



June 17, 2024
Standby Pay

INITIAL CONSIDERATION

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ISSUE STATEMENT

“Standby pay” is not considered basic salary for LEOFF 2 members, while it is for PERS and PSERS members.

OVERVIEW

“Standby pay” is not considered basic salary in LEOFF 2 because it is not specifically identified as earnable compensation in law and because the Department of Retirement Systems (DRS) has determined that it does not fall under the general definition of “compensation for services rendered”.

BACKGROUND AND POLICY ISSUES

Some LEOFF Plan 2 members receive standby pay while off-duty in exchange for being prepared to report to work on short notice. This payment is not considered compensation for services rendered and is not reportable compensation for LEOFF Plan 2.

The Board considered this issue during the 2016 and 2018 interims. The Board did not endorse legislation in either of those years.

Standby pay is reportable compensation for pension purposes in two state retirement systems: the Public Employees Retirement System (PERS) and the Public Safety Employees Retirement system (PSERS). It is considered reportable compensation because the legislature has specifically identified it as being so for those systems.

In 1994, legislation was enacted¹ that allowed the inclusion of standby pay in compensation earnable for the Public Employees’ Retirement System (PERS) when: (1) the member is required to be present at, or in the immediate vicinity of, a specified location; and (2) the employer requires the member to be prepared to report immediately for work if the need arises. In 1995, the requirement that the member must be present at or in the immediate vicinity of a specified location was removed.² Standby pay was

¹ C 177 L94 (ESHB 2644)

² C 244 L 95 (SSB 5118)

included as compensation earnable for the Public Safety Employees Retirement System when it was created in 2003³.

Reportable Compensation/Basic Salary

"Reportable compensation" is used in determining a state retirement system member's pension. It is generally defined as salaries and wages payable for services rendered to the employer. DRS determines reportable compensation based upon the nature of the payment made to an employee, not the name given to it. A LEOFF member's salary or wages must meet the definition of "basic salary" in LEOFF retirement law⁴ to be subject to retirement system contributions and included in the calculation of his or her retirement benefit.

In LEOFF Plan 2 "reportable compensation" is termed "basic salary". In order for compensation to be reportable to DRS for LEOFF, it must be basic salary. Basic salary for LEOFF Plan 2 is a payment that is a salary or wage earned during a calendar month for personal services rendered by a member to an employer.

Certain payments that are not for personal services rendered by a member also qualify if there are specific provisions in the laws identifying them as basic salary. Payments not specifically identified in the rules qualify as basic salary only if the payments are for services rendered.⁵

Standby pay is one such payment that does not qualify as basic salary for LEOFF as it is not considered pay for services rendered and is not included by law as basic salary.

Standby Pay is Not Basic Salary in LEOFF

Standby pay is a nominal rate of pay provided in exchange for the employee being available to come to work quickly if called, though he or she might not be called. While on standby an employee is usually confined to a specified geographic area and prohibited from consuming alcohol or other intoxicants. If the employee is called in, they usually earn overtime for periods actually worked.

DRS excludes standby pay from LEOFF basic salary. DRS does not consider standby pay compensation for services rendered⁶. While ready to work if called, an employee on standby is engaged in personal activities, not performing work for their employer.

DRS has identified what is and is not considered Basic Salary with the following chart in WAC 415-104-299:

Type of Payment	LEOFF 2 Basic Salary?
Additional Duty Pay	Yes - WAC 415-104-360
Allowances (i.e. uniform)	No - WAC 415-104-390
Basic Monthly Rate	Yes - WAC 415-104-360
Cafeteria Plans	Yes - WAC 415-104-367

³ PSERS was removed as a membership subset from PERS in 2003 when it was created.

⁴ see RCW 41.26.030 and WAC 415-104-298

⁵ WAC 415-104-299 Basic Salary Table

⁶ see RCW 41.26.030(4)(b) and WAC 415-104-393

Deferred Wages Attached to Position	Yes - WAC 415-104-363(1)
Deferred Wages not attached to a Position	No - WAC 415-104-363(2)
Disability Payments	No - WAC 415-104-380
Education Attainment Pay	Yes - WAC 415-104-375
Employer taxes/contributions	No - WAC 415-104-383
Fringe Benefits, including insurance	No - WAC 415-104-385
Illegal Payments	No - WAC 415-104-387
Leave Cash Outs/Severance	No - WAC 415-104-401
Longevity	Yes - WAC 415-104-375
Overtime	Yes - WAC 415-104-370
Paid Leave	Yes - WAC 415-104-373
Payments in Lieu of Excluded Items	No - WAC 415-104-405
Performance Bonuses	Yes - WAC 415-104-377
Retroactive Salary Increase	Yes - WAC 415-104-365
Reimbursements	No - WAC 415-104-390
Retirement or Termination Bonuses	No - WAC 415-104-395
Shift Differential	Yes - WAC 415-104-379
Special Salary or Wages	Yes - WAC 415-104-375
Standby Pay	No - WAC 415-104-393
Tuition/Fee Reimbursement	No - WAC 415-104-390
Workers' Compensation	No - WAC 415-104-380

Compensation for Standby Pay

The rate of standby pay varies. Below are some examples:

- Fire fighter examples:
 - Reduced rate of pay – some jurisdictions pay an hourly standby wage at a reduced rate of pay such as 10% of regular pay.
 - Reduced hours – some jurisdictions pay a full overtime wage for a reduced number of hours. For instance, one employer pays one hour of overtime for a 12 hour standby shift.
- Law enforcement examples:
 - 4 hours pay for being on standby, additional pay if called in for more than 4 hours.
 - No standby pay but guaranteed 4 hour pay minimum if called in.



Standby Pay

Initial Consideration
June 17, 2024

Issue

- “Standby pay” is not considered basic salary for LEOFF 2 members, while it is for PERS and PSERS members.

Legislative History

- **1994 – Standby pay included for PERS**
 - Vicinity requirement
 - Prepared to report if needed
- **1995 – Vicinity requirement dropped**
- **2003 – Standby pay included for PSERS (created in 2003)**
- **2016 – LEOFF 2 Board studied, no action**
- **2018 – LEOFF 2 Board studied, no action**

Who Earns Standby Pay?

- **Fire Fighters:**
 - Employees working 8-hour shifts required to muster for fire events
 - Fire fighters called in to supervise volunteers
 - Lieutenant backfilling for absent chief
 - Employees mobilized for fire camps
- **Law Enforcement Officers:**
 - Special squad members, such as detectives

“Basic Salary” – Reportable Compensation

- Used in determining a state retirement system member’s pension
 - Final Average Salary (FAS)
- Generally defined as salaries and wages payable for services rendered
- Certain payments not for personal services rendered may qualify if specifically identified in law

Standby Pay Conditions

- **Typical Standby Pay Conditions**
 - Present at a specified location/timeframe or is immediately available to be contacted
 - Prepared to report immediately for work if the need arises
 - Must not be impaired
 - Less than full pay

How is Standby Pay Paid?

- Depends on the employer, typically negotiated under CBA
- Reduced rate of pay
 - Example: 10% of regular pay
- Full overtime rate for reduced number of hours
 - Example: 1 hour overtime pay for 12 hours of standby
- Regular rate for reduced number of hours
 - Example: 4 hours regular pay for 16 hours standby

Next Steps

1. No further action
2. Motion for a Comprehensive Briefing



Thank You

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