

BOARD MEETING AGENDA

MAY 18, 2022 • 9:30AM



LOCATION - Hybrid Meeting

In-Person:
Washington State Investment Board
2100 Evergreen Park Drive SW, Suite 100
Olympia, WA 98502

Virtual:
Zoom Video Conference

TRUSTEES

DENNIS LAWSON, CHAIR
Central Pierce Fire and Rescue

JASON GRANNEMAN, VICE CHAIR
Clark County Sheriff's Office

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
East Pierce County Fire

JAY BURNEY
City of Olympia

WOLF OPITZ
Pierce County

REPRESENTATIVE STEVE BERGQUIST
WA State Representative

SENATOR ANN RIVERS
WA State Senator

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 Sadler, Benefits Ombudsman
Sarah White, Benefits Ombudsman
Tor Jernudd, Assistant Attorney General

**THEY KEEP US SAFE,
WE KEEP THEM SECURE.**

- | | |
|-----------------------------------------------------------|-----------------|
| 1. Approval of Minutes | 9:30 AM |
| April 2022 | |
| 2. Preliminary Actuarial Valuation Results | 9:35 AM |
| Mitch DeCamp and Sarah Baker, OSA | |
| 3. Open Public Meeting Act - Board Training | 10:00 AM |
| Tor Jernudd, AGO | |
| 4. Historic Duty Disability Informational Briefing | 10:30 AM |
| Steve Nelsen, Executive Director | |
| 5. Interruptive Military Service Credit | 11:00 AM |
| Jacob White, Sr. Research & Policy Manager | |
| 6. Survivor Option Reelection | 11:30 AM |
| Jacob White, Sr. Research & Policy Manager | |
| 7. DRS Rule-making Update | 12:00 PM |
| Sarah White, Benefits Ombudsman | |
| 8. Administrative Update | 12:15 PM |
| • Outreach Activities | |

**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.

Preliminary 2021 LEOFF 2 Actuarial Valuation Results

Presentation to:

LEOFF Plan 2 Retirement Board

Mitch DeCamp, Senior Actuarial Analyst

Sarah Baker, Senior Actuarial Analyst



Today's Presentation

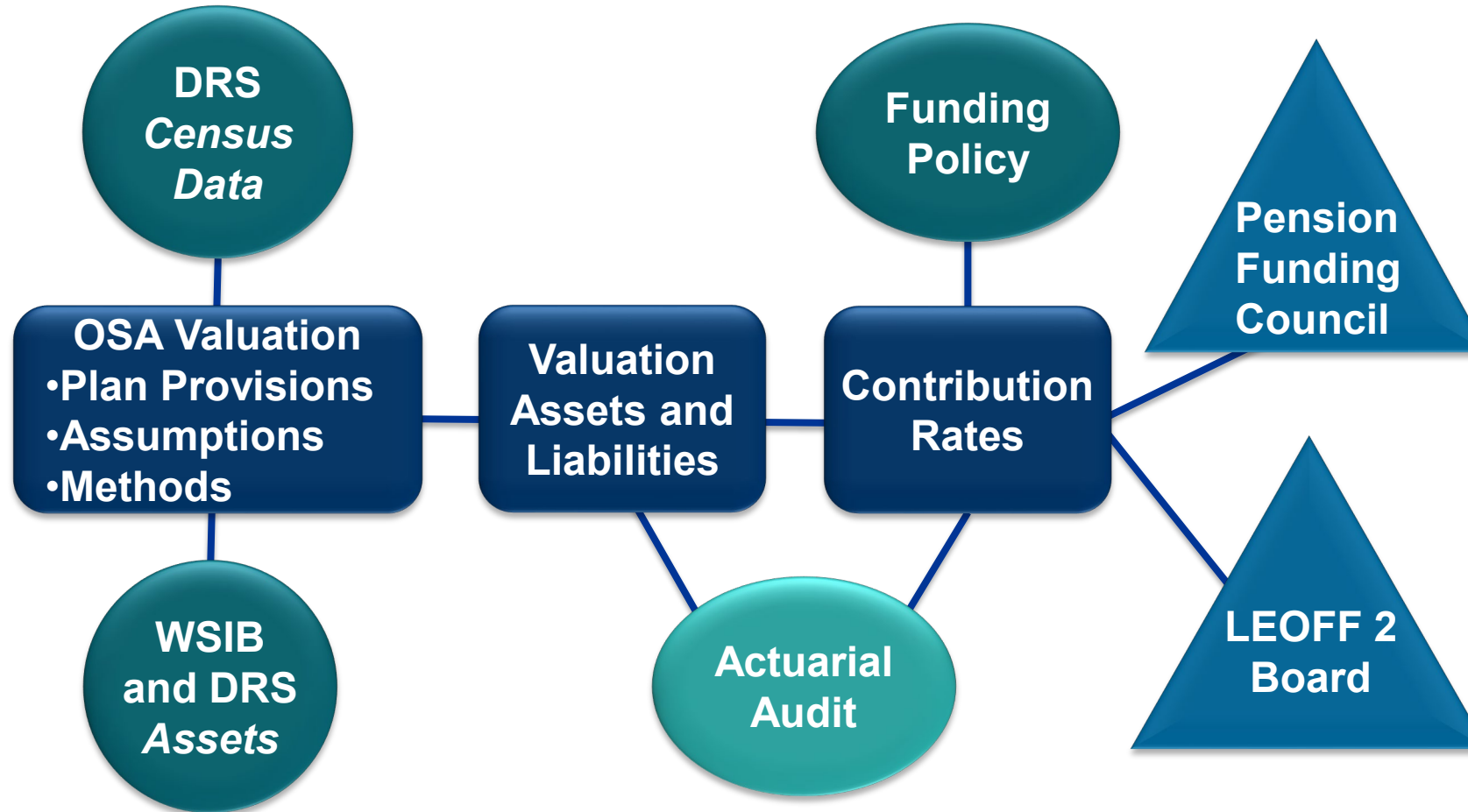
- Background on the actuarial valuation cycle
- *2021 Preliminary Actuarial Valuation Report* results
- Informational — No Board action needed today



Purpose of 2021 Valuation

- Estimate future benefits to be paid from the plan
- Calculate contribution rates that fund expected future benefits
 - Rate-setting valuation
- Check funding progress
- Certify the underlying data, assumptions, and methods are reasonable and conform with current actuarial standards of practice

The Actuarial Valuation Process: How We Get from Participant Data to Contribution Rates



Important Notes on the 2021 Actuarial Valuation

- The 2021 valuation measures the system on June 30, 2021
- This presentation will reconcile results from the 2019 to the 2021 rate-setting valuations
- All results are preliminary and currently under audit

Key 2021 Valuation Updates

■ Economic Assumption Update

- Updated economic assumptions consistent with the Board's adoption at the November 2021 meeting
- Investment Return assumption lowered from 7.40% to 7.00%
- General Salary Growth assumption lowered from 3.50% to 3.25%

■ 2021 Investment Earnings

- Assets include large 2021 investment return of 31.65%

■ [SHB 1701](#) Benefit Improvement

- Updated plan costs and funding policy consistent with legislation

Preliminary Participant Data—Two Year Comparison

LEOFF 2		
	2019	2021
Actives		
Headcount	18,557	18,683
Average Annual Salary	\$114,100	\$122,500
Average Age	42.8	42.3
Average Service	13.6	13.1
Annuitants		
Headcount	6,064	7,574
Average Annual Benefit	\$50,900	\$56,200
Actives to Annuitants	3.1	2.5

Preliminary Changes in Market Value of Assets

LEOFF 2	
<i>(Dollars in Millions)</i>	
2019 Market Value	\$13,916
Contributions	829
Disbursements	(791)
Investment Earnings*	5,233
Adjustments**	450
2021 Market Value	\$19,637

**Investments returned 4.50% and 31.65% in FY 2020 and 2021, respectively.*

***Adjusted the Market Value of Assets to reflect the transfer of the Benefit Improvement Account, measured on June 30, 2021, into the LEOFF 2 trust under SHB 1701.*

Calculation of Actuarial Value of Assets

- MVA reported by DRS
- Develop Actuarial Value of Assets (AVA) by smoothing past and current asset gains (or losses) from investments
 - Calculate 2020 and 2021 asset gain (or loss) based on 7.4% expected return
 - Smooth gain (or loss) over a period up to 8 years
 - Smoothing method reduces contribution rate and funded status volatility

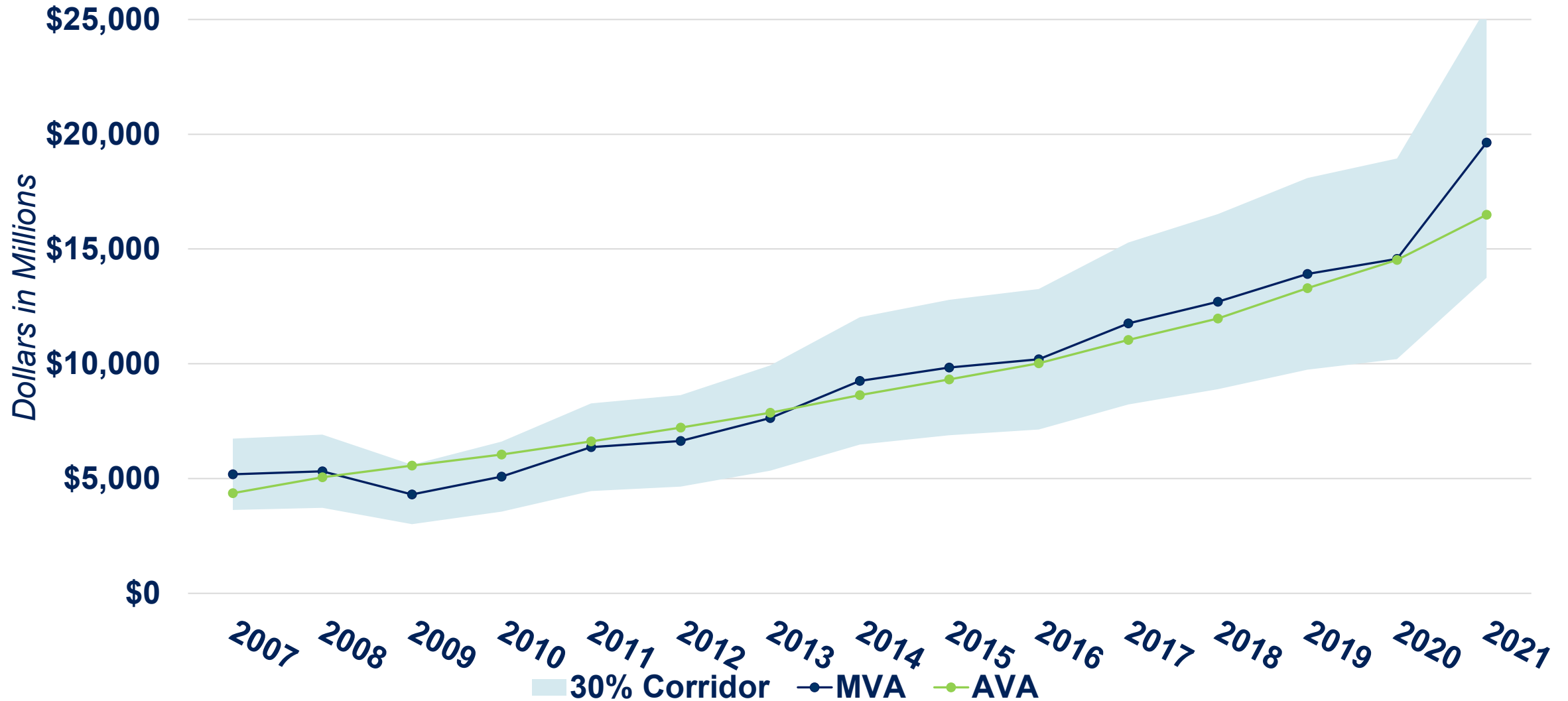
Calculating Preliminary 2021 AVA

Calculation of Actuarial Value of Assets				
LEOFF 2				
<i>(Dollars in Millions)</i>				2021
Market Value of Assets				\$19,637
Plan Year Ending	Return on Assets	Years Deferred	Years Remaining	Amount Deferred*
6/30/2021	31.65%	8	7	3,083
6/30/2020	4.50%	3	1	(135)
6/30/2017	14.14%	7	2	194
Total Deferral				3,142
Actuarial Value of Assets**				\$16,494

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

**Actuarial Value of Assets can never be less than 70% (\$13,746) or greater than 130% (\$25,528) of the Market Value of Assets.

Actuarial Value of Assets Less Volatile than Market Value

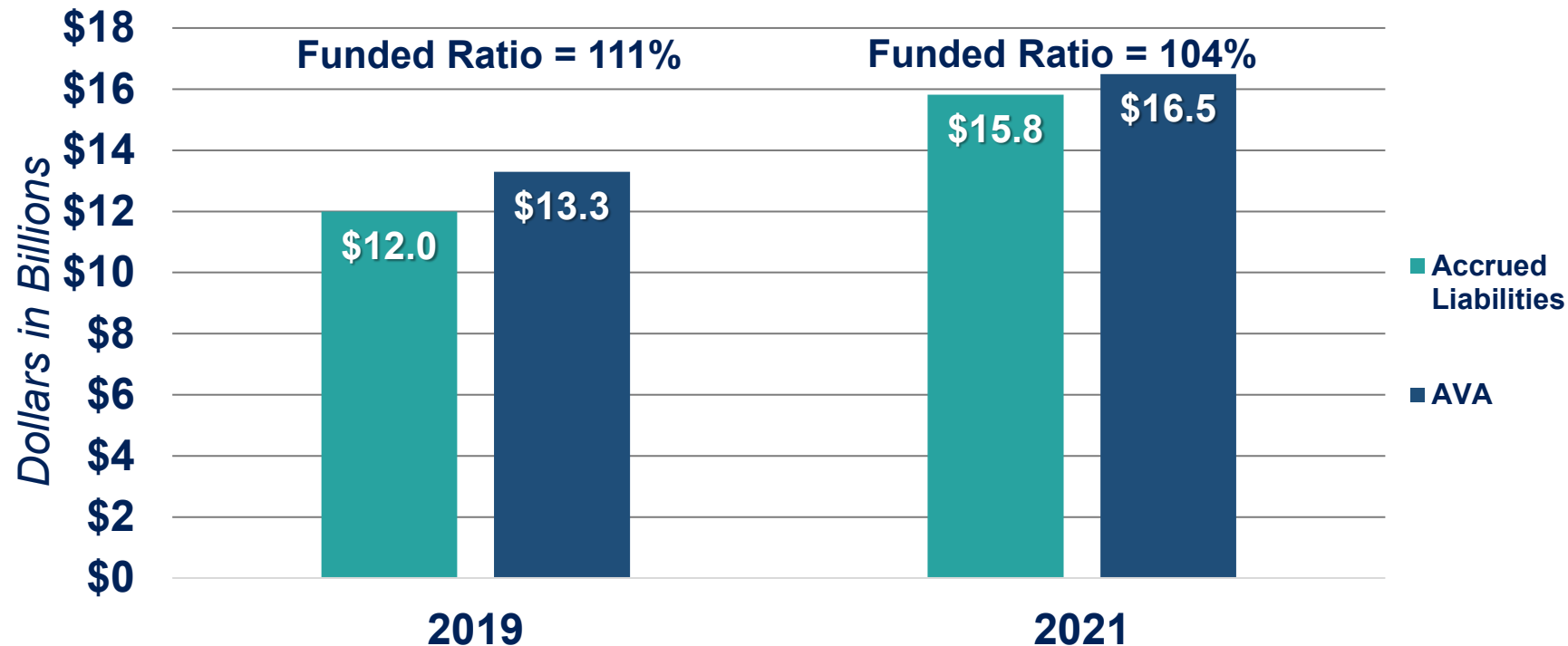


Preliminary Liability Change from Last Valuation

LEOFF 2			
<i>(Dollars in Millions)</i>	2019	2021	Difference
Present Value of Future Benefits	\$16,096	\$21,075	\$4,978
Accrued Liability	\$11,992	\$15,819	\$3,827

- 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 under the EAN cost method

Funded Status Change from Last Valuation



■ Funded Ratio = $\frac{\$ \text{Actuarial Value of Assets}}{\$ \text{Accrued Liabilities}}$

■ If the funded ratio exceeds 100%, the plan has more than \$1 of assets for every \$1 of accrued benefits

Preliminary Calculated Contribution Rate Notes

- Contribution rates will be presented at the June meeting
- We expect the following impacts from the key valuation updates
 - Update of Economic Assumptions - ↑ Increased rates
 - 2021 Investment Returns - ↓ Decreased rates
 - 2022 Benefit Improvement - ↑ Increased rates

Summary of 2021 Actuarial Valuation

- Lower economic assumptions and the recent benefit improvement offset the 2021 investment earnings to reduced funded status
- The plan is considered healthy
 - Funded ratio decreased but still exceeds 100%
 - AVA is deferring over \$3.1 billion
 - Expect continued funded ratio improvement as deferred assets are recognized
- Next steps include preliminary contribution rate and funding policy presentation from OSA at June meeting
- Final contribution rates available for Board action at the July meeting

Questions? Please Contact: The Office of the State Actuary

leg.wa.gov/OSA; state.actuary@leg.wa.gov

360-786-6140, PO Box 40914, Olympia, WA 98504

Mitch DeCamp

Sarah Baker

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Thank You



Disclosure

- This presentation is based on the [Preliminary 2021 Actuarial Valuation Report](#). Please see the preliminary posted sections for disclosure of assumptions, methods, and data used to produce the results contained in this presentation
- All results are preliminary and currently under audit
- Michael T. Harbour, ASA, MAAA served as the reviewing and certifying actuary for this presentation

Open Public Meetings Act 2022 Update/Refresher



Disclaimer: This presentation reflects the personal opinion of AAG Tor Jernudd only, and is not official opinion or guidance of the Office of the Attorney General.

Today's agenda



- Open Public Meetings Act (OPMA) Today
- Lessons from Covid
- New Revised OPMA



Purpose



The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. RCW 42.56.030.



Open & Public



- ***All meetings** of the governing body of a public agency shall be **open** and **public** and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter. RCW 42.30.030.*
- No conditions to attendance



What is a Meeting?



- Action*
 - Public testimony , deliberations, discussions, reviews, evaluations & Final action....
 - AND
 - Quorum (set by statute or rules)
-
- *Final Action is final vote by a majority of Board or Commissions, or a “committee thereof” and must be in public, no secret ballots



Notice / Agenda



- On a regular published schedule (filed with Code Reviser)
- On website
- Special Meetings, notice to all members, and to the press, including time, place and agenda
- Emergency meetings, notice and agenda requirements waived to deal with natural disaster or emergency (and involves injury to persons or property and notice would increase likelihood).

Public Comment



- Not required
- Good Practice



Disruptions



- Board may remove a disruptive person, must be based on reasonable legal justification
- When a group of people render the orderly conduct of a meeting unfeasible and order can not be restored, the Board may order room cleared and either continue or adjourn and reconvene in another location.



Executive Sessions



Permitted only for a finite number of reasons, including, but not limited to:

- Evaluate the performance of a public employee
- Discuss litigation and potential litigation with AAG / counsel, when public discussion would have adverse effect on agency
- Chair must announce reason for executive session and time when executive session will end—Can be extended





OPMA Issues

- Reply All



- Accidental meetings



OPMA related lessons during Covid



Public health emergency made in person meetings impossible. Challenges (and opportunities) included:

- Providing public access (dial-ins, notice, zoom links, muting issues)
- Integrating opportunity for public comment
- Bandwidth/connection issues for participants
- Inclusion/exclusion while holding executive sessions
- Inclusion (highly variable access to technology and internet)
- Cat lawyer



New Revised OPMA



- Anticipating a hybrid future
- Legislature finds and declares world has changed and tele and video conferences are here to stay, and because disasters and pandemics may require government to meet remotely, barring public from in person observation and participation. Bad for democracy.
- Updating OPMA in light of “technological advances” while balancing policy goals (vibrant democracy) with public safety.
- Governing bodies are encouraged to make public access easier in emergency meeting planning.



HB 1329, Section 1 Expanded Purpose



*The legislature further finds people **participating** in their government, especially through public comment, is **an essential part of developing public policy**. The legislature finds that there are numerous developing technologies that can be used to **facilitate public comment**, especially for those with disabilities, underserved communities, and those who face **time or distance** challenges when traveling to public meetings. Therefore, the legislature intends to encourage public agencies to make use of remote access tools **as fully as practicable** to encourage **public engagement** and better serve their communities.*

New Meeting Standard(s)



- “Regular Meetings” (held during a time with no declared emergency)

and

- Meetings held after emergency declaration and an agency finding that regular meeting cannot be held without compromising public safety.

Regular Meetings

(held during a time with no declared emergency)



Appears to assume that regular meetings are by default NOT remote (notice and access to a physical location must be provided); and:

- *Nothing in this section alters the ability of public agencies to have members of a governing body participate in a meeting remotely with no declared emergency.*

Further....

- *Notwithstanding any other provision in this section, any governing body of a public agency which held some of its regular meetings remotely prior to March 1, 2020, may continue to hold some of its regular meetings remotely with no declared emergency so long as the public agency provides an option for the public to listen to the proceedings pursuant to subsection (2) of this section.*

Declaration of Emergency



1. If there is a Declaration of Emergency, AND
2. If the agency makes Finding that meeting can't be held safely

Then:

- Physical location not required
- And/or public can be excluded
- Must provide remote public access
- Notice must include access instructions
- No action unless access provided (but not necessarily comment), except emergency action



New Public Comment Before Action



- *Except in an **emergency situation**, the governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment.*
- Oral; or
- In advance, in writing, must be distributed in advance to members, and, may be subject to reasonable advance deadline





Executive Session Must Be Documented in Minutes



Online Streaming of All Meetings Encouraged



Public agencies are encouraged to make an audio or video recording of, or to provide an online streaming option for, all regular meetings of its governing body, and to make recordings of these meetings available online for a minimum of six months.



Online Streaming Continued



*Public agencies are encouraged to provide for the increased ability of the public to observe and **participate** in the meetings of governing bodies through real-time telephonic, electronic, internet, or other readily available means of remote access that do not require an additional cost to access the meeting.*



Open Questions re: OPMA



Comment in advance of action:

- Requires reasonable notice of possible action (agenda), requires reasonable time to consider action item and to compose comment, and requires reasonable time for prior distribution to, and consideration of, such written comment by board members
- Hard to reconcile with minimum 24-hour advance posting of agenda items



Open Questions re: OPMA



- *If, after the declaration of an emergency by a local or state government or agency, or by the federal government, a public agency determines that it cannot hold a meeting of the governing body with members or public attendance in person with reasonable safety because of the emergency, the public agency may . . . Hold a remote meeting.*
- A practical question: Who makes that determination? Is such a determination final action?

Open Questions re: OPMA



- What exactly does public “participation” mean, over and beyond “observation?”
- Does the opportunity for written and/or oral comment fully encompass “participation?”
- What about access to online tools like voting buttons, emojis, and hand-clapping or thumbs up or thumbs down tools?
- What record keeping requirements follow?



Open Questions re: OPMA



- Does this mean public must be able to comment prior to approval of prior meeting minutes?
- Should chair initiate every meeting with opportunity for comment, or prior to every agenda item requiring final action?



Open Questions re: OPMA



- Facilitating opportunity to provide oral comment remotely for any person “*who will have difficulty attending*” if oral comment is to be taken by persons in attendance.
- “*if feasible*”



Risks



- A superior court can impose a \$100 civil penalty against each member and award costs and attorney fees to a successful party seeking the remedy.
- An action taken at an improperly closed meeting can be declared null and void.





Historic Duty Disability Information Briefing

May 18, 2022

Purpose

- To provide a historical briefing on the development of duty disability benefits for LEOFF Plan 2 members

Duty Disability

- Prior to 2004, there were no duty-related disability benefits in LEOFF 2. Disabled members had 2 options for retirement:
 - Receive a monthly benefit actuarially reduced for early retirement from age 53 to the age at disability, or
 - Withdraw their accumulated contributions and forego any future benefit

First Duty Disability Benefit

- **HB 2418 (2004)** – Created a minimum disability benefit for members disabled in the line of duty
 - A monthly benefit equal to 10% of the member's FAS, plus 2% of the FAS for each year of service beyond 5 years
 - 10% minimum benefit is not taxed
- **Standard** – “No longer able to perform the duties of a law enforcement officer or fire fighter.”
- **“Line of duty”** was presumed to be synonymous with “in the course of employment” for Labor & Industries benefits

Additional Duty Disability Benefits

- **SSB 5615 (2005)** – Eliminated the early retirement actuarial reduction for the monthly benefit
- **HB 1678 (2009)** – Retroactive eligibility for minimum benefit for duty disabled retirees
 - Members would receive the minimum duty disability monthly benefit equal to **10% of FAS**, plus **2% of FAS** per year beyond 5 years
 - Minimum benefit is not taxed

Catastrophic Disability Benefit Created

- **HB 2932 (2006)** – Created a higher tier of disability benefit for members *totally disabled* in the line of duty
 - A monthly benefit equal to 70% of the member's final average salary
 - 70% of FAS is not taxed
 - If needed, disability benefit is offset by worker's compensation and social security benefits so that that combined benefits do not exceed 100% of final average salary
 - The standard for “Unable to perform any substantial gainful employment” mirrors federal social security disability standard
 - The retiree is subject to ongoing comprehensive medical exams and financial reporting requirements in order to verify continuing eligibility

Additional Catastrophic Disability Benefits

- **EHB 1679 (2010)** – Provided reimbursement for medical insurance premiums
 - Covers employer-provided medical insurance, continuing medical benefits from employer (COBRA), Medicare Parts A&B
 - Expanded in 2013 to include private insurance subject to COBRA limits

Administration of Benefits Evolved

- DRS has worked with the Board over the past 18 years as they developed rules and policies for administering both duty and catastrophic disability benefits
 - What is the definition of “line-of-duty”?
 - DRS disagreement with Board in 2012
 - How is the standard applied?
 - Ad hoc third-party review by medical experts beginning in 2007
- The Court of Appeals determined in *Shaw v. DRS (2016)* that “Line of Duty” for LEOFF 2 benefits and “In the Course of Employment” for Labor & Industries benefits are synonymous in accordance with prior LEOFF 1 cases
- Current policies include independent third-party medical review of cases where DRS is considering a denial of the member’s application (2017)

Conclusion

- LEOFF 2 members who are disabled in the line of duty currently have a comprehensive set of benefits recognizing the severity of their disability
- LEOFF 2 duty disability are currently administered according to rules and policies adopted by DRS in conjunction with the Board to ensure that members receive the appropriate benefits
- There was a period of time from 2007 to 2017 where duty disability benefits were not administered under current procedures



Thank You

Steve Nelsen, Executive Director

(564) 999-1282

steve.nelsen@leoff.wa.gov



May 18, 2022

Interruptive Military Service Credit

COMPREHENSIVE REPORT

By Jacob White

Senior Research & Policy Manager

360-586-2327

jacob.white@leoff.wa.gov

ISSUE STATEMENT

Eligibility for no-cost interruptive military service credit is limited to service where a campaign medal was earned and does not include service where an expeditionary medal was earned.

OVERVIEW

LEOFF Plan 2 members may establish service credit for military service interrupting their LEOFF service. Member contributions are waived for LEOFF Plan 2 members whose interruptive military service was: 1) during a period of war; or 2) during a specified conflict for which they earned a campaign badge or medal.

BACKGROUND AND POLICY ISSUES

General Background

Interruptive military service credit applies to all Washington State retirement systems, including LEOFF Plan 2. A member qualifies for this benefit when they take a leave of absence from a DRS covered position to serve in the United States military, and the member returns to employment with their employer within 90 days of being honorably discharged. When this occurs, membership in the retirement system is considered to be interrupted.

There are two types of pension benefits for interruptive military service: fully subsidized (“no-cost interruptive military service credit”) and partially subsidized (“reduced-cost interruptive military service credit”).

No-cost interruptive military service credit is awarded if the service took place during a period of war, or certain armed conflicts in which an approved campaign medal or badge was obtained. A member can qualify for up to five years of no-cost interruptive military service credit. The employer and state pay their contributions plus interest and the system subsidizes the member contributions and interest.

Partially subsidized interruptive military service credit is awarded if the service did not take place during a period of war, or an armed conflict in which an approved campaign medal was

obtained.¹ In order to receive partially subsidized credit, a member must have been honorably discharged from their service and unable to qualify for no-cost credit. A member can qualify for up to five years of partially subsidized military service credit. The member must pay the member contribution cost; however, the interest on the member contributions is subsidized by the Plan. The member has five years from when they return to work to pay their contributions or they must pay those contributions prior to retirement, whichever occurs first. After the member pays their contributions, the employer and state are billed for the employer contributions plus interest.

A member may receive a total of 10 years of interruptive military service credit (up to 5 years no-cost interruptive military service credit and up to 5 years of partially subsidized). The member must fully pay the required contributions within 5 years of reemployment.

Qualifying for No-Cost Interruptive Military Service Credit

To qualify for no-cost interruptive military service credit the member's service must have been during a "period of war", as defined in RCW 41.04.005(2). "Period of war" is defined under this statute as:

World War I; World War II; The Korean conflict; The Vietnam era²; The Persian Gulf War³; The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and

Any armed conflicts, if the participant was awarded the respective campaign badge or medal, or if the service was such that a campaign badge or medal would have been awarded, except that the member already received a campaign badge or medal for a prior deployment during that same conflict.

The DoD awards a campaign badge or medal to service members who served during a specified conflict and were stationed in a designated war zone.⁴

Campaign medals, as defined by the DoD manual 1348.33 Volume 2, are medals which:

¹ Responsibility for payment varies by the dates of service. If the military service was completed: Between October 1, 1977, and March 31, 1992, the member pays both the employer and member contributions plus interest; After March 31, 1992, and before October 6, 1994, the member pays the member contributions plus interest and the employer and state pay their contributions plus interest; After October 6, 1994, a member pays the member contributions (no interest) and the employer and state pays their contribution plus interest.

² Which means: The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period; the period beginning August 5, 1964, and ending on May 7, 1975.

³ Which was the period beginning August 2, 1990, and ending on February 28, 1991, or ending on November 30, 1995, if the participant was awarded a campaign badge or medal for such period.

⁴ Defined conflicts include: the crisis in Lebanon, the invasion of Grenada, Operation Just Cause in Panama, Operation Restore Hope in Somalia, Operation Uphold Democracy in Haiti, Operation Joint Endeavor in Bosnia, Operation Noble Eagle, Operation Enduring Freedom in Southern or Central Asia, Operation Iraqi Freedom; Iraq and Syria, Operation Inherent Resolve; and Afghanistan, Operation Freedom's Sentinel.

“recognize service members who are deployed to the geographic area where the combat is actually occurring. Members awarded campaign medals have the highest degree of personal risk and hardship as they are conducting the combat operations and are deployed to the area where the combat is actually occurring.”

Interruptive military service that does not meet the definition of “period of war” does not qualify for no-cost interruptive military service credit. However, it does qualify for partially subsidized interruptive military service credit.

Legislative History

No-cost interruptive military service credit was created in 2009, with the passage of HB 1548. HB 1548 was endorsed by the SCPP and the LEOFF Plan 2 Board. The legislative history of HB 1548 does not explicitly state the policy goals of the legislature in creating a no-cost interruptive military service credit benefit, or the reasons for placing the lines of demarcation between partially subsidized and no-cost interruptive military service credit at receiving a campaign badge.

In 2009, the LEOFF Plan 2 Board report⁵ on this proposed benefit stated:

Arguments for eliminating the cost to the member include encouraging military service, supporting the ability to recruit military personnel into state/local government service, benefits (direct and indirect) to the State from military service rendered by public employees, recognition and support for Plan members serving the public at large in a high-risk situation, and supplementing federal benefits which may be viewed as inadequate.

Some of the policy pros and cons of providing special or increased benefits to members based on military service, identified in presentations to the LEOFF Plan 2 Board and the SCPP in 2008 and 2009, included:

No Additional Benefits	Additional Benefits
Members serve voluntarily; no draft requires them to leave employment	Encourage military service; help avoid need for a draft
Members already receive adequate federal compensation and benefits for military service	Support ability to recruit more military personnel into state service and more state personnel into military service
Other members and employers would not have to absorb extra costs for these members	Support view that all WA citizens benefit, directly or indirectly, from military service rendered by public employees

⁵ http://leoff.wa.gov/wp-content/uploads/2015/06/121708.6_Interruptive-Military-Service-Credit.pdf

More favorable service credit treatment is already given to these members (partially subsidized service credit)	Recognize that members who serve in conflicts are at higher risk for injury or death; pension Plans typically offer extra support for high-risk occupations that serve the public at large
Military service is unrelated to the service rewarded by state pension Plans	Supplement federal benefits, which may not be viewed as adequate

During the 2017 legislative session, SB 5661 required the LEOFF Plan 2 Board to study interruptive military service credit for members not awarded a campaign badge or medal. The LEOFF Plan 2 Board completed that study during the 2017 interim and submitted the report to the legislature on January 1, 2018.

As a result of that study the LEOFF Plan 2 Board endorsed legislation (HB 2701) in 2018. This legislation added a provision to ensure eligibility for no-cost interruptive military service credit for multiple deployments to the same conflict; added an end date in statute for the end of the Gulf War; and made two additional combat operations (Inherent Resolve, Iraq and Syria; and Freedom’s Sentinel, Afghanistan) eligible for no-cost interruptive military service credit. This legislation became effective June 7, 2018.

The statute which defines “period of war”, for purposes of not only receiving interruptive military service credit but also other non-pension benefits, has been amended eleven times since its adoption in 1969. The majority of these amendments have updated the list of periods of war and armed conflicts.

HB 2544 (2020) redefined “period of war” in RCW 41.04.005 to no longer identify specific conflicts and instead recognize all service from which a campaign badge or medal was earned. The LEOFF Plan 2 Board endorsed this legislation because it removes the need to amend “period of war” for each new conflict that qualifies for no-cost interrupt military service credit. HB 2544 (2020) also required the LEOFF Plan 2 Board and the Select Committee on Pension Policy to submit studies to the legislature on expanding the eligibility of no-cost interruptive military service credit. The Board voted to defer until next year making a recommendation to expand the no-cost interruptive military service credit benefit to service where the member earned an expeditionary medal. The Board expressed support of the policy to expand but also expressed concerns regarding the cost of the benefit and the expected state and local budget environment due to unknown revenue impacts from Covid-19.

In 2022 the LEOFF 2 Board and the Select Committee on Pension Policy endorsed HB 1804 and its companion bill, SB 5726. These bills would have expanded no cost interruptive military service credit to include members that were awarded an expeditionary medal. Both bills failed to pass the legislature.

Department of Defense

Campaign, Expeditionary, and Service (CE&S) medals recognize service members' participation in military campaigns, expeditions, or other significant military operations, and for otherwise meritorious military service. Eligibility criteria for CE&S medals are based on a service member's:

- Degree of personal risk (e.g., proximity to the enemy, service in a combat zone, imminent threat of hostilities);
- Degree of personal hardship;
- Participation in designated military operations; and,
- Extent of military service during specified time periods, duration, or types of duty.⁶

There are four categories of CE&S medals:

- **Campaign Medals** - Campaign medals recognize deployed participation in large-scale or long-duration combat operations. Campaign medals are associated with the highest level of personal risk and hardship. They are awarded to members who were deployed to the geographic areas where the combat occurred. Service members deployed to areas where combat is occurring as a result of prolonged or large-scale military combat operations should be recognized with a separate and distinct campaign medal.
- **Expeditionary Medals** - Expeditionary medals recognize deployed participation in small scale and/or short-duration combat operations or military operations where there is an imminent threat of hostilities. Expeditionary medals are also awarded to members deployed in support of combat operations, but who were not in the geographic area where the actual combat occurred. Expeditionary medals are associated with high levels of personal risk and hardship.
- **Deployed Service Medals** - Deployed service medals recognize deployment or assignment to a designated Area of Eligibility (AOE) to participate in, or directly support, a designated military operation where there was no foreign armed opposition or imminent threat of hostile action.
- **Individual Service Medals** - Individual service medals recognize individual merit, direct participation in a DoD approved military activity, undertaking, event or operation, or service during a specified period. Some individual service medals, such as the Prisoner of War (POW) medal, may recognize service involving significant personal risk and hardship, while others only recognize being in active military service during a particular period of time.⁷

Below is a table from the DoD Manual 1348.33, Volume 2, of current and recent CE&S medals:

⁶ DOD MANUAL 1348.33, VOLUME 2, https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/1348.33_Vol2.pdf?ver=2018-03-29-102726-900

⁷ DOD MANUAL 1348.33, VOLUME 2, https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/1348.33_Vol2.pdf?ver=2018-03-29-102726-900

Table 1: Categories of CE&S Medals

Title of Decoration ¹	Sub-category of CE&S Medals
Southwest Asia Service Medal ²	Campaign Medal
Kosovo Campaign Medal	Campaign Medal
Afghanistan Campaign Medal	Campaign Medal
Iraq Campaign Medal	Campaign Medal
Inherent Resolve Campaign Medal	Campaign Medal
Armed Forces Expeditionary Medal	Expeditionary Medal
Global War on Terrorism Expeditionary Medal	Expeditionary Medal
Antarctic Service Medal	Deployed Service Medal
Armed Forces Service Medal	Deployed Service Medal
Korea Defense Service Medal	Deployed Service Medal
National Defense Service Medal	Individual Service Medal
Armed Forces Reserve Medal	Individual Service Medal
Humanitarian Service Medal	Individual Service Medal
Prisoner of War Medal	Individual Service Medal
Military Outstanding Volunteer Service Medal	Individual Service Medal
Global War on Terrorism Service Medal	Individual Service Medal
Note 1: This list is not all-inclusive. Military Departments also have CE&S medals (e.g., Navy Expeditionary Medal; Air Force Good Conduct Medal; Army Good Conduct Medal). Refer to each Military Department's specific award guidance for additional information.	
Note 2: Before DoD established comprehensive CE&S medal policy, the naming conventions for DoD CE&S medals were inconsistent. This resulted in several medals with names that do not match the CE&S medal category to which they are assigned.	

LEOFF Plan 2 Interruptive Military Service Credit Data

Between 2009 and 2019, 534 LEOFF Plan 2 members received no-cost interruptive military service credit. Those members received an average of 9.75 months of service credit.

During that same time period, 24 LEOFF Plan 2 members purchased partially subsidized interruptive military service credit. Those members purchased an average of 8.85 months of service credit. 40 LEOFF Plan 2 members requested a bill from DRS to purchase partially subsidized interruptive military service credit, but elected not to purchase the service credit. Those members would have received an average of 11.68 months of service credit.

COST OF EXPANDING ELIGIBILITY

OSA completed a fiscal note (Appendix A) for HB 1804 (2022) and its companion bill, SB 5726 (2022). For LEOFF Plan 2, OSA's analysis identified a two-basis point increase to the member contribution rate, and a one basis point increase to the employer and state contribution rates. OSA also identified 25-year budget impacts across all the retirement plans as \$20.3 million.

OSA further broke down the budget impacts by retirement plan. For LEOFF Plan 2 the general fund impact for 2022-2023 is \$0.2 million; for 2023-2025 it is \$0.5 million; and the 25 year expect general fund impact is \$4.8 million.

OTHER STATES

LEOFF Plan 2 contacted staff from other state retirement systems for information and data regarding their members' receipt of interruptive military service credit, as well as the requirements for receiving such credit.

Idaho PERS allows their members a maximum of five years of no-cost military service credit, similar to Washington. Wisconsin Retirement Systems allows a maximum of four years of no-cost military service credit, unless the service is involuntary. Minnesota Retirement Systems and Oregon PERS do not offer no-cost interruptive military service credit. Research and communications with staff members from other state retirement systems shows that none of these states require their members to have earned a specific medal, or to have served in a specific conflict to receive no-cost or partially subsidized interruptive military service credit. Among the states that provided information and offer no-cost interruptive military service credit, the requirements for earning no-cost credit are much broader than Washington.

POLICY OPTIONS

Option 1: Expand No-Cost Interruptive Military Service Credit

Expand no-cost interruptive military service credit to include service where a member earns an expeditionary medal.

Option 2: No Action

Continue to limit eligibility for no-cost interruptive military service credit to service where a campaign medal was earned and does not include service where an expeditionary medal was earned.

SUPPORTING INFORMATION

Appendix A: HB 1804 Fiscal Note

Appendix B: HB 1804 Bill

Multiple Agency Fiscal Note Summary

APPENDIX A

Bill Number: 1804 HB	Title: Military service credit
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Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Retirement Systems	.1	0	0	24,228	.0	0	0	0	.0	0	0	0
Actuarial Fiscal Note - State Actuary	.0	200,000	200,000	300,000	.0	600,000	600,000	1,100,000	.0	600,000	600,000	1,000,000
Total \$	0.1	200,000	200,000	324,228	0.0	600,000	600,000	1,100,000	0.0	600,000	600,000	1,000,000

Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Retirement Systems	.0	0	0	.0	0	0	.0	0	0
Actuarial Fiscal Note - State Actuary	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

Prepared by: Marcus Ehrlander, OFM	Phone: (360) 489-4327	Date Published: Final
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Individual State Agency Fiscal Note

Bill Number: 1804 HB	Title: Military service credit	Agency: 124-Department of Retirement Systems
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.3	0.1	0.0	0.0
Account					
Department of Retirement Systems	0	24,228	24,228	0	0
Expense Account-State 600-1					
Total \$	0	24,228	24,228	0	0

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: David Pringle	Phone: 360-786-7310	Date: 01/18/2022
Agency Preparation: Candice Myrum	Phone: 360-664-7124	Date: 01/19/2022
Agency Approval: Tracy Guerin	Phone: 360-664-7312	Date: 01/19/2022
OFM Review: Marcus Ehrlander	Phone: (360) 489-4327	Date: 01/19/2022

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 would amend RCW 41.04.005 to expand the definition of veteran to include those who have received an expeditionary medal, campaign badge or medal in any armed conflict, rather than limiting it to a campaign badge or medal in certain listed conflicts.

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.

Administrative Assumptions:

- The revised definition would apply to all members with eligible military service credit in all systems, including those who have previously applied for and been denied service credit because their service did not meet the current definition.
- DRS should review past military service credit requests to determine if they would be eligible for service credit under the new definition.
- DRS estimates that there are over 900 accounts to review for eligibility.
- Members who purchased partially subsidized service credit and whose service meets the new eligibility requirements would receive a refund of their prior payment.
- Retirees whose service meets the new eligibility requirements would :
 - o Receive a refund of their prior payment made for eligible service credit, and
 - o Have their pension benefit recalculated prospectively only (no retroactive pension benefit payments)

To implement this legislation DRS will:

- Update member guides on the DRS website,
- Update agency reference materials,
- Confirm project scope and tasks for the Retirement Services Division,
- Identify impacted members,
- Research accounts to determine refund eligibility,
- Create refunds for eligible service credit and
- Communicate to affected members by letter.

To support this implementation, DRS will form a project team that will include a communication consultant, retirement specialist and fiscal analyst.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
600-1	Department of Retirement Systems Expense Account	State	0	24,228	24,228	0	0
Total \$			0	24,228	24,228	0	0

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		0.3	0.1		
A-Salaries and Wages		17,476	17,476		
B-Employee Benefits		6,752	6,752		
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	24,228	24,228	0	0

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

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
Communications Consultant 5	84,396		0.1	0.0		
Fiscal Analyst 2	54,108		0.0	0.0		
Retirement Specialist 3	61,224		0.2	0.1		
Total FTEs			0.3	0.1		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact**IV. A - Capital Budget Expenditures**

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1804 HB	Title: Military service credit	Agency: AFN-Actuarial Fiscal Note - State Actuary
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
Account					
All Other Funds-State 000-1	0	100,000	100,000	500,000	400,000
General Fund-State 001-1	0	200,000	200,000	600,000	600,000
Total \$	0	300,000	300,000	1,100,000	1,000,000

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: David Pringle	Phone: 360-786-7310	Date: 01/18/2022
Agency Preparation: Aaron Gutierrez	Phone: 360-786-6152	Date: 01/19/2022
Agency Approval: Kyle Stineman	Phone: 3607866153	Date: 01/19/2022
OFM Review: Marcus Ehrlander	Phone: (360) 489-4327	Date: 01/19/2022

Part II: Narrative Explanation

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

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

II. B - Cash receipts Impact

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

II. C - Expenditures

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

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
000-1	All Other Funds	State	0	100,000	100,000	500,000	400,000
001-1	General Fund	State	0	200,000	200,000	600,000	600,000
Total \$			0	300,000	300,000	1,100,000	1,000,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits		300,000	300,000	1,100,000	1,000,000
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	300,000	300,000	1,100,000	1,000,000

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

SUMMARY OF RESULTS

BRIEF SUMMARY OF BILL: Expands the definition of veteran to include individuals who received an Expeditionary medal (or badge) during any armed conflict.

COST SUMMARY

Impact on Contribution Rates <i>(Effective 09/01/2022)</i>				
FY 2023 State Budget	PERS	PSERS	LEOFF	WSPRS
Employee (Plan 2 or WSPRS)	0.00%	0.00%	0.02%	0.13%
Employer	0.00%	0.00%	0.01%	0.13%
State			0.01%	

Budget Impacts			
<i>(Dollars in Millions)</i>	2022-2023	2023-2025	25-Year
General Fund-State	\$0.2	\$0.6	\$6.3
Local Government	\$0.2	\$1.0	\$10.0
Total Employer	\$0.6	\$2.1	\$20.3

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

HIGHLIGHTS OF ACTUARIAL ANALYSIS

- ❖ We estimate this bill will have a cost to the impacted plans because more members are expected to receive fully subsidized IMSC and consequently larger pension benefits.
 - We expect the impacts of this bill are immaterial to all plans in TRS and SERS, as well as PERS 1 and LEOFF 1.
- ❖ To estimate the cost of this bill, we primarily relied on data from DRS regarding IMSC granted in the past for Campaign medals.
 - Based upon data from the DoD, we assumed IMSC for Expeditionary medals will be granted at a rate approximately 25 percent lower relative to Campaign medals.
- ❖ The actual amount of IMSC granted under this bill is heavily dependent on the levels of troop engagement and medals awarded. This includes both (1) future unknown conflicts, and (2) members who earned an Expeditionary medal in the past but did not purchase partially subsidized IMSC upon return. As a result, the cost of this bill could be significantly higher (or lower) than assumed.
 - This bill is not expected to materially increase the affordability and solvency risks of the plans.

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

WHAT IS THE PROPOSED CHANGE?

Summary of Bill

This bill impacts the following systems:

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

This bill expands the definition of veteran in subsection (2)(g) of the [Revised Code of Washington \(RCW\) 41.04.005](#) to include any participant who was awarded the respective Expeditionary medal (or badge). This change expands the eligibility criteria for certain retirement system benefits (e.g., Interruptive Military Service Credit [IMSC]).

Based on their administrative interpretation of the bill, the Department of Retirement Systems (DRS) has determined this bill would apply as follows:

- ❖ Members who purchased partially subsidized service credit and whose service meets the new eligibility requirements would receive a refund of their member contributions for any prior payment.
- ❖ Increase in Pension Benefit Prospectively:
 - Fully subsidized IMSC will be provided to eligible members who were awarded an Expeditionary medal (or badge); however, did not purchase partially subsidized military service upon returning to their DRS-covered position.
 - Fully subsidized IMSC will be provided to eligible members awarded Expeditionary medals (or badges) in the future.

Assumed Effective Date: 90 days after session.

In this summary, we only include changes pertinent to our actuarial fiscal note. See the legislative bill report for a complete summary of the bill.

What Is the Current Situation?

The definition of "veteran" in RCW 41.04.005 is used to determine eligibility for pension benefits related to military service credit for all plans. This definition is also used for other purposes, but only the impacts to pension benefits are covered in this fiscal note.

To qualify as a veteran under this statute, a member must have either:

- ❖ Served during one of the wars listed (e.g., World War II); or
- ❖ Been awarded the respective Campaign medal (or badge) for any armed conflicts (e.g., the invasions of Grenada or Panama, etc.)

Campaign and Expeditionary medals recognize service members for participation in military campaigns and expeditions, and significant military operations. Eligibility and criteria are based on a service member's degree of personal risk and hardship, participation in designated military operations, and the extent of service during specified time periods.

- ❖ Campaign medals are associated with the highest level of personal risk and hardship. These medals recognize deployed participation in large-scale or long-duration combat operations and are awarded to service members who are deployed to the geographic areas where combat is occurring.
- ❖ Expeditionary medals are associated with high levels of personal risk and hardship. These medals recognize deployed participation in small scale and/or short duration combat operations or military operations where there is an imminent threat of hostilities. These medals are also awarded to members deployed in support of combat operations, but who are not in the geographic area where combat is occurring.

Interruptive Military Service Credit

Members of PERS, TRS, SERS, PSERS, LEOFF, and WSPRS qualify for IMSC when they take a leave of absence from their DRS-covered position to serve in the United States military and return to work within 90 days of honorable discharge.

Members can receive up to ten years of IMSC of which:

- ❖ Up to five years at no cost to the member (i.e., fully subsidized) if the member's service took place during a period of war or an armed conflict during which a Campaign medal (or badge) was earned.
- ❖ Up to five years can be purchased by the member (i.e., partially subsidized) if their military service did not take place during a period of war. In this scenario, the member pays the member contribution cost for those years.

Additionally, in the event a member dies while honorably serving in the national guard or military reserves during a period of war, the member's beneficiary or estate is entitled to the following:

- ❖ For PERS, TRS, SERS, or PSERS: Retirement allowance is not subject to actuarial reduction.
- ❖ For LEOFF or WSPRS: Duty-related death benefits provided in the respective plan.

Non-Interruptive Military Service Credit

PERS 1 and WSPRS 1 also have provisions for non-interruptive military service credit. After completing 25 Years Of Service (YOS) credit in these plans, members with service in the armed forces (as defined in RCW 41.04.005) may be credited up to five years of military service whether or not they left the employment of a participating employer to serve.

Who Is Impacted and How?

This bill could affect all current and future members of the impacted plans through improved benefits by changing the definition of veteran for fully subsidized IMSC. In other words, the definition of veteran is expanded to cover all members who were awarded an Expeditionary medal.

The benefits of eligible members can be improved in two ways:

1. **Increase in Pension Benefit:** This bill will increase the pension benefits by providing additional service credit to members who were awarded an Expeditionary medal in the past or are awarded this medal in the future.

For example, a Plan 2 member who retires with an average final salary of \$100,000 and 25 YOS under current law will receive an initial annual benefit of \$50,000 per year at retirement. If the same member had six months of fully subsidized IMSC, then their annual benefit would be 2.0 percent larger (i.e., \$51,000).

Members who were awarded an Expeditionary medal and purchased IMSC will not see a pension benefit increase; see bullet 2 below for how they'll be impacted.

2. **Return of Contributions:** Impacted members who already purchased IMSC will have their past payment(s) reimbursed by DRS.

This bill impacts all employers and Plan 2 members through increased contribution rates. With the exception of WSPRS members¹, this bill will not affect member contribution rates in Plan 1 since they are fixed in statute. Additionally, this bill will not affect member contribution rates in Plans 3 since they do not contribute to their employer-provided defined benefit.

There could be a limited number of impacted members currently in PERS 1, TRS 1, and LEOFF 1 that may receive increased benefits. Any increase in costs to these plans would be funded according to the plan's funding policy.

¹WSPRS 1 members have the same contribution rate as Plan 2 members.

WHY THIS BILL HAS A COST AND WHO PAYS FOR IT

Why This Bill Has a Cost

This bill allows members to receive fully subsidized IMSC for military service not covered under current law. As a result, an eligible member who applies for, and receives, IMSC will have a larger benefit upon retirement.

In addition, eligible members who already purchased IMSC will have their past payment(s) reimbursed by DRS. Any reimbursement of past payments would decrease assets of the plan which ultimately results in a cost.

Who Will Pay for These Costs?

PERS, TRS, SERS Plans 2/3 and PSERS Plan 2

Where applicable, the costs that result from this bill will be divided between members and employers according to standard funding methods that vary by plan:

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

LEOFF 2

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

WSPRS Plans 1/2

This bill constitutes a benefit improvement. As a result, any unfunded costs that arise from this bill will be divided according to the standard funding method of 50 percent member and 50 percent employer. The statutory maximum member contribution rate will correspondingly increase as well. The current maximum member rate is 8.61 percent. A supplemental rate, due to this bill, would increase the maximum by 0.13 percent.

Plan 1 (PERS, TRS, LEOFF)

PERS, SERS, and PSERS employers will realize any impacts on the PERS 1 Unfunded Actuarial Accrued Liability (UAAL) payments, whereas TRS employers will realize any impacts on the TRS 1 UAAL payments. We expect no impact to contribution rates in LEOFF 1 given the small number of active members and the current funded status in LEOFF 1.

HOW WE VALUED THESE COSTS

We modeled the current law cost of the retirement systems using our most recent actuarial valuation report ([June 30, 2020, Actuarial Valuation Report](#)) and assumptions and methods found on our [Projections](#) webpage. We also reflected the [economic assumptions](#) adopted by the Pension Funding Council (and the LEOFF 2 Board) during the 2021 Interim. This set of assumptions, methods, and data form our new “base model”.

To analyze the impact of this bill, we then adjusted the following assumptions and methods used in the base model.

Special Data Needed

We relied on data from DRS and the Department of Defense (DoD) to help inform the assumptions we selected. The DRS data was used to identify the number of Washington State retirement system members that are annually awarded fully subsidized IMSC for Campaign medals. While the DoD data was used to compare the number of Expeditionary medals awarded relative to Campaign medals at the national level.

We reviewed this historical data and found it reasonable for the purposes of this bill, but we did not audit the data. We assumed the data was accurate and complete. Please see **Appendix A** for more details.

Assumptions We Made

Separate assumptions were made to value the service credit expected to be earned in the future as well as service credit earned in the past. These two sets of costs (for future and historical service credit) were combined to form the overall expected cost of this bill.

Assumptions for Future Service Credit

We set a “load” to value our expectations for IMSC, via Expeditionary medals, to be earned in the future. The load represents a percentage increase that is intended to capture the impact of granting fully subsidized IMSC that is not captured under current law. In order to model the increase in expected costs from this bill, we applied a load to the active retirement benefits within our valuation software; we think this is appropriate given that approximately 90 percent of our active member plan obligations are attributable to retirement.

To begin setting this load for future service credit, we reviewed the data provided by DRS on historical fully subsidized IMSC granted to eligible members who earned a Campaign medal over a ten-year period (2010-2019). We believe it's reasonable to expect these average levels of IMSC granted in the past to continue in the future. For this reason, we relied on this experience to help develop our load assumption for Expeditionary Medals.

The following bullet points outline the calculation of our method for developing a best estimate load, followed by a table with by-plan data and the results of those calculations.

1. Annual Percent of Population Receiving Fully Subsidized IMSC (a / b).
 - a. Average Number of Members who Received IMSC Annually.
 - b. Average Number of Active Members in the Plan.
2. Adjustment for Estimated Average Future Years of Service.
3. Percent of Current Actives Expected to Receive IMSC over the Career (Step 1 x Step 2).
4. Average IMSC Granted Per Eligible Member.
5. Average Expected YOS at Retirement.
6. Preliminary Assumed Load (Step 3 x Step 4 / Step 5).
7. Adjustment for Expected Frequency of Expeditionary vs. Campaign medals.
8. Final Assumed Load (Step 6 x Step 7).

Calculation of Best Estimate Load: Future IMSC (<i>Expeditionary Medals</i>)					
Observed DRS Data from 2010-2019	PERS 2/3	PSERS	LEOFF 2	WSPRS 1	WSPRS 2
1) Annual Percent of Population Impacted (a / b)	0.0%	0.0%	0.2%	0.9%	0.2%
a. Average Impacted Member Count*	34	2	32	6	1
b. Average Count of Actives	150,743	5,243	17,235	591	453
2) Adjustment for Estimated Future Service (In Years)**	5	8	8	2	13
3) Percent Expected to Receive IMSC (1 x 2)	0.1%	0.3%	1.5%	1.9%	2.3%
4) Average IMSC Granted	1.0	0.6	0.8	0.8	0.8
5) Average Expected YOS at Retirement	23	19	28	28	25
6) Preliminary Assumed Load (3 x 4 / 5)	0.0050%	0.0103%	0.0427%	0.0513%	0.0792%
7) Adjustment for Expected Frequency***	-25%	-25%	-25%	-25%	-25%
8) Final Assumed Load (6 x 7)	0.0038%	0.0077%	0.0320%	0.0385%	0.0594%

*DRS members given fully subsidized IMSC for Campaign medals.

**See Adjustment for Estimated Future Service, below, for details.

***See Adjustment for Expected Frequency, below, for details.

Two adjustments were made to the load assumption:

1. **Adjustment for Estimated Future Service:** The Annual Percent of Population Impacted only captures the number of members expected to be awarded IMSC, via Campaign medals, in the next year. Given this, an adjustment was made reflecting the average number of years we expect the current active population to continue earning IMSC in the future, but limited to age 50.
 - a. For this analysis, we selected age 50 as the cut off because as members approach retirement, we think it's unlikely that they will interrupt their careers to temporarily join the military. Given that the youngest retirement-eligible age is 50 for LEOFF 2, we decided that could be an appropriate upper end for all systems when estimating the average number of future years the current active

population would continue to accrue IMSC. This assumption is supported by the following linked study by the [PEW Research Center](#) which indicates that only about one-in-ten active military are older than age 40.

2. **Adjustment for Expected Frequency:** We expect Expeditionary medals will be awarded at a pace approximately 25 percent lower than Campaign medals. This downward adjustment was set based on DoD data summarized in **Appendix A** which shows an Expeditionary to Campaign medal ratio of 0.75 over approximately the last 20 years.

Assumptions for Historical Service Credit

Members who were awarded an Expeditionary medal in the past are also impacted under this bill. These members will receive either a return of contributions by virtue of paying for partially subsidized IMSC or an increase in future pension benefits. The assumptions within this section focus on the costs of the population who will have an increase in future pension benefits (since so few partially subsidized members exist within the DRS data). These members were previously eligible to purchase IMSC; however, they may have elected to not do so and consequently we do not have any data on them.

We used the following methods to estimate their cost under this bill:

- ❖ We began by estimating the value of the fully subsidized IMSC for Campaign medals over this period.
 - We calculated a liability per YOS by taking the total active Present Value of Future Benefits (PVFB) for each plan and dividing by the expected YOS at retirement for future retirees (i.e., the same as number 5 in the Calculation of Best Estimate Load table above). This amount was then multiplied by the fully subsidized IMSC granted for the observed time period of 2010 through 2019. Our understanding is that Expeditionary medals have primarily been granted since 2001, so we doubled this cost for most systems (except PSERS, given its plan maturity).
- ❖ Similar to the **Assumptions for Future Service Credit** section, we relied on data for Campaign medals but applied a 25 percent downward adjustment to reflect Expeditionary medals being awarded at a slower rate.
- ❖ Based on this methodology, we estimate the following fully accrued costs are attributable to historical IMSC for Expeditionary medals.

Cost Attributable to Historical Service			
Dollars in Millions			
PERS 2/3	PSERS	LEOFF 2	WSPRS
\$5.1	\$0.1	\$8.7	\$2.5

While this estimate for historical service costs is being applied based upon the average active member, we recognize that some recipients may already be retired.

That said, they won't receive retroactive payments back to the date of their retirement, so we believe this approach is reasonable.

Other Assumptions

Our analysis does not include any contributions for fully subsidized IMSC that would be made by impacted employers. These payments would reduce the overall cost to the system (at the expense of the contributing employer), but we do not believe it is material to the overall budget impact of this bill.

We anticipate the impact to duty-related death benefits under this bill is not material to this pricing exercise, and as a result we have not captured any associated cost in this fiscal note. Similarly, we do not expect refund of past payments for eligible members who purchased partially subsidized IMSC will materially impact this fiscal note.

We assume the impact to all plans in TRS and SERS, as well as PERS 1 and LEOFF 1, are immaterial under this bill. Few members of these plans, relative to active membership, have qualified for IMSC in the past, so we assume that will continue under this bill.

How We Applied These Assumptions

The fiscal impact of this bill represents the change in projected contributions. To estimate the fiscal impact of this bill, we compared projected pension contributions under current law to the projected contributions we expect under this bill. The projected pension contributions reflect contributions from the current members as well as future hires. For more detail, please see **Appendix B**.

ACTUARIAL RESULTS

This bill is not expected to materially impact the actuarial funding of all plans in TRS and SERS, PERS 1, and LEOFF 1. We show the impacts to the remaining plans below.

How the Liabilities Changed

This bill will impact the actuarial funding of the affected plans by increasing the PVFB. The impact of the increasing liabilities payable for current members is shown in the following table.

Impact on Pension Liability (As of 6/30/2019)			
(Dollars in Millions)	Current*	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to All Current Members)			
PERS 2/3	\$55,767	\$6.2	\$55,773
PSERS 2	1,569	0.2	1,569
LEOFF 2	17,111	12.2	17,123
WSPRS 1/2	\$1,698	\$2.8	\$1,701
Unfunded Entry Age Accrued Liability (The Value of the Total Commitment to All Current Members Attributable to Past Service that is Not Covered by Current Assets)			
PERS 2/3	\$4,738	\$6.0	\$4,744
PSERS 2	59	0.1	59
LEOFF 2	(659)	11.0	(649)
WSPRS 1/2	\$154	\$2.7	\$156

Note: Totals may not agree due to rounding.

*Current liabilities measured as of June 30, 2019, and reflect updated economic assumptions adopted by the Pension Funding Council and LEOFF 2 Board.

How the Assets Changed

This bill would result in a change in assets, but the impact was not captured in this analysis. Assets will decrease as a result of any refunds of past payments for partially subsidized IMSC; at the same time, the assets will increase due to employer payments for future fully subsidized IMSC. Please see the **Other Assumptions** section above for details.

How the Present Value of Future Salaries (PVFS) Changed

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

How Contribution Rates Changed

During Fiscal Year 2023, a supplemental contribution rate is collected for LEOFF 2 and WSPRS 1/2 to fund the cost of this bill. Additionally, this bill is a benefit improvement so an increase in WSPRS member maximum contribution rate would also occur.

The increase in the required actuarial contribution rate does not round up to the minimum supplemental contribution rate of 0.01 percent for PERS 2/3 and PSERS 2. Therefore, this bill will not affect contribution rates in the current biennium for these plans.

We will use the unrounded rate increase shown in the following table to measure the budget changes in future biennia for all impacted plans.

Impact on Contribution Rates				
System/Plan	PERS	PSERS	LEOFF	WSPRS
Current Members				
Employee (Plan 2 or WSPRS)	0.0036%	0.0017%	0.0248%	0.1284%
Employer	0.0036%	0.0017%	0.0149%	0.1284%
State			0.0149%	
New Entrants*				
Employee (Plan 2 or WSPRS)	0.0002%	0.0005%	0.0025%	0.0060%
Employer	0.0002%	0.0005%	0.0015%	0.0060%
State			0.0010%	

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

How This Impacts Budgets and Employees

Budget Impacts					
(Dollars in Millions)	PERS	PSERS	LEOFF	WSPRS	Total
2022-2023					
General Fund	\$0.0	\$0.0	\$0.2	\$0.0	\$0.2
Non-General Fund	0.0	0.0	0.0	0.1	0.1
Total State	\$0.0	\$0.0	\$0.2	\$0.1	\$0.3
Local Government	0.0	0.0	0.2	0.0	0.2
Total Employer	\$0.0	\$0.0	\$0.4	\$0.1	\$0.6
Total Employee	\$0.0	\$0.0	\$0.4	\$0.1	\$0.6
2023-2025					
General Fund	\$0.1	\$0.0	\$0.5	\$0.0	\$0.6
Non-General Fund	0.2	0.0	0.0	0.3	0.5
Total State	\$0.4	\$0.0	\$0.5	\$0.3	\$1.1
Local Government	0.4	0.0	0.7	0.0	1.0
Total Employer	\$0.7	\$0.0	\$1.1	\$0.3	\$2.1
Total Employee	\$0.5	\$0.0	\$1.1	\$0.3	\$2.0
2022-2047					
General Fund	\$1.1	\$0.1	\$4.8	\$0.2	\$6.3
Non-General Fund	1.7	0.0	0.0	2.3	4.0
Total State	\$2.9	\$0.2	\$4.8	\$2.5	\$10.3
Local Government	2.9	0.1	7.1	0.0	10.0
Total Employer	\$5.7	\$0.3	\$11.8	\$2.5	\$20.3
Total Employee	\$4.3	\$0.3	\$11.8	\$2.5	\$18.9

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

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

Comments on Risk

Our office performs annual risk assessments to help us demonstrate and assess the effect of unexpected experience on pension plans. The risk assessment allows us to measure how affordability and funded status can change if investment experience, expected state revenue growth, and inflation do not match our long-

term assumptions. Our annual risk assessment also considers past practices, for funding and benefit enhancements, and their impact on pension plan risk if those practices continue.

The following table displays our latest risk measurements as of June 30, 2020. The figures in this table were not reproduced for this bill. For more information, please see our [Risk Assessment](#), [Commentary on Risk](#), and [Glossary](#) webpages. Additional information on the assumptions used to produce the risk measures can be found in the [Risk Assessment Assumptions Study](#).

Select Measures of Pension Risk as of June 30, 2020		
	FY 2021-39	FY 2040-69
Affordability Measures		
Chance of Pensions Double their Current Share of GF-S*	<1%	1%
Chance of Pensions Half their Current Share of GF-S*	65%	52%
Solvency Measures		
Chance of PERS 1, TRS 1 in Pay-Go**	1%	7%
Chance of Open Plan in Pay-Go**	<1%	1%
Chance of PERS 1, TRS 1 Total Funded Status Below 60%	7%	7%
Chance of Open Plans Total Funded Status Below 60%	17%	27%

*Pensions approximately 5.9% of current GF-S budget; does not include higher education.

**When today's value of annual pay-go cost exceeds \$50 million.

We would not expect a significant increase to current total plan membership service and consequently the overall risk measures as a result of this bill. However, an unexpected and significant number of members could earn fully subsidized IMSC if (1) a large-scale and lengthy future conflict were to occur, or (2) if more members earned Expeditionary medals in the past than anticipated.

HOW THE RESULTS CHANGE WHEN THE ASSUMPTIONS CHANGE

The best estimate results can vary under a different set of assumptions. The actual amount of fully subsidized IMSC added as a result of this bill could be higher (or lower) than we assume. In this section, we summarize some of the reasons why the costs could be more (or less) than what is presented in this fiscal note.

- ❖ **Future Service:** The actual amount of fully subsidized IMSC granted in the future is heavily dependent on the levels of troop engagement in, and medals awarded for, unknown conflicts down the road. In general, we assumed future annual IMSC will be granted at a frequency similar to what was observed in the DRS data between 2010 and 2019. Actual levels of service granted for future IMSC through Expeditionary medals may be higher (or lower) than our best estimate assumptions and will increase (or decrease) the cost of this bill.

For context, we estimate future service is approximately one-third of the cost of this bill.

- ❖ **Historical Service:** We did not have data on members who earned an Expeditionary medal but elected to not purchase partially subsidized IMSC between 2001 and 2019. For this reason, we relied on experience for Campaign medals to help inform our assumptions. Actual levels of service granted for past IMSC through Expeditionary medals may be higher (or lower) than our best estimate assumptions and will increase (or decrease) the cost of this bill.

For context, we estimate historical service is approximately two-thirds of the cost of this bill.

- ❖ **Ratio of Expeditionary to Campaign Medals:** We relied on Campaign medal data to help set our assumptions since we expect Expeditionary medals will occur at similar, but 25 percent lower, frequency. This expectation is based on total DoD data over the period from 2001 through 2019. We feel this approach is reasonable but will note that this relationship displayed some volatility over the observed time period. For example, 2006-2014 data displayed four Expeditionary medals for every ten Campaign medals; however, 2015-2019 data displayed fourteen Expeditionary medals for every ten Campaign medals. More (or less) Expeditionary medals relative to Campaign medals would increase (or decrease) the cost of this bill.

ACTUARY'S CERTIFICATION

The undersigned certifies that:

1. The actuarial assumptions, methods, and data used are reasonable for the purposes of this pricing exercise. The use of another set of assumptions, methods, and data may also be reasonable and might produce different results.
2. The risk analysis summarized in this Actuarial Fiscal Note (AFN) involves the interpretation of many factors and the application of professional judgment.
3. We prepared this AFN based on our current understanding of the bill as of the date shown in the footer. If the bill or our understanding of the bill changes, the results of a future AFN based on those changes may vary from this AFN. Additionally, the results of this AFN may change after our next annual update of the underlying actuarial measurements.
4. We prepared this AFN and provided opinions in accordance with Washington State law and accepted actuarial standards of practice as of the date shown in the footer of this AFN.

We prepared this AFN to support legislative deliberations during the 2022 Legislative Session. This AFN may not be appropriate for other purposes.

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

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

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



Kyle Stineman, ASA, MAAA
Actuary

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APPENDIX A – SPECIAL DATA NEEDED

Data from DRS and DoD was used to help inform the assumptions we selected for this pricing exercise. We summarized the information we relied on within this section.

Data from DRS

We reviewed recent historical data from DRS on fully subsidized IMSC granted for Campaign medals. The following table provides an annual summary of the data provided by DRS, as well as the average over the 2010-2019 time period.

IMSC Granted for Campaign Medals											
PERS 2/3	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Avg
Count	37	37	23	74	49	46	20	25	19	14	34
Avg Service	1.0	1.0	1.2	1.0	1.1	0.7	0.9	0.9	1.2	0.9	1.0
PSERS	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Avg
Count	1	2	1	8	0	0	4	2	0	3	2
Avg Service	0.8	0.6	1.5	0.5	N/A	N/A	0.3	0.9	N/A	0.9	0.6
LEOFF 2	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Avg
Count	51	54	22	36	42	47	28	19	7	14	32
Avg Service	0.9	0.7	1.0	0.8	0.8	0.8	0.7	0.8	0.9	0.8	0.8
WSPRS 1	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Avg
Count	5	4	4	10	9	4	4	3	4	9	6
Avg Service	0.7	0.7	0.8	1.0	0.7	0.5	1.1	1.0	0.5	0.6	0.8
WSPRS 2	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Avg
Count	1	3	0	0	2	0	1	0	0	1	1
Avg Service	0.1	0.4	N/A	N/A	1.1	N/A	1.0	N/A	N/A	1.7	0.8

We reviewed the data for TRS and SERS Plans 2/3 but did not include it in the above table. On average, three members (or less) received IMSC annually, which is less than 0.005 percent of their respective active populations.

Data for PERS 1, TRS 1, and LEOFF 1 was also excluded from the above table. These plans closed to new hires in 1977, so the remaining active members would have a least 24 YOS by 2001. Given the accrued service of these plan members, we do not expect a significant number of members would temporarily leave their careers beyond 2001 and earn IMSC since they are at, or near, eligibility for retirement.

This data was received from DRS on July 14, 2020, and was initially used for the 2020 Interim [IMSC Study](#) that was submitted to the Select Committee on Pension Policy as part of [Substitute House Bill 2544](#). We believe this data remains reasonable for purposes of pricing this bill. If this bill becomes a law, then we may request new data to set assumptions for our actuarial valuation.

Data from DoD

The DoD data in the following table was used to compare the number of Expeditionary medals awarded relative to Campaign medals at the national level. This information was received late 2020 and compiled as part of the *IMSC Study*.

Actuary's Fiscal Note for HB 1804/SB 5726

Department of Defense			
	Expeditionary Medals	Campaign Medals	Ratio
2001	4,275	1,276	3.35
2002	3,386	1,306	2.59
2003	7,187	4,463	1.61
2004	19,683	7,001	2.81
2005	31,256	15,652	2.00
2006	9,328	17,255	0.54
2007	7,285	17,002	0.43
2008	8,145	42,847	0.19
2009	9,390	36,791	0.26
2010	10,580	46,362	0.23
2011	16,091	46,305	0.35
2012	16,746	43,674	0.38
2013	19,635	40,020	0.49
2014	21,745	31,825	0.68
2015	36,737	24,108	1.52
2016	27,801	24,704	1.13
2017	48,596	22,478	2.16
2018	31,886	27,797	1.15
2019	23,899	18,793	1.27
Total	353,651	469,659	0.75

APPENDIX B – HOW WE APPLIED THESE ASSUMPTIONS

We estimated the fiscal impact of this bill by comparing projected pension contributions under this bill to contributions under current law. The projected pension contributions reflect contributions from the current members as well as future hires.

To determine the projected contributions under current law, we relied on our base model described in the **How We Valued These Costs** section. For current members, contribution rates from the base model are multiplied by future payroll. For future hires, contribution rates under the Entry Age Normal Cost method are multiplied by future new entrant payroll.

To determine the projected costs under this bill, we modified the base model described above to reflect the provisions of the bill and the assumptions noted in the body of this fiscal note. We then multiplied the respective new contribution rates reflecting these changes by future payroll.

HOUSE BILL 1804

State of Washington

67th Legislature

2022 Regular Session

By Representatives Paul, Griffey, Leavitt, Bronoske, Gilday, Bergquist, Graham, and Young; by request of Select Committee on Pension Policy and LEOFF Plan 2 Retirement Board

Prefiled 01/06/22. Read first time 01/10/22. Referred to Committee on Appropriations.

1 AN ACT Relating to interruptive military service credit for
2 members of the state retirement systems; and amending RCW 41.04.005.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 41.04.005 and 2020 c 178 s 1 are each amended to
5 read as follows:

6 (1) As used in this section and RCW 41.16.220, 41.20.050, and
7 41.40.170 "veteran" includes every person, who at the time he or she
8 seeks the benefits of this section and RCW 41.16.220, 41.20.050, or
9 41.40.170 has received an honorable discharge, is actively serving
10 honorably, or received a discharge for physical reasons with an
11 honorable record and who meets at least one of the following
12 criteria:

13 (a) The person has served between World War I and World War II or
14 during any period of war, as defined in subsection (2) of this
15 section, as either:

16 (i) A member in any branch of the armed forces of the United
17 States;

18 (ii) A member of the women's air forces service pilots;

19 (iii) A U.S. documented merchant mariner with service aboard an
20 oceangoing vessel operated by the war shipping administration, the

1 office of defense transportation, or their agents, from December 7,
2 1941, through December 31, 1946; or

3 (iv) A civil service crewmember with service aboard a U.S. army
4 transport service or U.S. naval transportation service vessel in
5 oceangoing service from December 7, 1941, through December 31, 1946;
6 or

7 (b) The person has received the armed forces expeditionary medal,
8 or marine corps and navy expeditionary medal, for opposed action on
9 foreign soil, for service:

10 (i) In any branch of the armed forces of the United States; or

11 (ii) As a member of the women's air forces service pilots.

12 (2) A "period of war" includes:

13 (a) World War I;

14 (b) World War II;

15 (c) The Korean conflict;

16 (d) The Vietnam era, which means:

17 (i) The period beginning on February 28, 1961, and ending on May
18 7, 1975, in the case of a veteran who served in the Republic of
19 Vietnam during that period;

20 (ii) The period beginning August 5, 1964, and ending on May 7,
21 1975;

22 (e) The Persian Gulf War, which was the period beginning August
23 2, 1990, and ending on February 28, 1991, or ending on November 30,
24 1995, if the participant was awarded a campaign badge or medal for
25 such period;

26 (f) The period beginning on the date of any future declaration of
27 war by the congress and ending on the date prescribed by presidential
28 proclamation or concurrent resolution of the congress; and

29 (g) Any armed conflicts, if the participant was awarded the
30 respective campaign or expeditionary badge or medal, or if the
31 service was such that a campaign or expeditionary badge or medal
32 would have been awarded, except that the member already received a
33 campaign or expeditionary badge or medal for a prior deployment
34 during that same conflict.

--- END ---



Interruptive Military Service Credit

Comprehensive Report
May 18, 2022

Issue

- **Should eligibility for no-cost interruptive military service credit be expanded from those who earned campaign medals to also include those who earned expeditionary medals?**

LEOFF 2 Board 2021 Recommendation

- In 2021 the Board endorsed legislation to expand no-cost interruptive military service credit to include service where a member earns an expeditionary medal
 - SCPP also endorsed the legislation
- This legislation failed to pass the legislature during the 2022 legislative session

Background

- A member qualifies for this benefit when they take a leave of absence from a DRS covered position to serve in the United States military and the member returns to their employer after their military service is complete
- Two types:
 - Fully subsidized (no-cost interruptive military service credit)
 - Partially subsidized (reduced-cost interruptive military service credit)

Eligibility

- To receive no-cost service credit, a DRS member must meet the definition of “veteran” under RCW 41.04.005 meaning the member:
 - Served during World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and any future period of war declared by Congress, or
 - Earned a campaign badge or medal

Department of Defense Categories of Medals

- **Campaign Medal**
 - Recognize the highest level of personal risk and hardship for members who are deployed to the geographic areas where the combat is actually occurring
- **Expeditionary Medal**
 - Recognize high levels of personal risk and hardship for members deployed in support of combat operations, but who are not in the geographic area where the actual combat is occurring

Example 1 – Active members

- An active LEOFF 2 member takes leave from their LEOFF position for military service, earns an expeditionary medal for their military service, and returns to their LEOFF position
- Under this proposal this member would earn no-cost interruptive military service credit, up to 5 years, for their military service
- Active members who have already purchased subsidized interruptive military service credit for service where they earned an expeditionary medal would receive a refund

Example 2 – Retiree purchased service credit

- A retired law enforcement officer earned an expeditionary medal during interruptive military service from their DRS covered position. When retiring they choose to purchase partially subsidized service credit for this interruptive service
- Under the proposal, this retiree would receive a refund from DRS for the payment they made to purchase the partially subsidized service credit and they would continue to receive the same monthly pension payment

Example 3 – Retiree did not purchase service credit

- A retired fire fighter earned an expeditionary medal during interruptive military service from their DRS covered position. When retiring they choose not to purchase partially subsidized service credit for this interruptive service
- Under the proposal, this member would have their benefit recalculated prospectively to include the additional no-cost interruptive military service credit they are now eligible for
- This member would not receive a retroactive payment adjusting their benefit from their retirement date

Actuarial Fiscal Note for 2022 Legislation

- 2 basis point increase to the member contribution rate
 - 1 basis point increase to the employer and state contribution rates
- 25-year budget impacts across all the retirement plans \$20.3 million
 - LEOFF Plan 2 the general fund impact for 2022-2023 is \$0.2 million; 2023-2025 it is \$0.5 million; and the 25 year expect general fund impact is \$4.8 million

SCPP Update

- SCPP is scheduled to take action on whether to endorse this legislation again at their May Meeting

Policy Options

- **Option 1: Expand No-Cost Interruptive Military Service Credit**
 - Expand no-cost interruptive military service credit to include service where a member earns an expeditionary medal
- **Option 2: No Action**
 - Continue to limit eligibility for no-cost interruptive military service credit to service where a campaign medal was earned and does not include service where an expeditionary medal was earned



Thank You

Jacob White

Senior Research & Policy Manager

(360) 586-2327

jacob.white@leoff.wa.gov

INITIAL CONSIDERATION

By Jacob White

Senior Research & Policy Manager

360-586-2327

jacob.white@leoff.wa.gov

ISSUE

Members are not able to change their survivor option, beyond 90 days from their first retirement payment, even if a post-retirement recalculation causes a change in their pension.

OVERVIEW

This report will provide information on the irrevocable election of a member's survivor options and why they are typically irrevocable. It will also explain why retirement benefits may be recalculated and the impacts to members of a recalculation of their benefit.

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 survivor benefit election?

In 2020 the Board endorsed SB 6417, which allowed retirees to have a 90-day window after the receipt of their first retirement payment to change their survivor election. This bill was signed into law and has been in effect since June 2020.

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.

DRS prioritizes recalcs that are a result of an audit finding, as those are most likely to have the largest impacts on members. However, DRS does not audit employers on a regular basis. In fact, there are some employers who have never been audited by DRS.

When a recalc occurs and a member's benefit is lowered, the member may also owe DRS an overpayment for the pension benefits they were incorrectly paid. The determination of whether the member or employer must pay the overpayment is governed by RCW 41.50.130 – 139. Typically, employers are only required to pay back the overpayment in the following situations:

- Failure to properly report retiree return to work hours¹; and,
- Erroneously reporting that an employee has separated from service.²

There is a statute of limitations of three years, under RCW 41.50.130. Under this statute of limitations, DRS can only bill the member for three years of overpayments from the discovery of the overpayment. For example, if on January 1, 2022, DRS discovered that a retiree received 10 years of overpayments. These overpayments total \$10,000, \$1,000 a year. DRS cannot collect the full \$10,000. Instead, they may only collect \$3,000, for the last three years of overpayments.

In most instances, the member is responsible for paying back the overpayment. This includes overpayments for an employer misreporting earnable compensation to DRS. The Director of DRS, in certain instances, may waive the collection of an overpayment under RCW 41.50.138. However, this is limited to instances of “manifest injustice”.

DRS has not defined the term “manifest injustice” in WAC or in administrative policy. Generally, “manifest injustice” is used in criminal proceedings and “means something which is 'obviously unfair' or 'shocking to the conscience.' It refers to an unfairness that is direct, obvious, and observable.”³

While, the term is common in criminal law, it is also used in administrative law. For example, the Washington State Department of Social and Health Services (DSHS) uses the “manifest injustice” standard as an element of multi-factor test for waiving collection of certain client overpayments. DSHS has defined the term as:

The overpayment is clearly unfair to the client based on the way that it occurred and repayment would compromise the client's ability to meet basic needs.

Factors which can be used as evidence [...]:

The client cannot repay the overpayment without drawing on funds needed for basic requirements. Document income and expenditures. Verify only questionable amounts.

It is clear that the client acted in good faith by following the rules required to maintain eligibility for public assistance.

- a) The client reported income timely and accurately
- b) The overpayment was solely due to department error; and

¹ RCW 41.50.139

² RCW 41.50.139

³ <https://definitions.uslegal.com/m/manifest-injustice/#:~:text=Manifest%20injustice%20means%20something%20which,direct%2C%20obvious%2C%20and%20observable.>

c) The client has "clean hands". That is, without fault. The client fulfilled all their responsibility to inform the department of changes in their circumstances.⁴

Why is the decision to change a survivor benefit irrevocable beyond 90 days when there has been a recalculation?

The decision to leave a survivor benefit is in part 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.

⁴ <https://www.dshs.wa.gov/book/export/html/21>

Are there Federal Tax Law issues with allowing members to change their survivor option beyond 90 days when a recalculation of their benefit has occurred?

SB 6417 (2020) was amended during session to require a determination from the IRS that the changes to the law conformed with federal law before the bill could take effect. DRS received a determination (See Appendix A) from the IRS that the bill conformed with federal law and has implemented the legislation. The IRS determination was limited to the specific language of SB 6417. Therefore, the Board may want to seek determination from the IRS for an additional opportunity for a member to change their survivor option.

SUPPORTING INFORMATION

Appendix A: IRS Private Letter Ruling re SB 6417(2020)

APPENDIX A

INTERNAL REVENUE SERVICE

**FAX TRANSMISSION
Cover Sheet**Date: August 05, 2021**To: Robert Gauss**Address/Organization: Ice Miller LLPFax Number: 317-592-4668

Office Number: _____

From: Brandon FordAddress/Organization: CC: EE:EB:QP4

Fax Number: _____

Office Number: _____

Number of pages:

12

*Including cover page***Subject:** PLR-102960-21

This communication is intended for the sole use of the individual to whom it is addressed and may contain confidential information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited by the provisions of the Internal Revenue code. If you have received this communication in error, please contact the sender immediately by telephone. Thank you.

Internal Revenue Service**Department of the Treasury**

Washington, DC 20224

Index Number: 401.06-00

Third Party Communication: None
Date of Communication: Not ApplicableWashington Department of Retirement
Systems

ATTN: Johnna Craig

P.O. Box 48380

Olympia, WA 98504-8380

Person To Contact:

Brandon Ford, ID No. 1003343965

Telephone Number:

(202) 317-4671

Refer Reply To:

CC:EEE:EB:QP4

PLR-102960-21

In Re: Washington Department of Retirement
Systems

Date:

August 03, 2021

Legend

State X	=	State of Washington
Plan Administrator Y	=	Washington Department of Retirement Systems
Bill Z	=	Washington Senate Bill 6417

Dear Ms. Craig:

This is in response to your letter dated February 1, 2021, and subsequent correspondence dated June 18, 2021, submitted on your behalf by your authorized representative, in which you request a ruling under § 401(a)(9) of the Internal Revenue Code.

The following facts and representations have been submitted under penalties of perjury in support the of the rulings requested:

Plan Administrator Y administers retirement plans that are sponsored by State X on behalf of employees of State X. This ruling request involves eight defined benefit plans. Distributions under the plans are required to begin no later than the required beginning date (as that term is defined in § 401(a)(9)(C)). The laws of State X require that unless distributed in a lump sum, a participant's entire interest in any of the plans must be distributed over the participant's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the participant or of the participant and a designated beneficiary.

Participants in the plans may select one of the following four survivorship benefits upon their retirement: (1) Joint and 100%, a full survivorship benefit; (2) Joint and 66.67%, a two-thirds survivorship benefit; (3) Joint and 50%, a one-half survivorship benefit; and

PLR-102960-21

2

(4) Single Life, with no survivorship benefit. Currently, a participant's survivorship benefit election is irrevocable.

Plan Administrator Y provides benefit estimates to participants in the plans before their retirement. Estimates may differ from the actual benefits paid to a participant due to the actual retirement date or survivorship option being different from that used to calculate the estimate. In some cases, Plan Administrator Y receives additional salary information after the participant has retired but before the finalization of the benefit amount resulting in a final benefit amount different than the benefit estimate.

When Plan Administrator Y receives additional information about a participant's compensation or service credit, the laws of State X require Plan Administrator Y to recalculate the benefit amount. In most cases, the recalculation is finalized shortly after the participant's retirement.

State X enacted Bill Z in 2020 allowing participants in any of the plans up to 90 calendar days after the receipt of their first monthly retirement allowance to prospectively change their survivorship benefit election. If a participant changes the survivorship election, the change is effective the first day of the following month. The provisions of Bill Z become effective following the receipt of a favorable private letter ruling from the Internal Revenue Service that the limited ability to change a survivorship benefit election during the 90-day window conforms with federal law.

Based on the foregoing facts and representations, you have requested a ruling that the minimum distribution requirements of § 401(a)(9) are not violated due to Bill Z, which allows current and future participants in the eight affected defined benefit plans administered by Plan Administrator Y to change their survivor option election within 90 days after receipt of their first retirement allowance.

Law

Section 414(d) provides that the term "governmental plan" means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Section 401(a)(9)(A) provides, in general, that a trust will not be considered qualified unless the plan provides that the entire interest of each employee (i) will be distributed to such employee not later than the required beginning date, or (ii) will be distributed, beginning not later than the required beginning date, over the life of such employee or over the lives of such employee and a designated beneficiary or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary.

PLR-102960-21

3

Section 1.401(a)(9)-1, Q&A-2(d) of the Income Tax Regulations provides that a governmental plan (within the meaning of section 414(d)) is treated as having complied with § 401(a)(9) for all years to which § 401(a)(9) applies to the plan if the plan complies with a reasonable and good faith interpretation of § 401(a)(9).

Ruling

In the present case, you have represented that the plans established and maintained by State X on behalf of certain employees of State X are governmental plans (as defined in § 414(d)). Accordingly, those plans are treated as having complied with § 401(a)(9) for all years to which § 401(a)(9) applies to the plan if the plan complies with a reasonable, good faith interpretation of § 401(a)(9).

A participant's option to change the survivorship election within the first 90 days of receiving the first benefit payment does not cause the plans to fail to satisfy the underlying requirements of § 401(a)(9)(A). Thus, the plans comply with a reasonable, good faith interpretation of § 401(a)(9)(A). Accordingly, the minimum distribution requirements of § 401(a)(9) are not violated due to Bill Z, which allows current and future participants in the plans administered by Plan Administrator Y to change their survivorship benefit election within 90 days after receipt of their first retirement allowance.

The rulings contained in this letter are based upon information and representations submitted by your personal representative and accompanied by a penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2021-1, 2021-1 I.R.B. 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for rulings, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2021-1, § 11.05.

Except as expressly provided above, no opinion is expressed or implied concerning the federal income tax consequences of any other aspects of any transaction or item of income described in this letter ruling.

This letter is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

PLR-102960-21

4

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Laura B.
Warshawsky

Digitally signed by
Laura B. Warshawsky
Date: 2021.08.04
16:28:34 -04'00'

Laura B. Warshawsky
Branch Chief
Qualified Plans Branch 1
Office of Associate Chief Counsel
(Employee Benefits, Exempt Organizations,
and Employment Taxes)

cc: Robert Gauss, Ice Miller
Audra Ferguson-Allen, Ice Miller
Andrew J. Fedders, EP R&A
Eric San Juan, TEGE

Internal Revenue Service**Department of the Treasury**

Washington, DC 20224

Index Number: 401.06-00

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:EEE:EB:QP4

PLR-102960-21

Date:

August 03, 2021

In Re:

Legend

State X =

Plan Administrator Y =

Bill Z =

Dear :

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Participants in the plans may select one of the following four survivorship benefits upon their retirement: (1) Joint and 100%, a full survivorship benefit; (2) Joint and 66.67%, a two-thirds survivorship benefit; (3) Joint and 50%, a one-half survivorship benefit; and (4) Single Life, with no survivorship benefit. Currently, a participant's survivorship benefit election is irrevocable.

PLR-102960-21

2

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When Plan Administrator Y receives additional information about a participant's compensation or service credit, the laws of State X require Plan Administrator Y to recalculate the benefit amount. In most cases, the recalculation is finalized shortly after the participant's retirement.

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Based on the foregoing facts and representations, you have requested a ruling that the minimum distribution requirements of § 401(a)(9) are not violated due to Bill Z, which allows current and future participants in the eight affected defined benefit plans administered by Plan Administrator Y to change their survivor option election within 90 days after receipt of their first retirement allowance.

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Section 1.401(a)(9)-1, Q&A-2(d) of the Income Tax Regulations provides that a governmental plan (within the meaning of section 414(d)) is treated as having complied

PLR-102960-21

3

with § 401(a)(9) for all years to which § 401(a)(9) applies to the plan if the plan complies with a reasonable and good faith interpretation of § 401(a)(9).

Ruling

In the present case, you have represented that the plans established and maintained by State X on behalf of certain employees of State X are governmental plans (as defined in § 414(d)). Accordingly, those plans are treated as having complied with § 401(a)(9) for all years to which § 401(a)(9) applies to the plan if the plan complies with a reasonable, good faith interpretation of § 401(a)(9).

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Except as expressly provided above, no opinion is expressed or implied concerning the federal income tax consequences of any other aspects of any transaction or item of income described in this letter ruling.

This letter is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

PLR-102960-21

4

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Laura B. Warshawsky
Branch Chief
Qualified Plans Branch 1
Office of Associate Chief Counsel
(Employee Benefits, Exempt Organizations,
and Employment Taxes)

cc:



**Department of the Treasury
Internal Revenue Service**

Mailing Date:

08/05/2021

Last date to request IRS review:

08/25/2021

Last date to request delay:

10/04/2021

Last date to petition Tax Court:

10/04/2021

Date open to public inspection:

10/29/2021

Person to contact:

Chief, Disclosure Support Branch

Contact telephone number:

202-317-6840

Notice of Intention to Disclose

In accordance with Section 6110 of the Internal Revenue Code, we intend to make the enclosed copy of your ruling (with deletions) open to public inspection.

Section 6110 provides that copies of certain rulings, technical advice memoranda, and determination letters will be open to public inspection after deletions are made. These written determinations will be open to public inspection online in the Freedom of Information Act (FOIA) Reading Room at www.irs.gov/privacy-disclosure/foia-library.

We made the deletions indicated in accordance with Section 6110(c), which requires us to delete:

1. The names, addresses, and other identifying details of the person the ruling pertains to, and of any other person identified in the ruling [other than a person making a "third party communication" (see back of this notice)].
2. Information specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified under such Executive Order.
3. Information specifically exempted from disclosure by any statute (other than the Internal Revenue Code) which is applicable to the Internal Revenue Service.
4. Trade secrets and commercial or financial information obtained from a person that are privileged or confidential.
5. Information which would constitute a clearly unwarranted invasion of personal privacy.
6. Information contained in or related to examination, operating, or condition reports prepared by, or for use of, an agency that regulates or supervises financial institutions.
7. Geological and geophysical information and data (including maps) concerning wells.

These are the only grounds for deleting material. We made the indicated proposed deletions after considering any suggestions for deletions you may have made prior to issuance of the ruling.

If you agree with the proposed deletions

You do not need to take any further action. We will place the deleted copy in the online FOIA Reading Room on the "Date open to public inspection" shown on this notice.

If you disagree with the proposed deletions

Please return the copy and show, in brackets, any additional information you believe should be deleted. Include a statement supporting your position. Only material falling within the seven categories listed above may be deleted. Your statement should specify which of these seven categories is applicable with respect to each additional deletion you propose. Mail or fax your deleted copy and statement to:

Internal Revenue Service

Attention: Chief, CC:PA:LPD:DS
Ben Franklin Station
Post Office Box 7604
Washington, DC 20044
Fax: 855-592-8978

It must be faxed or postmarked no later than the "Last date to request IRS review" shown on this notice. We will give your submission careful consideration. If we determine we cannot make any or all of the additional deletions you suggest, we will so advise you not later than 20 days after we receive your submission. You will then have the right to file a petition in the United States Tax Court if you disagree with us. Your petition must be filed no later than the "Last date to petition Tax Court" shown on this notice, which is 60 days after the mailing date of this notice. If a petition is filed in the Tax Court, the disputed portion(s) of the ruling will not be placed in the Reading Room until after a court decision becomes final.

If no petition is filed in the Tax Court, the deleted copy of your ruling will be made open to public inspection on the date shown on this notice. If the transaction to which the ruling relates will not be completed by then, you may request a delay of public inspection.

Request for delay of public inspection

You may request a delay of public inspection of up to 90 days, or 15 days after the transaction is completed, whichever is later. The request for delay must be received by the IRS no later than the "Last date to request delay" shown on this notice, which is 60 days after the mailing date of this notice. Mail or fax your request for delay to:

Internal Revenue Service

Attention: Chief, CC:PA:LPD: DS
Ben Franklin Station
Post Office Box 7604
Washington, DC 20044
Fax: 855-592-8978

You may request a second delay of up to an additional 180 days (or 15 days after the completion of the transaction, whichever is earlier) if the transaction is not completed by the end of the original delay period and if good cause exists for additional delay. We must receive a request for a second delay at the above address at least 30 days before the original delay period ends.

Requests for additional disclosure

After the copy of your ruling, with deletions, is placed in our online FOIA Reading Room, any person may request us to make additional portions of the ruling open to public inspection. If we receive a request that involves disclosure of names, addresses, or taxpayer identifying numbers, we will deny the request and you will not be contacted. If that request involves disclosure of anything other than names, addresses, or taxpayer identifying numbers, we will contact you before taking action.

Third party communication

The enclosed copy of your ruling may contain the notation "Third Party Communication." This indicates that IRS received a communication (written or oral) regarding your ruling request from a person outside the IRS (other than you or your authorized representative). The date of the communication and the category of the person making the contact (such as "Congressional" or "Trade Association") will be indicated.

If you have any questions regarding this notice, please call us at 202-317-6840.



Survivor Option Reelection

Initial Consideration
May 18, 2022

Issue

- Members are not able to change their survivor option, beyond 90 days from their first retirement payment, even if a post-retirement recalculation causes a change in their pension

Post-Retirement Recalculations

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

Overpayment Responsibility

- **Member Responsibility**
 - Typically, for reportable compensation errors
- **Employer Responsibility**
 - Typically, for retirement status and separation from service errors
 - More of an issue with other plans because of their retiree return to work rules
 - Employer must verify retirement status at the time of hire

Statue of limitations

- DRS can only bill the member for 3 years of overpayments from the discovery of the overpayment
 - Example - On January 1, 2022, DRS discovered that a retiree received 10 years of overpayments. These overpayments total \$10,000, \$1,000 a year. DRS cannot collect the full \$10,000. Instead, they may only collect \$3,000, for the last 3 years of overpayments

Repayment Options

- **Lump Sum Payment** – 90 days to make full lump sum payment
- **Installment Plan** – Make installment payments through a reduction in pension for a limited number of months
- **Actuarial Reduction** – Pension is actuarially reduced by an amount equal to the overpayment

Waiver of Overpayments

- DRS Director may waive overpayments, if:
 - The overpayment was not the result of the retiree's or the beneficiary's nondisclosure, fraud, misrepresentation, or other fault; and
 - The Director finds that recovery of the overpayment would be a manifest injustice
- “Manifest injustice” has not been defined by DRS
 - General definition is that it means something which is 'obviously unfair' or 'shocking to the conscience.' It refers to an unfairness that is direct, obvious, and observable

Potential Tax Law Concerns

- IRS approved of 90-day window to change survivor option
- IRS was not asked whether a window beyond the 90-day window would be allowed
- Staff requires Board approval to pay for legal advice from Tax Counsel

Anti-Selection Risk

- 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
- The decision to leave a survivor benefit is in part irrevocable because it helps mitigate the risk of anti-selection
- Anti-selection may impact members through increased contribution rates and/or less favorable administrative factors for survivor options
 - Increase risk of Intergenerational inequity

Possible Board Action

1. Authorize Board staff to seek legal advice from tax counsel regarding retiree's ability to change survivor option when a recalculation of their benefit has occurred
2. No action today

Next Steps

- Comprehensive Report scheduled for April Board Meeting



Thank You

Jacob White

Senior Research and Policy Manager

(360) 586-2327

jacob.white@leoff.wa.gov



DRS Rule-making Update

May 18, 2022

Issue

- **DRS and the LEOFF 2 Board continue to coordinate on rule-making related to LEOFF 2 members and employers**

Background

- Washington Administrative Code (WAC)
- State agencies adopt rules to implement state and federal law, case law, agency practice
- The legal requirements for rule-making are found in the Administrative Procedure Act, chapter 34.05 RCW

Typical Rule-Making Process

1. File preproposal statement of inquiry (CR-101)
2. Draft the rule
3. File notice of proposed rule-making (CR-102)
4. File a rule-making order to adopt the rule (CR-103)

DRS/LEOFF 2 Process

- Identify potential rule-making topics
- Bring potential rule-making topics to monthly meetings
- Determine if rule-making is necessary
 - Collaborative discussions between DRS leadership, DRS subject matter experts, and LEOFF 2 Board staff
- Draft rules sent to LEOFF 2 Board for review and comment

2022 Rules

- LEOFF 2 catastrophic duty disability: To update the process for periodic reviews to assess continued eligibility for catastrophic duty disability benefits
 - Effective April 23, 2022
- LEOFF 2 return from disability: To clarify the process when a LEOFF 2 disability retiree returns to work
 - Effective: February 27, 2022
- Survivor option changes: To implement SB 6417 (2020), allowing members to change their survivor option one time within 90 calendar days following receipt of the first retirement benefit
 - Effective: January 8, 2022

Active Rule-Making

- LEOFF 2 disability survivor option changes: To clarify survivor options when a LEOFF 2 member's disability status changes
 - Hearing: May 10, 2022
- LEOFF 2 career choice: To clarify options for LEOFF 2 retirees returning to work in non-LEOFF membership as part of the career choice law
 - CR-101 filed on May 10, 2022

Rules in Discussion

- Definition of “firefighter”
- Holiday leave cash out
- Non-duty disability insurance



Thank You

Sarah White

Benefits Ombudsman

(564) 201-0498

sarah.white@leoff.wa.gov