

WSR 16-06-086
WITHDRAWAL OF
EXPEDITED RULE MAKING
DEPARTMENT OF REVENUE

[Filed February 29, 2016, 10:57 a.m.]

Pursuant to RCW 34.05.335, the department of revenue (department) files this notice of agency withdrawal of WSR 16-05-077 for proposal amending WAC 458-20-103. This rule is being proposed under an expedited rule-making process.

The department will not proceed with rule making at this time for WAC 458-20-103 and elects to withdraw the proposal filed under WSR 16-05-077.

Kevin Dixon
Rules Coordinator

WSR 16-06-097
EXPEDITED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed March 1, 2016, 9:01 a.m.]

Title of Rule and Other Identifying Information: WAC 415-104-380 Law enforcement officers' and firefighters' (LEOFF) retirement system plan 2 disability payments.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jilene Siegel, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, or e-mail Rules@drs.wa.gov, AND RECEIVED BY Monday, May 2, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 41.26.476, enacted in 2010, invalidates a clause in WAC 415-104-380 concerning shared leave. This amendment strikes the invalid clause.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: RCW 41.50.055.

Name of Agency Personnel Responsible for Implementation: Seth Miller, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7304.

March 1, 2016
Jilene Siegel
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-17-035 [97-01-016], filed 12/6/96, effective 1/6/97)

WAC 415-104-380 Disability payments. (1) **Disability leave supplement.** Under certain circumstances, LEOFF II members are entitled to a disability leave supplement for periods of disability leave. See RCW 41.04.500 through 41.04.550.

(a) Employer contributions to the disability leave supplement under RCW 41.04.510(3) are not a salary or wage for services rendered and do not qualify as basic salary. Although the payments are paid leave, they are specifically excluded from basic salary by RCW 41.04.525.

(b) The member paid portion of the disability leave supplement is funded through use of the member's accumulated sick or vacation leave. This portion of the disability leave supplement is, therefore, basic salary, see WAC 415-104-373. The member will receive only partial service credit for the accumulated leave portion of the disability leave supplement.

(c) A member may apply to receive full service credit for some periods of duty disability under RCW 41.26.470(3).

(2) **Workers' compensation.** Payments made to a member under Title 51 RCW are neither a salary or wage for services rendered nor paid leave. The payments are not basic salary for LEOFF II. This is true whether the payments come from the workers' compensation trust fund or from an employers' self-insurance program authorized under Title 51 RCW.

(3) **Private insurance.** Some employers provide additional disability insurance as a supplement to workers' compensation. Any payment from a third party insurance company is neither paid leave nor payment for services rendered. It does not qualify as basic salary for LEOFF Plan II.

(4) **Disability leave banks.** If an employer maintains a disability leave bank which may be used to make salary replacement payments for members during periods of disability, such payments are paid leave and qualify as basic salary subject to the provisions of WAC 415-104-373(~~Provided, however, That if the leave provided to an employee is based upon leave earned by another employee then it is a form of shared leave and does not qualify as basic salary~~)).

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.