



July 24, 2024

Part-time Fire Fighter/Reserve Officer Employment

INITIAL CONSIDERATION

By Jacob White

Senior Research & Policy Manager

360-586-2327

jacob.white@leoff.wa.gov

ISSUE STATEMENT

1. Members who are working part-time (or full-time for part of the year) may not be eligible for LEOFF benefits, including line of duty death and disability benefits.
2. Prior to 2024, part-time law enforcement officers (LEO) earned service credit in the Volunteer Fire Fighters' and Reserve Officers' Relief and Pension Fund.

OVERVIEW

The Board requested these two issues be combined for an initial presentation due to the overlap involving LEOFF Plan 2 members and the Board of Volunteer Fire Fighter and Reserve Officers (BVFF). In addition to this report and the corresponding Board staff presentation, the Executive Director of the BVFF will be providing a presentation to the Board with background information on the BVFF.

BACKGROUND AND POLICY ISSUES

ISSUE 1 - Members who are working part-time (or full-time for part of the year) may not be eligible for LEOFF benefits, including line of duty death and disability benefits.

Retirement Plan Eligibility

Not all fire fighters are eligible for LEOFF Plan 2. To be eligible for LEOFF Plan 2 a fire fighter must be a "full time, fully compensated [...] member of a fire department [...]"¹ The key part of this definition that delineates between the state pension systems is the term "full time". It is further defined by the Department of Retirement Systems (DRS) in rule as "normally expected to earn basic salary from an employer for a minimum of 160 hours in a calendar month."²

¹ [RCW 41.26.030: Definitions.](#)

² [WAC 415-104-011:](#)

If a fire fighter position does not meet the definition of “full time” it may be eligible for the Public Employees’ Retirement System (PERS). For a position to be eligible for PERS it “[...] normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof.”³

If a fire fighter does not meet these eligibility definitions for LEOFF Plan 2 or PERS than they may be eligible for the BVFF. The eligibility definition for fire fighters in the BVFF are “ [...] any firefighter or emergency worker who is a member of any fire department of any municipality but shall not include firefighters who are eligible for participation in LEOFF or PERS [...]”.⁴

There are additional eligibility reasons other than those identified above that may change the pension plan eligibility of a fire fighter position. For example, the Department of Natural Resources (DNR) fire fighters are not eligible for LEOFF Plan 2 because DNR is not an eligible employer.

Death and Disability Benefits

If a LEOFF Plan 2 member works concurrently in a non-LEOFF eligible position they, in most situations, would not be eligible for LEOFF Plan 2 duty disability benefits for injuries sustained in their non-LEOFF employment, nor in line of duty LEOFF Plan 2 death benefits. However, in certain situations LEOFF Plan 2 members are still eligible for some LEOFF Plan 2 death and duty disability benefits for injuries or death occurring in non-LEOFF employment.

In 2015 the LEOFF Plan 2 Board endorsed legislation, SB 6263 (2016)⁵, that provided LEOFF Plan 2 members called into eligible federal service to respond to natural disasters or other federal emergencies with similar LEOFF Plan 2 benefit protections provided to members of the National Guard or Military Reserves who are called up during a time of war.

Those benefit protections included providing:

- the survivor of a member who is killed while providing eligible federal service with service credit at no cost for the period of service up until the member’s death;
- a member who is disabled while providing eligible federal service with service credit at no cost for the period of service up until the member’s separation from that service;
- survivor retirement benefits which are not actuarially reduced for the survivor of a member who is killed while providing eligible federal service; and,

³ [RCW 41.40.010: Definitions. \(wa.gov\)](#)

⁴ [RCW 41.24.010: Definitions. \(wa.gov\)](#)

⁵ [6263.SL.pdf \(wa.gov\)](#)

- duty-disability retirement benefits which are not actuarially reduced for a member who is disabled while providing eligible federal service.

ISSUE 2 - Prior to 2024 part-time LEO earned service credit in the Volunteer Fire Fighters' and Reserve Officers' Relief and Pension Fund.

This issue was brought to the Board's attention by Senator John Lovick (See Appendix A). Senator Lovick requested the Board study "the implications and costs" [for allowing Reserve Officers who later became LEOFF Plan 2 eligible Law Enforcement Officers] "to buy or be granted credit for service that was less than full-time."

Retirement Plan Eligibility

Not all law enforcements officers are eligible for LEOFF Plan 2. Historically, to be eligible for LEOFF Plan 2 an officer must work full-time.⁶ However, as of July 1, 2024, the definition has broadened to include certain part-time law enforcement officers.⁷ Nonetheless, this recent change in eligibility does not include all part-time law enforcement officers.

Reserve Law Enforcement Officers eligible for BVFF have historically been defined as:

"any person who does not serve as a peace officer of this state on a full-time basis, but who, when called by an agency into active service, is fully commissioned on the same basis as full-time officers to enforce the criminal laws of this state."⁸

It is further defined as not including those who are eligible for participation in LEOFF or PERS.⁹ However, the same legislation that broadens the definition of eligible LEOFF Plan 2 Law Enforcement Officers also amended the BVFF eligibility definition to include "regularly employed."¹⁰

Purchasing Service Credit

In certain situations, such as interruptive military service or an authorized leave of absence, LEOFF Plan 2 members can Purchase Service Credit for time where they did not earn service credit in LEOFF Plan 2.

There is also a precedent for purchasing service credit in state retirement systems when positions are made newly eligible for LEOFF Plan 2. Examples of this include:

⁶ [RCW 41.26.030: Definitions. \(<i>Effective until July 1, 2025.</i>\) \(wa.gov\)](#)

⁷ [5424-S.PL.pdf \(wa.gov\)](#)

⁸ [5424-S.PL.pdf \(wa.gov\)](#)

⁹ [RCW 41.24.010: Definitions. \(wa.gov\)](#)

¹⁰ [5424-S.SL.pdf \(wa.gov\)](#)

- EMTs added to the definition of fire fighter¹¹
- EMTs who became eligible when Public Hospital Districts were added to the definition of eligible employer¹²
- Tribal Law Enforcement Officers when tribes became eligible employers¹³

A difference between the situations above and the question of whether reserve officers should be able to also purchase service credit in LEOFF Plan 2 once they move into a LEOFF eligible position is that the eligibility of the position may not be changing. Instead, the reserve officer has simply moved into a different position, which is eligible for a different retirement system. However, under the new law referenced above which allows for certain part-time Law Enforcement Officers to now be eligible for LEOFF Plan 2 there may be reserve officers who are doing the same job but now eligible for LEOFF Plan 2.

Part-time fire fighters are not eligible for LEOFF Plan 2. However, the Board may still want to consider whether to also give LEOFF Plan 2 members the same opportunity to purchase service credit for service as a Volunteer Fire Fighter.

An important policy decision when allowing for the purchase of service credit is determining whether to charge members the full actuarial cost for that service credit or to subsidize that cost. In the examples listed above where new groups of LEOFF Plan 2 members were given the option to purchase service credit in LEOFF Plan 2 some groups were required to pay the fully actuarial value where others had it partially subsidized. The groups that had it partially subsidized had previously paid into a state pension system (PERS) and the money they had paid into PERS was transferred to LEOFF Plan 2 and the member paid the difference in member contributions, plus interest, and the employer paid the difference in employer contributions.

SUPPORTING INFORMATION

Appendix A: Email from Senator John Lovick, May 14, 2024.

¹¹ [1936-S.SL.pdf \(wa.gov\)](#)

¹² [2202-S.SL.pdf \(wa.gov\)](#)

¹³ [1481.SL.pdf \(wa.gov\)](#)

From: Lovick, Sen. John <John.Lovick@leg.wa.gov>

Sent: Tuesday, May 14, 2024 11:38 AM

To: AJ (LEOFF Trustee) <aj.johnson@leoff.wa.gov>; AJ <aj@wscff.org>; Bergquist, Rep. Steve <Steve.Bergquist@leg.wa.gov>; Jay (LEOFF Trustee) <jay.burney@leoff.wa.gov>; Stidham, Melanie <Melanie.Stidham@leg.wa.gov>; Darell (LEOFF Trustee) <darell.stidham@leoff.wa.gov>; Darell Stidham <yellow68vette@yahoo.com>; Dennis <dennis@wscff.org>; Jason (LEOFF Trustee) <jason.granneman@leoff.wa.gov>; Holy, Sen. Jeff <Jeff.Holy@leg.wa.gov>; Jason <jason.granneman@clark.wa.gov>; Jay <jburney@ci.olympia.wa.us>; Mark (LEOFF Trustee) <mark.johnston@leoff.wa.gov>; Dennis (LEOFF Trustee) <dennis.lawson@leoff.wa.gov>; Mark <mjohnstoniaff@usa.net>; Pat (LEOFF Trustee) <pat.mcelligott@leoff.wa.gov>; Pat <patolddog@gmail.com>; Tarina (LEOFF Trustee) <tarina.watson@leoff.wa.gov>; Tarina <tarinarose@msn.com>; Wolf Opitz <wopitz@co.pierce.wa.us>; Wolf (LEOFF Trustee) <wolf.opitz@leoff.wa.gov>

Cc: Sigua, Braden <Braden.Sigua@leg.wa.gov>; Cecil, Amanda <Amanda.Cecil@leg.wa.gov>

Subject: Request for study: credit for part time service

Good afternoon LEOFF 2 Board,

I have a constituent who is a newly retired Sergeant with Snohomish County Sheriff's office. Before he served as a full-time officer he served for 10 years as a part-time reserve officer for 10 years. As a result his pension is significantly less than it would have been if he had been able to include his many years doing largely the same job less than full-time. I am requesting the Board to consider the implications and costs to allow members in a similar position to buy or be granted credit for service that was less than full-time.

Please reach out to me or my staff, Braden Sigua and Amanda Cecil, if you have questions or if you need any additional detail.

Thank you for your consideration,

Senator John Lovick



Part-time Fire Fighter/Reserve Officer Employment

Initial Consideration
July 24, 2024

Issues

- 1. Members who are working part-time (or full-time for part of the year) may not be eligible for LEOFF benefits, including line of duty death and disability benefits.**
- 2. Prior to 2024, part-time law enforcement officers (LEO) earned service credit in the Volunteer Fire Fighters' and Reserve Officers' Relief and Pension Fund.**

Fire Fighter Eligibility

- **LEOFF Plan 2 – Firefighter** is [...] full time, fully compensated [...] as a member of a fire department of an employer [...]
- **PERS** – An eligible position “[...] normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof.”
- **Vol. FF** - “Firefighter includes any firefighter or emergency worker who is a member of any fire department of any municipality but shall not include firefighters who are eligible for participation in LEOFF or PERS [...]”.

Current Law

- LEOFF Plan 2 member injured or killed while working in a position covered by BVFF, PERS, or in an uncovered position would likely not qualify for in-line of duty LEOFF Plan 2 benefits
- Members would likely be eligible for non-duty death and disability benefits in LEOFF Plan 2 and any benefits in other pension system, if eligible

Exceptions

Federal service emergency management services (2016 LEOFF Plan 2 endorsed legislation)

- Working for a LEOFF employer: May qualify for a disability benefit if they leave the employment of their LEOFF employer to provide a disaster response and become disabled. Member's benefit won't be reduced if they retire early
- Working in eligible federal service: May qualify for service credit for a leave of absence if they become disabled after they leave the employment of their LEOFF employer to provide a disaster response

Gathering Data

- LEOFF Plan 2 staff is currently working with BVFF and DRS to identify the number of LEOFF Plan 2 members who are working concurrently in BVFF and/or PERS positions
- Data will not identify LEOFF Plan 2 members working for public employers in positions that are not covered under BVFF or PERS
 - BVFF is optional, they do not have data on members who opt out of membership

Law Enforcement Officer Eligibility

Legislation from last year changed definitions to make part-time officers eligible for LEOFF Plan 2

- LEOFF Plan 2 – “Beginning July 1, 2024, the term "law enforcement officer" also includes any person who is commissioned and employed by an employer on a fully compensated basis to enforce the criminal laws of the state of Washington generally, on a less than full-time basis [...].”
- BVFF – “‘Reserve officer’ means any person who does not serve as a regularly employed, fully compensated peace officer of this state, but who, when called by an agency into active service, is fully commissioned on the same basis as regularly employed, fully compensated officers to enforce the criminal laws of this state.”

Purchasing Service Credit

- **There is a precedent for purchasing service credit in state retirement systems when positions are made newly eligible for LEOFF Plan 2**
 - EMTs - PERS to LEOFF Plan 2
 - Public Hospital District EMTs - Employer plans to LEOFF Plan 2
 - Tribal Officers - Employer plans to LEOFF Plan 2
- **No precedent for allowing people to purchase service credit when changing careers/promoting into LEOFF Plan 2 eligible positions**

Gathering Data

- LEOFF Plan 2 staff is currently working with BVFF and DRS to identify the number of LEOFF Plan 2 members who have previous service credit in BVFF
- Difficulty with determining service credit
 - Limited data from BVFF
 - Optional for Reserve Officers to join BVFF
 - BVFF does not receive hours worked from employers
- What Reserve Officer service credit should be eligible for service credit?
- Should Volunteer Fire Fighters have the same option?

Next Steps

Board may:

1. Motion for comprehensive report on Part-time Firefighter
2. Motion for comprehensive report on Reserve Officer Service Credit Conversion
3. Motion for comprehensive report on both 1 and 2
4. No action at this time



Thank You

Jacob White

Senior Research and Policy Manager

(360) 586-2327

jacob.white@leoff.wa.gov