

BOARD MEETING MINUTES

NOVEMBER 15, 2023 - FINAL



TRUSTEE AND STAFF ATTENDANCE

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

Call to Order

The LEOFF Plan 2 Retirement Board met in the Washington State Investment Board conference room in Olympia, Washington on November 15, 2023. A quorum of the members was present at this meeting.

Chair Dennis Lawson called the meeting to order at 9:30AM and requested those present to take a moment of silence to honor those who had fallen since the last the Board meeting.

1. Approval of Minutes

The minutes from the September 27th and October 25th meetings are before the Board for consideration.

ACTION | It was moved to approve the Board meeting minutes from the September and October minutes. Motion seconded. The Board approved the minutes without objection.

2. Secure 2.0

Shawn Merchant, Legislative and Community Relations Director for Department of Retirement Systems gave a presentation to the Board on the Secure 2.0 Act of 2022 and how DRS has been implementing it.

3. Department of Retirement Systems Annual Update

Shawn Merchant, Legislative and Community Relations Director for Department of Retirement Systems gave an annual update to the Board.

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4. Lump Sum Death Benefits

Jacob White, Senior Research and Policy Manager gave a comprehensive presentation on Lump Sum Death Benefits. LEOFF Plan 2 beneficiaries have been denied a one-time special death benefit because they missed the Department of Labor and Industries (LNI) deadline for application.

Policy options before the Board are:

1. Shift determination of benefit eligibility from LNI to DRS
 - No statute of limitations
 - Apply retroactively to beneficiaries that have been denied special death benefits for not meeting LNI statute of limitations
2. Remove statute of limitations for special death benefit and keep LNI responsible for determination

Next Steps – Options

1. Motion for final briefing on Policy Option 1
2. Motion for final briefing on Policy Option 2
3. No action

ACTION | It was moved and seconded to adopt option 1 and have staff to give a final briefing on Policy Option 1. Motion passed unanimously.

5. Firefighter Definition

Jacob White, Senior Research and Policy Manager presented a comprehensive report on the definition of Firefighter. Some promotional positions within a fire department may be considered PERS positions by DRS, which may limit the employer’s ability to fill those positions.

Policy options before the Board are:

1. Amend definition of firefighter Amend definition to include personnel serving on a full-time, fully compensated basis as an employee of a fire department in positions that necessitate firefighting experience to perform the essential functions of those positions
2. No action Employers would be able to continue to make promotional positions that require firefighting experience eligible for LEOFF 2 by including in their job duties the requirement that they may respond to fight fires

Next Steps:

1. Motion for a final briefing on policy option 1
2. No action

ACTION | It was moved and seconded to adopt 1. Motion passed unanimously.

6. Disability Conversions

Jacob White, Senior Research and Policy Manager presented a comprehensive report on disability conversions. The criteria for duty disabilities have changed over time so there may be LEOFF 2 members who were approved for non-duty disability with conditions that would qualify as duty related if the injury occurred today.

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Policy options before the Board:

1. Require DRS to review non-duty disability retirements with a disabling condition that was not eligible for duty disability at time of retirement but has since become eligible for duty disability. If the retiree's disabling condition was incurred in the line of duty DRS must convert their retirement to duty disability.
 - a) Retroactive to effective date of disabling condition becoming eligible for duty disability
 - b) Prospective only
2. No action

ACTION | It was moved and seconded to adopt policy option 1a. Motion passed unanimously.

7. Succession Planning Follow-Up

Karen Durant, Senior Research and Policy Manager gave a follow up presentation on succession planning for the agency. At the October board meeting the Board expressed interest in creating an additional Research and Policy position as well as authority for salary setting for staff. Staff will present options to the Board at the December meeting.

8. DRS Appeal Deadlines

Jacob White, Senior Research and Policy Manager presented a comprehensive report to the Board on appeal deadlines at the Department of Retirement Systems. Some LEOFF 2 members have missed their deadline to file an administrative appeal with DRS and expressed concerns regarding a lack of clarity on the deadline.

Policy options before the Board are:

1. Require tolling
 - This option would toll the time to file an appeal when DRS requests the member provide additional information
2. Extend time to file an appeal to 120 days
 - This option would extend the time to match the current DRS petition deadline
3. Both option 1 and 2

Next steps –

1. Motion for final briefing on:
 - Option 1 - Tolling
 - Option 2 – 120 days
 - Option 3 - Both
2. No action

ACTION | It was moved and seconded to adopt option 3. Motion passed unanimously.

9. 2024 Meeting Calendar Adoption

Board meeting dates for 2024 are before the Board for consideration. Alternate dates for the June meeting are before the Board for consideration as a conflict was noted since the last meeting.

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ACTION

It was moved and seconded to change the proposed June date to June 17th. Motion passed unanimously.
It was moved to adopt the calendar as amended. Motion seconded. Motion passed unanimously.

10. Administrative Update

Steve Nelsen, Executive Director gave an administrative update to the Board.

Outreach

- Tim Valencia attended the Washington Fire Commissioners Associations Eye to Eye Expo in October and provided an Outreach table at the event.
- Tammy Sadler and Jessica Burkhart attended the Firefighters Cancer Survivors Network event. Tammy was asked to speak at the event regarding the Ombudsman role

Earlier this interim the Board was looking into the issue of the tax status of catastrophic disability benefits. Information provided to DRS from Ice Miller while DRS was implementing the PSERS catastrophic disability benefit indicated that some of the benefit was taxable in certain circumstances. Staff was asked to consult with Ice Miller to see if this could be resolved without changing/increasing the benefit itself. After consultation the answer was no, there would be no way to affect the tax status of the benefit without having an impact on the benefit itself.

The State Auditor's Office will give a presentation on the agency's financial audit at the December meeting.

11. Public Comment

The LEOFF 2 Board welcomes public comment in advance of all meetings and has posted instructions on its website for the submission of written comments. Public comment from Barry Pomeroy and Roy Orlando were emailed to the Board. Roy Orlando was in attendance.

Adjournment

There being no further business, the meeting was adjourned at 1:13PM.

The next meeting of the LEOFF Plan 2 Retirement Board is scheduled for December 13, 2023, at 9:30 AM at the Washington State Investment Board located at 2100 Evergreen Park Drive SW Olympia, WA 98502.