

COMPREHENSIVE REPORT

By Jacob White

Senior Research & Policy Manager

360-586-2327

jacob.white@leoff.wa.gov

ISSUE STATEMENT

A LEOFF member working concurrently in a part-time fire fighter position for another LEOFF 2 employer would not be covered by LEOFF 2 death and disability benefits in their part-time position.

OVERVIEW

The Board became aware of full time LEOFF 2 fire fighters picking up additional work for other LEOFF employers in positions that do not qualify for LEOFF 2 membership. These members do not qualify for LEOFF 2 pension benefits, including death and disability benefits, when they are working in their secondary part-time position. Furthermore, these positions may not qualify for membership in PERS or BVFF either. Therefore, if these LEOFF 2 members are injured or killed in the line of duty in their part-time position they would not qualify for LEOFF 2 death and disability benefits.

BACKGROUND AND POLICY ISSUES

There is at least one LEOFF 2 employer utilizing a pool of LEOFF 2 members, who are employed full-time with another LEOFF 2 employer, to fill shifts as fire fighter EMTs. These positions are not eligible for LEOFF 2. Therefore, if the member is injured or killed in the line-of-duty in their part-time position they are not eligible for LEOFF 2 death and disability benefits. Furthermore, since these positions are not reported under PERS or the Board of Volunteer Fire fighters, they would not be eligible for those plan's benefits either.

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

¹ [RCW 41.26.030: Definitions.](#)

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

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 fire fighter or emergency worker who is a member of any fire department of any municipality but shall not include fire fighters who are eligible for participation in LEOFF or PERS [...]”.⁴ However, not all fire fighter positions that are ineligible for LEOFF or PERS are eligible for BVFF. Employers must opt into BVFF, and not all employers have. Furthermore, according to the Executive Director of the BVFF, to be a volunteer they should be participating in regular training and call response, and they would have been approved by the employer as a volunteer.

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 or death benefits for injuries sustained in their non-LEOFF employment. 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.

² [WAC 415-104-011:](#)

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

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

⁵ [6263.SL.pdf \(wa.gov\)](#)

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

POLICY OPTIONS

1. Make part-time fire fighters eligible for LEOFF 2
 - Pros – Aligns fire fighters with law enforcement officers by making part-time positions eligible for LEOFF 2.
 - Cons – Makes it consistent but fire fighters do not have recruiting issues that were behind LEO bill; May have unintended consequences; Reversal of historical practice.
2. Make part-time fire fighters eligible for LEOFF 2, if the position is filled with an active LEOFF 2 member and the position would be in LEOFF 2 if it were full-time
 - Pros – LEOFF 2 members would be eligible for all LEOFF 2 benefits for their part-time work; eliminates potential confusion about eligibility of disability benefits
 - Cons – May increase costs to employers who are hiring these types of positions; cost to the plan if retroactive



Part-Time Fire Fighter

Comprehensive Report
November 20, 2024

Issue

1. **A LEOFF member working concurrently in a part-time fire fighter position for another LEOFF 2 employer would not be covered by LEOFF 2 death and disability benefits in their part-time position.**

Hourly Fire Fighter EMTs

- There is at least one LEOFF 2 employer utilizing a pool of LEOFF 2 members, who are employed full-time with another LEOFF 2 employer, to fill shifts as Firefighter EMTs
- Part-time positions are ineligible for LEOFF 2 benefits, including death and disability benefits
- Not reported in PERS or BVFF

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 [...]”.

Service Credit vs LEOFF Eligibility

- Different definition of full-time eligibility vs full month of service credit
- Full-time = normally expected to earn basic salary for a minimum of 160 hours in a calendar month
- Full month of service credit = at least 90 hours in a month

Current Law – Death and Disability Coverage

- LEOFF Plan 2 member injured or killed while working in a non-LEOFF 2 position would not qualify for in-line of duty LEOFF Plan 2 benefits
- Members would be eligible for non-duty death and disability benefits in LEOFF Plan 2 and any benefits in the 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

Data

- No data source for identifying how many positions like this exist
- Positions are not reported to DRS or the BVFF because they are ineligible for those plans

Policy Option 1

Make part-time Fire Fighters eligible for LEOFF 2

- Pros – Aligns FF with LEO in LEOFF 2
- Cons – May have unintended consequences, beyond resolving this issue

Policy Option 2

Make part-time fire fighter employment eligible for LEOFF 2, if the position is filled with a LEOFF 2 member and the position would otherwise be eligible for LEOFF 2 if it were full-time

- **Pros – LEOFF 2 members would be eligible for all LEOFF 2 benefits for their part-time work; prevents members from not qualifying for benefits because employer believes disabling condition occurred at part-time position**
- **Cons – Increases costs to employers, may result in employers not offering these part-time positions to LEOFF 2 members anymore**

Board Action

- 1. Motion for Final Briefing on Policy Option 1: Make part-time fire fighters eligible for LEOFF 2**
- 2. Motion for Final Briefing on Policy Option 2: Make part-time fire fighter employment eligible for LEOFF 2, if the position is filled with an active LEOFF 2 member and the position would otherwise be eligible for LEOFF 2 if it were full-time**
- 3. No Action**



Thank You

Jacob White

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