

# BOARD MEETING MINUTES

DECEMBER 13, 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
Teleconference	Mark Johnston – Vancouver Fire Department
Teleconference	AJ Johnson – Snohomish County Fire District #1
Absent	Senator Jeff Holy – WA State Senator
Teleconference	Tarina Rose-Watson – Spokane Int’l Airport Police Dept
Teleconference	Wolf Opitz – Pierce County
Absent	Pat McElligott – East Pierce County Fire
In Attendance	Representative Steve Bergquist – WA State Representative
Absent	Darell Stidham – Spokane County Sheriff’s Office (Retired)
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
Teleconference	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 December 13, 2023. A quorum of the members was present at this meeting.

Chair Dennis Lawson called the meeting to order at 9:30 a.m. 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 – November 15, 2023

The minutes from the November 15, 2023 meeting were provided to the Board for their consideration.

ACTION

It was moved to approve the Board meeting minutes from November 15, 2023.  
Motion was seconded and passed unanimously.

## 2. Financial Audit Results – State Auditor’s Office (SAO)

Laura Shackley, Assistant State Auditor, Stephanie Garza, Assistant Audit Manager, and Cavan Busch, Audit Program Manager with SAO presented the results of the Fiscal Year 2023 Independent Financial Audit. The reporting concluded that audit costs were in alignment with SAO’s original estimates. Ultimately, the LEOFF Plan 2 Retirement Board’s audit was clean and there were no findings to report.

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## 3. Washington State Investment Board (WSIB) Annual Update

Allyson Tucker, Chief Executive Officer for the WSIB provided an Annual Update to the Board which included insight on the WSIB's mission to be the top funded investment agency.

## 4. Firefighter Definition- Final Proposal

Jacob White, Senior Research and Policy Manager provided a final proposal to the Board regarding the definition of a 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:

#### 1. Motion to endorse legislation

- 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

### ACTION

The Board moved to adopt policy option 1 – endorse legislation to amend firefighter 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. Motion was seconded and passed unanimously.

## 5. Duty Related Death Benefits – Final Proposal

Jacob White, Senior Research and Policy Manager gave a final proposal regarding duty related death benefits. The Department of Labor and Industries (LNI) determines the beneficiary's eligibility for this benefit while the Department of Retirement Systems (DRS) pays the benefit. LEOFF Plan 2 beneficiaries have been denied a one-time special death benefit because they missed the LNI deadline for application.

### Policy Options:

#### 1. Endorse legislation shifting determination of benefit eligibility from LNI to DRS.

- This policy option would align the special death benefit with the rest of the LEOFF 2 pension benefits, which are administered by DRS. This would apply retroactively to beneficiaries who were denied by LNI for timeliness.

#### 2. Endorse legislation removing LNI statute of limitations for the LEOFF 2 death benefits, keep determination of eligibility with LNI.

- This policy option would keep the determination of a death being duty related with LNI; however, it would remove the LNI statute of limitations. This would apply retroactively to beneficiaries who were denied by LNI for timeliness.

#### 3. No action

### ACTION

The Board moved to adopt policy option 2 – endorse legislation removing LNI's statute of limitations for the LEOFF 2 death benefits and keep determination of eligibility with LNI. The motion was seconded and passed unanimously.

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## 6. Overpayment Responsibility – Final Proposal

Jacob White, Senior Research and Policy Manager presented a final proposal to the Board regarding overpayment responsibilities. When employers make an error that causes a retiree to receive an overpayment, the member is responsible for paying back the overpayment they incorrectly received.

### Policy Options:

1. **Motion to endorse legislation making employer responsible and shortening statute of limitations from 3 years to 1 year.**
2. **Motion to endorse legislation to have employer responsible or overpayment, but no changes to statute of limitations.**
3. **No action.**

### ACTION

The Board moved to adopt policy option 1 – endorse legislation making employer responsible and shortening the statute of limitations from 3 years to 1 year. The motion was seconded and passed non-unanimous.

## 7. Disability Conversions – Final Proposal

Jacob White, Senior Research and Policy Manager gave a final proposal 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.

### Policy options:

1. **Motion to endorse legislation.**
  - **DRS required to review non-duty disability retirements with a disabling condition of PTSD 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.**
  - **Retroactive to effective date of disabling condition becoming eligible for duty disability.**
2. **No action.**

### ACTION

The Board moved to adopt policy option 1 – endorse legislation. The motion was seconded and passed unanimously.

## 8. Board Salary Setting Authority – Final Proposal

Karen Durant, Senior Research and Policy Manager gave a final proposal to the Board regarding their recent interest in having salary setting authority within the agency. At the board meeting on November 15, Karen discussed staff salaries and Washington Management Systems (WMS) structure.

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## Policy Options:

1. Stay within current salary structure with changes to process and notification requirements.
  - Board has authority to band positions.
  - Board has authority to grant expectations to band maximums.
2. Board provided full salary setting authority with notification requirements to Office of Financial Management (OFM) and Legislature.
3. No action.

## ACTION

The Board adopted policy option 2 – Board provided full salary setting authority with notification requirements to Office of Financial Management (OFM) and the Legislature. The motion was seconded and passed unanimously.

## 9. Non-Duty Disability Leave – Comprehensive Report

Jacob White, Senior Research and Policy Manager gave a comprehensive report to the Board regarding non-duty disability leave. There were concerns raised that the Department of Retirement Systems (DRS) was not always treating temporary non-duty and temporary duty disability leave responsibility for purposes of basic salary in situations where members utilized leave “buy-back.” Research confirmed DRS is treating members’ basic salary the same in both situations. The service credit and basic salary for the leave that has been “bought back” is not reportable compensation in either situation.

## Policy Options:

1. Motion to consider Comprehensive Report as the Final Proposal and endorse legislation.
  - Amend authorized leave of absence law to allow members retiring after being out on temporary non-duty disability to be eligible to purchase servicer credit.
2. Motion to study further next interim.
3. No action.

## ACTION

It was moved to approve policy option 2 – study issue further next interim. The motion was seconded and passed unanimously.

## 10. Month of Death – Final Proposal

Jacob White, Senior Research and Policy Manager gave a final proposal to the Board on month of death. In the month a retiree or survivor passes away, the last month benefit payment is prorated based on the number of days the person was alive in the month. Frequently, this results in an overpayment and an invoice being sent to the family or estate to collect any amount that should have been prorated.

## Policy Options:

1. Endorse legislation.
  - This option provides a retiree’s beneficiary or estate a full month’s benefit for the month a retiree or survivor passes away.
2. Direct LEOFF 2 Board staff to sign-in/testify in support of the legislation at legislative committee hearings.
3. No action

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ACTION

It was moved to approve policy option 2- LEOFF 2 Board staff is direct to sign-in/testify in support of the legislation at legislative committee hearings. Motion was seconded and passed unanimously.

## 11. DRS Appeals Deadlines – Final Proposal

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

### Policy Options:

1. **Motion to endorse legislation.**
  - **LEOFF 2 members have 120 days to appeal administrative decisions from DRS.**
  - **DRS must provide written notice of the right to appeal and the deadline for filing the appeal.**
  - **If DRS requests additional records from the member, they must toll the deadline for filing an appeal and provide in writing the updated deadline for filing the appeal.**
2. **No action**
3. **Motion to study further during the next interim**

ACTION

It was moved to adopt option 3 – study further during the next interim. Motion was seconded and passed unanimously.

## 12. Administrative Update

Steve Nelsen, Executive Director gave an Administrative Update to the Board involving the start and end dates to Legislative Session. Legislative Session begins on January 8<sup>th</sup>, 2024, and ends on March 7<sup>th</sup>, 2024. During Session Board Meetings will be considered hybrid meetings and will be much shorter than regular meetings, including only an Administrative Update and a Legislative Update. Mr. Nelsen also reminded the Board of the next board meeting to take place on January 24<sup>th</sup>, 2024, at 9:30 a.m.

## 13. 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. Chair Lawson had no public comments to report on at this meeting.

## 14. Executive Session

Chair Lawson announced Executive Session to begin at 11:50 a.m. and the public meeting to commence again at 12:10 p.m. Chair Lawson asked everyone in from the public to exit the room as Executive Session took place. No action was taken during Executive Session.

## Adjournment

There being no further business, the meeting was adjourned at 12:14 p.m.

The next meeting of the LEOFF Plan 2 Retirement Board is scheduled for January 24, 2024, at 9:30 AM at the Washington State Investment Board located at 2100 Evergreen Park Drive SW Olympia, WA 98502.