

# HOUSE BILL REPORT

## EHB 1679

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### As Reported by House Committee On: Ways & Means

**Title:** An act relating to access to catastrophic disability medical insurance under plan 2 of the law enforcement officers' and firefighters' retirement system.

**Brief Description:** Providing access to catastrophic disability medical insurance under plan 2 of the law enforcement officers' and firefighters' retirement system.

**Sponsors:** Representatives Simpson, Van De Wege, Ericks, Williams, White, Kelley, Sells, Ross, Hope and Conway; by request of LEOFF Plan 2 Retirement Board.

#### **Brief History:**

##### **Committee Activity:**

Ways & Means: 2/19/09, 2/27/09 [DP]; 1/25/10, 1/26/10 [DPS].

#### **Brief Summary of Substitute Bill**

- Reimburses members of the Law Enforcement Officers' and Firefighters' Retirement System Plan 2 and the Washington State Patrol Retirement System (WSPRS) totally disabled in the line of duty for any payments made for employer-provided medical insurance.
- Applies prospectively to reimburse payments made after the effective date of the act.
- Defines totally disabled during line duty for WSPRS as those unable to perform any gainful activity.

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### HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Linville, Chair; Ericks, Vice Chair; Sullivan, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Cody, Conway, Darneille, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Priest, Ross, Schmick and Seaquist.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** David Pringle (786-7310).

**Background:**

The surviving spouses of emergency service personnel killed in the line of duty on or after January 1, 1998, may purchase health care benefits from the Public Employees' Benefits Board (PEBB). "Emergency service personnel" for this purpose includes fire fighter and law enforcement members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) and the Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System, and the Washington State Patrol Retirement System (WSPRS). The cost of the insurance is paid by the surviving spouses and dependent children.

The 2006 Legislature added reimbursement for the cost of participating in a PEBB health insurance plan to the retirement allowance paid to survivors of all LEOFF Plan 2 members killed in the course of employment. The survivors of members killed in the line of duty prior to January 1, 1998, as well as on or after January 1, 1998, are eligible to participate in PEBB health insurance plans. A similar reimbursement benefit was added by the 2007 Legislature for similarly situated survivors of the WSPRS members.

A member of LEOFF Plan 2 who is totally disabled in the line of duty is entitled to a disability allowance equal to 70 percent of final average salary. The total disability benefit is reduced to the extent that in combination with certain workers' compensation payments and Social Security disability benefits, the disabled member would receive more than 100 percent of final average salary. The Department of Fish and Wildlife Enforcement Officers' compensation insurance benefits are also reduced for any disability benefits received from LEOFF Plan 2.

Total disability is defined as a member's inability to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or last for at least 12 months. Substantial gainful activity is defined as average earnings of more than \$860 per month, adjusted annually based on federal Social Security standards.

The LEOFF Plan 2 does not provide access to or pay for any health care insurance for any disability retirees. A disability retiree may have access to health care insurance through employer or employee associations or the open market. The LEOFF Plan 2 does pay for PEBB benefits for survivors of members that were killed in the course of employment.

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**Summary of Substitute Bill:**

The substitute bill, as enacted, may be known as the Jason McKissack act. The disability allowance of a LEOFF Plan 2 member that is totally disabled in the line of duty includes reimbursement for any payments made for employer-provided medical insurance after the effective date of the section. This includes medical insurance offered under the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and Medicare Parts A and B.

For members of the Washington State Patrol, the compensation of an officer totally disabled during the line of duty shall include reimbursement for any payments of premiums for employer-provided medical insurance. Officers are considered totally disabled for purposes of the reimbursement benefit if he or she is unable to perform any substantial gainful activity due to a condition expected to last at least 12 months. Substantial gainful activity is defined as average earnings in excess of \$860 per month adjusted annually by the Director of the Department of Retirement Systems based on federal Social Security standards.

The Legislature reserves the right to amend or repeal the reimbursement benefits for LEOFF 2 and Washington State Patrol for any distributions not granted prior to the amendment or repeal.

**Substitute Bill Compared to Engrossed Bill:**

The substitute bill permitted members of LEOFF 2 totally disabled in the line of duty to participate in the PEBB system administered by the Health Care Authority, and reimbursed the Health Care Authority for any impacts on the cost of the community risk pool resulting from the participation of the disabled LEOFF 2 members. The engrossed bill expired July 1, 2011.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available on Engrossed House Bill. New fiscal note requested on the substitute bill January 27, 2010.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The LEOFF 2 Board went back and re-examined this issue and this new approach. The State Patrol probably has only one person that is affected by this bill, but it is important to make this change. The lack of access to health benefits and the high costs are dire problems for disabled officers that are often many years from Medicare eligibility. These provisions are limited from abuse by the requirement of total disability. One deputy sheriff that wanted to go back to work, but with this change could be sure that at least these expenses were covered. Local law enforcement has experienced the recent deadly consequences of service. Jason McKissack's story shows the shortcomings of our plan for these infrequent tragic incidents. Please eliminate the sunset provisions from last year's bill. Jason McKissack responded to the report of a fight and he intervened when he thought someone might be killed. He stopped the beating of the victim, but was overcome by a crowd, beaten, and nearly killed. He suffered severe brain injuries and was never able to return to duty. For those that can't, we need to take care of them. We need to honor these officers for the service they have given to communities. My life changed dramatically in 2008. I was as strong as a grown man in grade school, played football, and was a near Olympic-level weightlifter. Three weeks after my injury, I began getting vertigo and was

impaired from driving. I now have continual nausea, and need frequent rest to get through the day. I have terrible difficulty concentrating and processing information. My personality has changed – perhaps making me a bit nicer. I never thought twice about going out of my way to save someone’s life, to protect others. Our lives changed so much that day. My husband left for work in the morning and came back a different person. After he was assaulted, he could not go back to the person he was – but even now he would like nothing better than to put his uniform back on. We worried about choosing between paying for the mortgage and paying for health insurance. I couldn’t even read the whole report on what happened to Jason. I have had the unfortunate knowledge that these surviving families are better off if their husbands die in the line of duty. These total disability circumstances are very rare – I understand that there are only six or so in LEOFF 2 right now.

(Opposed) None.

**Persons Testifying:** Steve Nelsen, Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board; Rick Jensen, Washington State Patrol Troopers Association and Washington State Fraternal Order of Police; Jamie Daniels, Washington Council of Police and Sheriffs; Bill Hanson, Washington State Patrol Troopers Association; Paul McDonagh, Seattle Police Department; Rich O’Neil and Tye Elster, Seattle Police Officers Guild; Jason and Kim McKissack; and Renee Maher, Council of Metropolitan Police and Sheriffs.

**Persons Signed In To Testify But Not Testifying:** None.