, insurance providers and retiree associations not covered under PEBB will use the following process to report initial deduction rates and rate changes to the Department of Retirement Systems (DRS).

Reports, updates and changes for less than 20 participants may be submitted by email. If you have 20 or more participants, you must submit them electronically. Reports or changes must be received by the 15<sup>th</sup> day of the month to ensure processing that month. Due to the sensitive nature of the information being reported, files sent by e-mail must be sent as a "password protected" attachment or sent by secure e-mail. Provide the password to DRS by a means separate from the transmitted e-mail.

### **Email reporting for changes affecting fewer than 20 people or for single rates:**

Rates or rate changes for fewer than 20 people, or where a single rate applies to all covered individuals, may be reported to DRS in an email report or in the electronic format specified below. When submitting an email report, please provide the following information:

- Vendor (ID)
- Effective date of change
- Name, Social Security number, Retirement System/Plan, and new deduction amount for each individual

Send email reports to:

[Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

If you have questions about email reporting, please contact the Deductions Desk at (800) 547-6657, ext. 4-7059, or (360) 664-7059 or by e-mail at [Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

**Electronic reporting for changes affecting 20 people or more:**

Rates or rate changes for 20 people or more must be reported to DRS electronically. When submitting an electronic report, please follow these guidelines and submit your file with the information and format as outlined here:

- Use a CD or password protected e-mail attachment
- Make sure the file is in text format
- Provide all of the information indicated on the third page of this enclosure: *File Specifications for Electronic Insurance Premium Deduction Reporting*.
- Label the CD with your organization's name, contact person and phone number, and the effective month of the file or rate change. Send the CD to:  
Washington State Department of Retirement Systems  
  
ATTN: Binh Tran, Information Service Division  
  
P. O. Box 48380  
  
Olympia, WA 98504-3830
- If using e-mail, ensure the file name identifies the organization and effective month, and insert the contact person's name and phone number in the file.

If you have questions about electronic reporting, please contact Binh at (800) 547-6657, ext. 47957, or (360) 664-7957, or by e-mail at [binh.tran@drs.wa.gov](mailto:binh.tran@drs.wa.gov).

## File Specifications for Electronic Insurance Premium Deduction Reporting

Please note: The electronic file must be a **text** file in the following format:

Start-End	Field	Length	Type	Comments
1-8	Vendor ID (Code)	8	Numeric	Use the vendor ID (code) as assigned by DRS. Enter leading zeroes to fill the field.
9-9	Action Code	1	Alpha	Valid codes are: C=Create a new deduction U=Update an existing deduction D=Delete/Cancel deduction
10-17	Effective Date	8	Numeric	Format the date as follows: YYYYMMDD
18-26	Payee SSN	9	Numeric	Enter the entire payee SSN
27-56	Payee Name	30	Alpha	Enter the payee's last name, first and middle names Ex: Tran, Binh V Add trailing blanks as needed to fill the field.
57-58	System Plan/Code	2	Alpha/Numeric	Valid codes are: P1= PERS 1 P2=PERS 2 P3= PERS 3 T1=TRS 1 T2=TRS 2 T3=TRS 3 E2=SERS 2 E3=SERS 3 L1=LEOFF 1 L2=LEOFF 2 N2=PSERS 2 S1=WSP 1 S2=WSP 2 U1=JUDICIAL J1=JUDGES
59-68	Deduction Amount	10	Numeric	Do not use a decimal point to indicate cents. Enter leading zeroes to fill the field.



## SAMPLE NON-PSO BROKER/VENDOR INSURER REQUEST LETTER FROM DRS TO VENDOR

January 15, 2016

Name  
Address  
City State Zip

Dear Insurance Provider:

On behalf of your insured client(s) wanting to deduct insurance premiums from their pensions, please review the DRS premium deduction requirements and procedures for setting up automated health, accident and long term care insurance premiums, and auto/home insurance deductions from their Department of Retirement System retirement allowance. We're happy to guide you through the deduction process.

To begin, please follow these eight steps:

1. Send your request for this service to us in writing along with contact information for the person in your organization who will administer the process. We require at least one contact person, but back-ups are highly encouraged.
2. Please review the samples and guidelines with this letter.
3. The enclosed sample request letter details what we need from you to set up the deductions. Fill in the necessary information and have it signed by the appropriate authority.
4. We prefer that you use the *Retirement Health Insurance Deduction Authorization* form provided. If you modify the form or develop your own, you must include all of the "hold harmless" text.
5. We will provide you with a Broker ID and Vendor ID once your request is approved.
6. Return the completed, signed Insurance Deduction Authorization form(s). Once we set up the deductions in our system, you'll have the option to send us changes electronically (updates for 20 or more participants must be submitted electronically) or by email.
7. Follow the guidelines in the *Health Care Premium Deduction Requirements and Procedures* to begin the automatic deduction process.
8. The last enclosure, *Vendor Insurance Premium Deduction Reporting Process*, lists what we need from you when you submit the initial participant list and rates, and provides instructions about submitting electronic or email reports for periodic updates.

I encourage you to contact the Deductions Desk at any time if you have questions. You can reach us at 1-800-547-6657, ext. 47059 or (360) 664-7059.

Sincerely,

Office Assistant 3 - Deductions Desk  
1-800-547-6657 ext. 47059 or (360) 664-7059  
[Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

**SAMPLE REQUEST LETTER FROM VENDOR TO DRS ON THEIR LETTERHEAD**

(Date)

Washington State Department of Retirement Systems  
Retirement Services Division  
P. O. Box 48380  
Olympia, WA 98504-8380

Subject: Initiate automatic insurance premium deductions

This letter is to request that automatic health, accident and long term care insurance premium deductions be initiated for (Broker's Company Name).

Name and address where monthly premiums will be sent:

Broker: (Broker/Organization Name and Mailing Address for payment register)

(Contact Person, Phone, E-mail address, FAX number)

Vendor information (list vendors receiving deduction services under this request):

Vendor: (Complete Vendor Name – contact information is not needed/required)

**Enclosure Required: Broker Authorization Form for Direct Deposit**

We will use the DRS Retirement Insurance Premium Deduction Authorization form (or we will use our own premium deduction authorization form with the required DRS language. A sample is enclosed.)

By signing this request letter (Name of Representative) on behalf of (Broker Company Name) and any subsidiary relationships are agreeing to all terms and conditions laid out in the Deduction Requirements and Procedures, and Vendor Deduction Reporting Process. We acknowledge as such that these two policies regarding Deduction Requirements and Procedures and Vendor Deduction Reporting Process are subject to change.

Sincerely,

(Name and Title)



## RETIREMENT HEALTH INSURANCE PREMIUM DEDUCTION AUTHORIZATION

P.O. Box 48380 Olympia, WA 98504-8380 • [www.drs.wa.gov](http://www.drs.wa.gov)  
Toll Free: 800.547.6657 • Olympia Area: 360.664.7000 • TTY: 711

Complete, sign and send to your insurance company.

### Retiree Information

Retiree Name	Social Security Number
--------------	------------------------

### Retirement System/Plan Code (check one):

<input type="checkbox"/> P1 = PERS 1	<input type="checkbox"/> T1 = TRS 1	<input type="checkbox"/> E2 = SERS 2	<input type="checkbox"/> L1 = LEOFF 1	<input type="checkbox"/> S1 = WSPRS 1	<input type="checkbox"/> U1 = JUDICIAL
<input type="checkbox"/> P2 = PERS 2	<input type="checkbox"/> T2 = TRS 2	<input type="checkbox"/> E3 = SERS 3	<input type="checkbox"/> L2 = LEOFF 2	<input type="checkbox"/> S2 = WSPRS 2	<input type="checkbox"/> J1 = JUDGES
<input type="checkbox"/> P3 = PERS 3	<input type="checkbox"/> T3 = TRS 3	<input type="checkbox"/> N2 = PSERS 2			

I authorize the Department of Retirement Systems (DRS) to regularly deduct a sufficient amount from my retirement benefit to pay the premiums for my insurance coverage. I will not hold DRS responsible for any problems on coverage or premium charges that occur between the insurance carrier and myself.

The deductions will continue until:

- I write to the insurance company and DRS, asking for my deductions to stop; or
- I terminate the insurance plan.

I understand that DRS cannot answer questions about my insurance.

### Authorization and Signature

Policy in the Name of	
Retiree Signature	Date

.....

### Insurance Broker/Vendor Use Only

Broker Name	Phone Number		
Address	City	State	ZIP
Deduction Starts (payroll date)	Vendor ID	Amount	

DRS MS 418 (8/12)



## Health Care Premium Deduction Requirements and Procedures

We want to remind you of the following:

- Retirees' requests for premium deductions must go through the broker's administrative process before being sent to DRS with a properly executed premium deduction authorization form. ***We must have this form on file for each individual retiree before beginning deductions.*** The insurance broker determines eligibility and coverage. DRS will refer any related questions to the broker.
- The premium deduction authorization form must include a hold harmless agreement and be on file with DRS.
- The broker must notify DRS by the 15<sup>th</sup> day of the month of any additions, deletions or individual rate changes to ensure processing for the end of the month vendor payment. This may be sent as a "secure" e-mail attachment or "secure" e-mail, listing name, last 4 of the Social Security Number and new rates. If an e-mail attachment is used, please secure the file with a password, and then provide the password to DRS by a separate e-mail message.
- DRS will not reconcile or pay premiums based on carrier billings. A deduction register will be issued to the Broker by the 15<sup>th</sup> of the month following the month in which deductions were taken. You may choose to receive your deduction register as an alphabetical listing by name, or the last 4 of the Social Security Number order along with the premium amount.
- Premiums erroneously withheld and paid to a Broker will be refunded to the retiree by the Broker, except in the case of death of a retiree or deduction errors made by DRS. Those incidents will be adjusted on subsequent deduction registers by DRS. If there is not sufficient balance in subsequent vendor payments, DRS will seek recovery of overpayment.

# Broker/Vendor Authorization for Direct Deposit



## VENDOR/BROKER AUTHORIZATION FOR DIRECT DEPOSIT

PO Box 9018 Olympia, WA 98507-9018 ♦ www.drs.wa.gov  
Toll Free: 800.547.6657 ♦ Olympia Area: 360.664.7000 ♦ TTY: 711

Vendor/Broker Information				
Vendor/Broker Name				Vendor/Broker ID
Mailing Address	City	State	ZIP	Phone Number
Contact Name				Contact Phone Number
Email Address				

Financial Institution Information		
Name of Financial Institution		Transit/Routing Number
Phone Number	Account Type <input type="checkbox"/> Checking <input type="checkbox"/> Savings	Account Number

By signing this form, I authorize and request:	
<ul style="list-style-type: none"> <li>• The Department of Retirement Systems (DRS) to transfer the full amount of authorized payments and/or deductions to the designated financial institution for deposit.</li> <li>• The designated financial institution to provide information to DRS regarding address changes and/or account information, to ensure proper and timely processing of deposit transactions.</li> <li>• The designated financial institution to refund to DRS any overpayments or payments made in error.</li> </ul>	
Authorized Representative Name	
Authorized Representative Signature	Date



## **Vendor Insurance Premium Deduction Reporting Process**

For those not covered under the Public Employees' Benefit Board (PEBB)

Benefit carriers, insurance providers and retiree associations not covered under PEBB will use the following process to report initial deduction rates and rate changes to the Department of Retirement Systems (DRS).

Reports, updates and changes for less than 20 participants may be submitted by email. If you have 20 or more participants, you must submit them electronically. Reports or changes must be received by the 15<sup>th</sup> day of the month to ensure processing that month. Due to the sensitive nature of the information being reported, files sent by e-mail must be sent as a "password protected" attachment or sent by secure e-mail. Provide the password to DRS by a means separate from the transmitted e-mail.

### **Email reporting for changes affecting fewer than 20 people or for single rates:**

Rates or rate changes for fewer than 20 people, or where a single rate applies to all covered individuals, may be reported to DRS in an email report or in the electronic format specified below. When submitting an email report, please provide the following information:

- Vendor (ID)
- Effective date of change
- Name, Social Security number, Retirement System/Plan, and new deduction amount for each individual

Send email reports to:

[Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

If you have questions about email reporting, please contact the Deductions Desk at (800) 547-6657, ext. 4-7059, or (360) 664-7059 or by e-mail at [Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

**Electronic reporting for changes affecting 20 people or more:**

Rates or rate changes for 20 people or more must be reported to DRS electronically. When submitting an electronic report, please follow these guidelines and submit your file with the information and format as outlined here:

- Use a CD or password protected e-mail attachment
- Make sure the file is in text format
- Provide all of the information indicated on the third page of this enclosure: *File Specifications for Electronic Insurance Premium Deduction Reporting*.
- Label the CD with your organization's name, contact person and phone number, and the effective month of the file or rate change. Send the CD to:  
Washington State Department of Retirement Systems  
  
ATTN: Binh Tran, Information Service Division  
  
P. O. Box 48380  
  
Olympia, WA 98504-3830
- If using e-mail, ensure the file name identifies the organization and effective month, and insert the contact person's name and phone number in the file.

If you have questions about electronic reporting, please contact Binh at (800) 547-6657, ext. 47957, or (360) 664-7957, or by e-mail at [binh.tran@drs.wa.gov](mailto:binh.tran@drs.wa.gov).

## File Specifications for Electronic Insurance Premium Deduction Reporting

Please note: The electronic file must be a **text** file in the following format:

Start-End	Field	Length	Type	Comments
1-8	Vendor ID (Code)	8	Numeric	Use the vendor ID (code) as assigned by DRS. Enter leading zeroes to fill the field.
9-9	Action Code	1	Alpha	Valid codes are: C=Create a new deduction U=Update an existing deduction D=Delete/Cancel deduction
10-17	Effective Date	8	Numeric	Format the date as follows: YYYYMMDD
18-26	Payee SSN	9	Numeric	Enter the entire payee SSN
27-56	Payee Name	30	Alpha	Enter the payee's last name, first and middle names Ex: Tran, Binh V Add trailing blanks as needed to fill the field.
57-58	System Plan/Code	2	Alpha/Numeric	Valid codes are: P1= PERS 1 P2=PERS 2 P3= PERS 3 T1=TRS 1 T2=TRS 2 T3=TRS 3 E2=SERS 2 E3=SERS 3 L1=LEOFF 1 L2=LEOFF 2 N2=PSERS 2 S1=WSP 1 S2=WSP 2 U1=JUDICIAL J1=JUDGES
59-68	Deduction Amount	10	Numeric	Do not use a decimal point to indicate cents. Enter leading zeroes to fill the field.



## SAMPLE UNION/VOLUNTARY DUES BROKER/VENDOR REQUEST LETTER FROM DRS TO VENDOR

□  
January 15, 2016

Name  
Address  
City State Zip

Dear Union/Organization Representative:

On behalf of our mutual client(s), we are providing information and procedures for setting up automated union/organization dues deductions from their Department of Retirement System retirement allowance. We're happy to guide you through the deduction process.

To begin, please follow these eight steps:

1. Send your request for this service to us in writing along with contact information for the person in your organization who will administer the process. We require at least one contact person, but back-ups are highly encouraged.
2. Please review the samples and guidelines with this letter.
3. The enclosed sample request letter details what we need from you to set up the deductions. Fill in the necessary information and have it signed by the appropriate authority.
4. We prefer that you use the *Deduction Authorization* form provided. If you modify the form or develop your own, you must include all of the "hold harmless" text.
5. We will provide you with a Broker ID and Vendor ID once your request is approved.
6. Return the completed, signed Insurance Deduction Authorization form(s). Once we set up the deductions in our system, you'll have the option to send us changes electronically (updates for 20 or more participants must be submitted electronically) or by email.
7. Follow the guidelines in the *Premium Deduction Requirements and Procedures* to begin the automatic deduction process.
8. The last enclosure, *Vendor Deduction Reporting Process*, lists what we need from you when you submit the initial participant list and rates, and provides instructions about submitting electronic or email reports for periodic updates.

I encourage you to contact the Deductions Desk at any time if you have questions. You can reach us at 1-800-547-6657, ext. 47059 or (360) 664-7059.

Sincerely,

Office Assistant 3 - Deductions Desk  
1-800-547-6657 ext. 47059 or (360) 664-7059  
[Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

**SAMPLE REQUEST LETTER FROM VENDOR TO DRS ON THEIR LETTERHEAD**

(Date)

Washington State Department of Retirement Systems  
Retirement Services Division  
P. O. Box 48380  
Olympia, WA 98504-8380

Subject: Initiate automatic insurance premium deductions

This letter is to request that automatic health, accident and long term care insurance premium deductions be initiated for (Broker's Company Name).

Name and address where monthly premiums will be sent:

Broker: (Broker/Organization Name and Mailing Address for payment register)

(Contact Person, Phone, E-mail address, FAX number)

Vendor information (list vendors receiving deduction services under this request):

Vendor: (Complete Vendor Name – contact information is not needed/required)

**Enclosure Required: Broker Authorization Form for Direct Deposit**

We will use the DRS Retirement Insurance Premium Deduction Authorization form (or we will use our own premium deduction authorization form with the required DRS language. A sample is enclosed.)

By signing this request letter (Name of Representative) on behalf of (Broker Company Name) and any subsidiary relationships are agreeing to all terms and conditions laid out in the Deduction Requirements and Procedures, and Vendor Deduction Reporting Process. We acknowledge as such that these two policies regarding Deduction Requirements and Procedures and Vendor Deduction Reporting Process are subject to change.

Sincerely,

(Name and Title)



## Union Premium Deduction Form

Send completed form to:  
Department of Retirement Systems  
PO Box 48380 • Olympia, WA 98504-8380

[www.drs.wa.gov](http://www.drs.wa.gov) • 800.547.6657  
360.664.7000 • TTY: 711

Check the Retirement System:

☐ PERS ☐ SERS ☐ TRS ☐ LEOFF ☐ PSERS ☐ WSPRS ☐ JUDICIAL ☐ JUDGES

Check the Retirement Plan:

☐ 1 ☐ 2 ☐ 3

### Broker Information

Broker Name	Phone Number		
Address	City	State	ZIP
Retiree's Name	Social Security Number		
Policy is in the name of:			

### Member Information

At my own risk, I authorize DRS to regularly deduct a sufficient amount from my retirement allowance to pay the amount required for my union/organization dues at my request, under this program. I hold DRS harmless for any problems or charges that occur between the union/organization and myself.

Deductions will continue until the deduction plan is canceled through the union/organization office.

I understand that DRS cannot answer questions about my union or organization.

Retiree's Signature	Date
---------------------	------

### Broker/Vendor Use Only

Deduction Starts	Vendor ID	Amount
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## Union Deduction Requirements and Procedures

We want to remind you of the following:

- Retirees' requests for premium deductions must go through the broker's administrative process before being sent to DRS with a properly executed premium deduction authorization form. ***We must have this form on file for each individual retiree before beginning deductions.*** The broker determines eligibility and coverage. DRS will refer any related questions to the broker.
- The premium deduction authorization form must include a hold harmless agreement and be on file with DRS.
- The broker must notify DRS by the 15<sup>th</sup> day of the month of any additions, deletions or individual rate changes to ensure processing for the end of the month vendor payment. This may be sent as a "secure" e-mail attachment or "secure" e-mail, listing name, last 4 of the Social Security Number and new rates. If an e-mail attachment is used, please secure the file with a password, and then provide the password to DRS by a separate e-mail message.
- DRS will not reconcile or pay premiums based on billings. A deduction register will be issued to the Broker by the 15<sup>th</sup> of the month following the month in which deductions were taken. You may choose to receive your deduction register as an alphabetical listing by name, or the last 4 of the Social Security Number order along with the premium amount.
- Premiums erroneously withheld and paid to a Broker will be refunded to the retiree by the Broker, except in the case of death of a retiree or deduction errors made by DRS. Those incidents will be adjusted on subsequent deduction registers by DRS. If there is not sufficient balance in subsequent vendor payments, DRS will seek recovery of overpayment.

# Broker/Vendor Authorization for Direct Deposit



## VENDOR/BROKER AUTHORIZATION FOR DIRECT DEPOSIT

PO Box 9018 Olympia, WA 98507-9018 ♦ www.drs.wa.gov  
Toll Free: 800.547.6657 ♦ Olympia Area: 360.664.7000 ♦ TTY: 711

Vendor/Broker Information				
Vendor/Broker Name				Vendor/Broker ID
Mailing Address	City	State	ZIP	Phone Number
Contact Name				Contact Phone Number
Email Address				

Financial Institution Information		
Name of Financial Institution		Transit/Routing Number
Phone Number	Account Type <input type="checkbox"/> Checking <input type="checkbox"/> Savings	Account Number

By signing this form, I authorize and request:	
<ul style="list-style-type: none"> <li>• The Department of Retirement Systems (DRS) to transfer the full amount of authorized payments and/or deductions to the designated financial institution for deposit.</li> <li>• The designated financial institution to provide information to DRS regarding address changes and/or account information, to ensure proper and timely processing of deposit transactions.</li> <li>• The designated financial institution to refund to DRS any overpayments or payments made in error.</li> </ul>	
Authorized Representative Name	
Authorized Representative Signature	Date



## Vendor Deduction Reporting Process

For those not covered under the Public Employees' Benefit Board (PEBB)

Benefit carriers, insurance providers and retiree associations not covered under PEBB will use the following process to report initial deduction rates and rate changes to the Department of Retirement Systems (DRS).

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### **Email reporting for changes affecting fewer than 20 people or for single rates:**

Rates or rate changes for fewer than 20 people, or where a single rate applies to all covered individuals, may be reported to DRS in an email report or in the electronic format specified below. When submitting an email report, please provide the following information:

- Vendor (ID)
- Effective date of change
- Name, Social Security number, Retirement System/Plan, and new deduction amount for each individual

Send email reports to:

[Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

If you have questions about email reporting, please contact the Deductions Desk at (800) 547-6657, ext. 4-7059, or (360) 664-7059 or by e-mail at [Deductions@drs.wa.gov](mailto:Deductions@drs.wa.gov)

**Electronic reporting for changes affecting 20 people or more:**

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- Make sure the file is in text format
- Provide all of the information indicated on the third page of this enclosure: *File Specifications for Electronic Insurance Premium Deduction Reporting*.
- Label the CD with your organization's name, contact person and phone number, and the effective month of the file or rate change. Send the CD to:  
Washington State Department of Retirement Systems  
  
ATTN: Binh Tran, Information Service Division  
  
P. O. Box 48380  
  
Olympia, WA 98504-3830
- If using e-mail, ensure the file name identifies the organization and effective month, and insert the contact person's name and phone number in the file.

If you have questions about electronic reporting, please contact Binh at (800) 547-6657, ext. 47957, or (360) 664-7957, or by e-mail at [binh.tran@drs.wa.gov](mailto:binh.tran@drs.wa.gov).

## File Specifications for Electronic Insurance Premium Deduction Reporting

Please note: The electronic file must be a **text** file in the following format:

Start-End	Field	Length	Type	Comments
1-8	Vendor ID (Code)	8	Numeric	Use the vendor ID (code) as assigned by DRS. Enter leading zeroes to fill the field.
9-9	Action Code	1	Alpha	Valid codes are: C=Create a new deduction U=Update an existing deduction D=Delete/Cancel deduction
10-17	Effective Date	8	Numeric	Format the date as follows: YYYYMMDD
18-26	Payee SSN	9	Numeric	Enter the entire payee SSN
27-56	Payee Name	30	Alpha	Enter the payee's last name, first and middle names Ex: Tran, Binh V Add trailing blanks as needed to fill the field.
57-58	System Plan/Code	2	Alpha/Numeric	Valid codes are: P1= PERS 1 P2=PERS 2 P3= PERS 3 T1=TRS 1 T2=TRS 2 T3=TRS 3 E2=SERS 2 E3=SERS 3 L1=LEOFF 1 L2=LEOFF 2 N2=PSERS 2 S1=WSP 1 S2=WSP 2 U1=JUDICIAL J1=JUDGES
59-68	Deduction Amount	10	Numeric	Do not use a decimal point to indicate cents. Enter leading zeroes to fill the field.





# PEBB Coverage for Catastrophic Retirees

Comprehensive Report  
November 20, 2019

# Issue

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

# PEBB

- Public Employees Benefit Board (PEBB) purchases and coordinates insurance benefits for eligible public employees and retirees
- PEBB is the largest health care purchaser in the state
- Some LEOFF members/retirees have access to PEBB through their employer

<b>Members not eligible for Medicare (or enrolled in Part A only)</b>	<b>Subscriber</b>	<b>Subscriber and spouse</b>	<b>Subscriber and child(ren)</b>	<b>Subscriber, spouse, and child(ren)</b>
Kaiser Permanente NW2 Classic	\$715.66	\$1,426.25	\$1,248.60	\$1,959.20
Kaiser Permanente NW2 CDHP	\$608.85	\$1,206.99	\$1,072.04	\$1,611.85
Kaiser Permanente WA Classic	\$752.15	\$1,499.24	\$1,312.47	\$2,059.55
Kaiser Permanente WA CDHP	\$610.16	\$1,210.10	\$1,074.70	\$1,616.32
Kaiser Permanente WA SoundChoice	\$618.49	\$1,231.92	\$1,078.57	\$1,692.00
Kaiser Permanente WA Value	\$675.71	\$1,346.36	\$1,178.70	\$1,849.35
UMP Classic	\$679.72	\$1,354.37	\$1,185.71	\$1,860.37
UMP CDHP	\$608.35	\$1,206.48	\$1,071.53	\$1,611.34
UMP Plus–Puget Sound High Value Network	\$644.97	\$1,284.88	\$1,124.91	\$1,764.82
UMP Plus–UW Medicine Accountable Care Network	\$644.97	\$1,284.88	\$1,124.91	\$1,764.82

# Line of Duty Death Benefit

- Survivors are covered by PEBB and their premiums are paid by LEOFF 2
  - Survivors do not have a choice to get different health care coverage and have those premiums paid for or reimbursed by LEOFF 2

# Catastrophic Retiree Benefit

- Catastrophic disability retirees health care premiums are reimbursed by LEOFF 2
  - No access to PEBB unless their employer offered PEBB

# Administrative Process

- **Line of Duty Death Survivor – No reimbursement process**
  - DRS makes direct payments to HCA for PEBB premiums
- **Catastrophic Disability Retiree – Complex reimbursement process**
  - 4 retirees have never received a reimbursement
  - Retiree recently received reimbursement for 10 years of premiums (\$73,764)
  - Retirees have told DRS: “it’s not worth it to them, or they don’t want to be bothered with more paperwork.”

# Legislative History

- 2009 LEOFF 2 Board bill proposed including catastrophically disabled LEOFF Plan 2 retirees in PEBB
- Health Care Authority Fiscal Note - \$4.7 million for the 2013-15 biennium

Catastrophic Retirement Rates: Original vs. Revised vs. Actual	
2009 HCA Assumed Rate	14/year
Current Experience Study Rate	4.5/year
2003 – 2018 Actual Experience	3.9/year



# Policy Considerations

- **Pros**

- Ensure all catastrophic retirees have access to quality health care coverage
- Ease administrative burden for the member and DRS

- **Cons**

- Costs to LEOFF Plan 2
- Removes option to choose different health care provider and receive reimbursement

# Policy Options

## **Option 1: PEBB coverage for catastrophic disability retirees**

- Catastrophic Disability retirees and their families would be covered under PEBB, like Line-of-Duty Death survivors. Catastrophic Disability retirees could no longer choose their own health insurance provider.

## **Option 2: No change to existing law**

# Next Steps

- No further action at this time
- Move policy option forward to final report
  - Staff will draft bill language and update Fiscal Note



**Thank You**

**Jacob White**

**Senior Research & Policy Manager**

**(360) 586-2327**

**[jacob.white@leoff.wa.gov](mailto:jacob.white@leoff.wa.gov)**

## COMPREHENSIVE REPORT FOLLOW-UP

By Jacob White  
Senior Research & Policy Manager  
360-586-2327  
[jacob.white@leoff.wa.gov](mailto:jacob.white@leoff.wa.gov)

### ISSUE

Members must make an irrevocable decision to leave a survivor benefit prior to knowing exactly what their pension benefit will be.

### OVERVIEW

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

### BACKGROUND AND POLICY ISSUES

#### What is a survivor option?

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

1. **Single Life** - This option pays the highest monthly amount of the four choices, but it only lasts for the member's lifetime. No one will receive an ongoing benefit after the retiree dies. If the retiree dies before the benefit they have received equals their contributions plus interest (as of the date of their retirement), the difference will be paid in a lump sum to the retiree's designated beneficiary.
2. **Joint and 100% Survivor** – The retiree's monthly benefit under this option is less than the Single Life Option. But after the retiree's death, the retiree's survivor will receive the same benefit the retiree was receiving during his or her lifetime.
3. **Joint and 50% Survivor** – This option applies a smaller reduction to the retiree's monthly benefit than option 2. After the retiree's death, the retiree's survivor will receive half the benefit the retiree was receiving during his or her lifetime.
4. **Joint and 66.67% Survivor** – This option applies a smaller reduction to the retiree's benefit than option 2 and a larger reduction than option 3. After the retiree's death, the retiree's survivor will receive 66.67% of the benefit the retiree was receiving during his or her lifetime.

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

### **What are the survivor options for other retirement plans?**

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

### **How much of a reduction in benefit will a member take to leave a survivor benefit?**

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

### **Can a member change their decision to leave, or not leave, a survivor benefit?**

A retiree's survivor option choice is irrevocable unless the following occur:

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

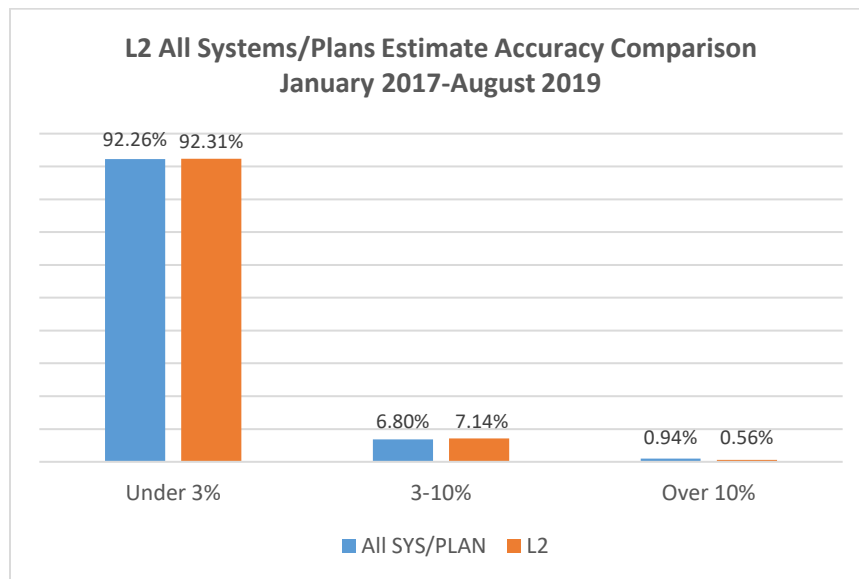
### **How does a member know what their benefit will be prior to retiring?**

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

### How accurate are benefit estimates?

DRS tracks the accuracy of estimates as part of their ongoing performance metrics. From January 2017 to August 2019 there were 1,261 LEOFF Plan 2 retirements. Of those retirements:

- 1,164 (92.31%) estimates were within 3% of the member's actual benefit;
- 90 (7.14%) estimates were between 3% and 10% of the member's actual benefit; and
- 7 (.56%) were more than 10% different than the member's actual benefit.



There are many reasons an estimate could be different than a member's actual benefit. However, according to DRS, the most common reasons for an estimate to be more than 10% different than the actual benefit are when the member chooses a different retirement date or chooses a different survivor option than they requested for the estimate.

### Can a member's benefit change after retirement?

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

In 2018 DRS recalculated 178 LEOFF Plan 2 retirees' pension payments (there were an additional 34 recalculations done that resulted in no change to a member's benefit). Of those 178 recalcs, 143 (80%) resulted in a decrease to a member's benefit. The largest amount of change in a monthly benefit was \$507.38 and the largest percentage in change in benefit was 16.35%. Below is a table of the percentage of change to these retirees' retirement benefit resulting from the recalc:

<b>% Change in Benefit</b>	<b># of Recalcs</b>
<b>.001 - .99%</b>	126
<b>1 – 4.99%</b>	35
<b>5%-9.99%</b>	14
<b>10% or more</b>	3

The oldest LEOFF Plan 2 recalc completed in 2018 was more than 15 years after the member had retired. Below is the average turnaround time for LEOFF Plan 2 recalcs in 2018:

<b># of days after Retirement</b>	<b># of Recalcs</b>
<b>Within 90 days</b>	9
<b>90-180 days</b>	10
<b>180-365 days</b>	24
<b>1 to 2 years</b>	39
<b>2 to 5 years</b>	91
<b>5 to 10 years</b>	2
<b>More than 10 years</b>	3

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

### **Why is the decision to leave a survivor benefit irrevocable?**

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

Since the survivor option administrative factors are based on average life expectancies, rather than individual life expectancies, the potential impact of anti-selection on LEOFF Plan 2 would be members could "game the system" to their advantage and the detriment of LEOFF Plan 2. For example, if a member is aware they have a terminal disease, they could choose to leave a



larger survivor benefit than they would have selected if not for their knowledge of their terminal disease.

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

### **How does LEOFF Plan 2 mitigate the anti-selection risks of survivor benefits?**

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

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

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

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

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

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

The Federal Employee Retirement System has a window to change survivor election within 30 days of a member receiving their first regular annuity payment.<sup>2</sup> After the 30 day period has

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<sup>1</sup> <https://www.oregon.gov/PERS/MEM/Tier-One-Tier-Two/Documents/TierOne-TierTwo-Preretirement-Guide.pdf>

<sup>2</sup> <https://www.opm.gov/faq/retire/Can-I-change-my-survivor-benefit-election-after-retirement.ashx>

passed, but less than 18 months from the beginning date of a member's annuity, a member can change their election only to choose a survivor annuity or to increase a reduced survivor annuity amount.

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

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

## POLICY OPTIONS

**Option 1 – Window for all L2 Members:** All LEOFF Plan 2 retirees have a window after the receipt of their first retirement payment to change their survivor election. If a member changes their survivor election they must pay or be refunded the difference in their pension payments that they have already received. The member must provide DRS with written spousal consent to change their survivor option, if the survivor option provides the spouse with a decreased survivor benefit.

- a) 60 day window
- b) 90 day window
- c) 120 day window

**Option 2 – Qualifying Event Window:** LEOFF Plan 2 retirees may change their survivor election if a DRS recalculation of their benefit results in a change to the benefit amount of more than:

- a) Any change in benefit amount
- b) 5%
- c) 10%

The retiree has 90 days from receipt of the first recalculated pension payment to elect a new survivor benefit. The member will need to request a new estimate from DRS of their recalculated benefit with survivor options. If a member changes their survivor election they must pay or be refunded the difference in their pension payments that they have already received. The member must provide DRS with written spousal consent to change their survivor option, if the survivor option provides the spouse with a decreased survivor benefit.

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<sup>3</sup> <https://www.mnpera.org/wp-content/uploads/2018/06/PF-Updated-1.pdf>

<sup>4</sup> <https://militarypay.defense.gov/Benefits/Survivor-Benefit-Program/Stopping-SBP/>

**Option 3 – Qualifying Event Window with Further Anti-selection Risks Mitigation:**

The same as Option 2 except to further mitigate anti-selection risks a retiree's ability to change their survivor option election is limited based on the impact of the recalculation.

- If a retiree's benefit increases due to a recalculation they may only select a larger survivor option.
- If a retiree's benefit decreases due to a recalculation they may only select a smaller survivor option.

This option helps further limit retirees using the qualifying event window as an opportunity to change their survivor option election not because of the change in their benefit amount due to the recalculation but instead because of additional information about their life expectancy or their survivor's life expectancy.

**Option 4 – Option 1 (a), (b), or (c) and 2 (a), (b), or (c)****Option 5 – Option 1 (a), (b), or (c) and 3 (a), (b), or (c)**



# Survivor Option Reelection

Comprehensive Follow-up Report  
November 20, 2019

# Issue

- Members must make an irrevocable decision for a survivor benefit prior to knowing exactly what their pension benefit will be

# Follow-up

- Updated DRS recalculation data
- OSA feedback on potential impact of anti-selection risk mitigation option

# Updated Recalc Data

- In 2018 DRS recalculated 178 LEOFF 2 retirees' pension payments

<b>% Change in Benefit</b>	<b># of Recalcs</b>
<b>.001 - .99%</b>	<b>126</b>
<b>1 – 4.99%</b>	<b>35</b>
<b>5%-9.99%</b>	<b>14</b>
<b>10% or more</b>	<b>3</b>

- **143 (80%)** resulted in a decrease to a member's benefit

# Timeliness of DRS Recalcs

- The average turnaround time for LEOFF 2 recalcs in 2018:

# of days after Retirement	# of Recalcs
Within 90 days	9
90-180 days	10
180-365 days	24
1 to 2 years	39
2 to 5 years	91
5 to 10 years	2
More than 10 years	3



# Anti-Selection Risk

- The further away from the original retirement date, the higher the risk for adverse selection because the member has more knowledge of their health and the health of their beneficiary
- Example: A member selects a J&S 100% on retirement and five years later there is a recalculation that lowers their benefit. If the member's beneficiary is no longer healthy, this proposal would allow the member to change their benefit to a life only with retroactive payments back to retirement. In this example, the member paid for 'insurance' they didn't need and now they can get their 'insurance premiums' back

# Anti-Selection Risk Mitigation Options

1. Limit the Survivor Option Reelection to those who experience a recalculation above a specified limit, such as those with changes  $>5\%$
2. Limit the potential for adverse selection by only providing Survivor Option Reelection within a certain time period following retirement
3. Limit the reelection options based on the time since retirement. Then, beyond the first year, only allow a lower/higher J&S option, depending on whether their recalculation is lower/higher
4. Only allow the retirement option to change prospectively when selecting a lower cost benefit payment form
5. Adopt new administrative factors, if needed, to maintain actuarial equivalence

# Policy Option 1 – Window for all L2 Members

- All LEOFF 2 retirees have a window after the receipt of their first retirement payment to change their survivor election. If a member changes their survivor election they must pay or be refunded the difference in their pension payments that they have already received. The member must provide DRS with written spousal consent to change their survivor option, if the survivor option provides the spouse with a decreased survivor benefit.
  - a) 60 day window
  - b) 90 day window
  - c) 120 day window

# Policy Option 2 – Qualifying Event Window

- LEOFF 2 retirees may change their survivor election if a DRS recalc results in a change to the benefit amount of more than:
  - a) Any change in benefit amount
  - b) 5%
  - c) 10%

# Policy Option 3 – Qualifying Event Window with Further Anti-selection Risks Mitigation

- The same as Option 2 except to further mitigate anti-selection risks a retiree's ability to change their survivor option election is limited based on the impact of the recalculation
  - If a retiree's benefit increases due to a recalculation they may only select a larger survivor option
  - If a retiree's benefit decreases due to a recalculation they may only select a smaller survivor option

# Combination Policy Options

- Option 4 – Option 1 (a), (b), or (c) and 2 (a), (b), or (c)
- Option 5 – Option 1 (a), (b), or (c) and 3 (a), (b), or (c)

# Next Steps

- Board action
  - Instruct staff to draft bill and identify costs with one or more of the policy options
    - Staff will present Final Report at the December Board Meeting
- Nothing further at this time



# Thank You

**Jacob White**

**Senior Research and Policy Manager**

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# 2020 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	21	22	23	24	25
26	27	28	29	30	31	

February						
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	21	22
23	24	25	26	27	28	29

March						
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	21
22	23	24	25	26	27	28
29	30	31				

April						
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	21	22	23	24	25
26	27	28	29	30		

May						
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	21	22	23
24	25	26	27	28	29	30
31						

June						
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
21	22	23	24	25	26	27
28	29	30				

July						
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	21	22	23	24	25
26	27	28	29	30	31	

August						
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						1
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23	24	25	26	27	28	29
30	31					

September						
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

October						
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November						
S	M	T	W	T	F	S
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8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December						
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	21	22	23	24	25	26
27	28	29	30	31		

## STATE HOLIDAYS

## PROPOSED DATES

JANUARY 22

FEBRUARY 26

MARCH 25

APRIL 22

MAY 27

JUNE 24

JULY 22

AUGUST 26

SEPTEMBER 23

OCTOBER 21

NOVEMBER 18

DECEMBER 16

## MEETING LOCATION

State Investment Board  
Large Conference Room  
Suite 100  
2100 Evergreen Park Drive SW  
Olympia, WA 98502

## CONTACT

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# 2019 AGENDA ITEMS CALENDAR



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

\*Tentative