

**WSR 25-09-023
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed April 7, 2025, 2:34 p.m., effective April 9, 2025]

Effective Date of Rule: April 9, 2025.

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule: This rule implements bills that went into effect in 2022 and an Internal Revenue Service (IRS) requirement that has been in effect for years. Because the rule implements requirements that are already in effect, the department of retirement systems is putting the rule into effect two business days after filing.

Purpose: Law enforcement officers' and firefighters' (LEOFF) benefit enhancement and taxation rule: This rule clarifies provisions of 2022 legislation that offer new retirement benefits for LEOFF Plans 1 and 2 and brings WAC language into alignment with existing IRS taxation requirements.

Citation of Rules Affected by this Order: Amending WAC 415-104-215 and 415-104-482.

Statutory Authority for Adoption: RCW 41.50.[0]50 and 41.26.291; chapter 125, Laws of 2022; and Internal Revenue Code section 104 (a) (1).

Adopted under notice filed as WSR 25-05-100 on February 19, 2025.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 7, 2025.

Kathryn Leathers
Director

RDS-5172.4

AMENDATORY SECTION (Amending WSR 22-11-040, filed 5/12/22, effective 6/12/22)

WAC 415-104-215 What are my LEOFF Plan 2 retirement benefit options? If you retire for service under RCW 41.26.430 or nonduty disability under RCW 41.26.470, or if you choose to receive a monthly benefit for duty disability under RCW 41.26.470, you must choose to have your monthly retirement benefit paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly benefit after my death?** Options described in subsection (2)(b) through (d) of this section will pay a monthly benefit to your survivor after your death. The person you name at the time of retirement to receive a monthly benefit after your death is referred to as your "survivor beneficiary." After your death, your survivor beneficiary will receive a monthly benefit for the duration of their life. Your monthly retirement benefit will be reduced to offset the cost of the survivor option. See WAC 415-02-380 for more information on how your monthly benefit will be affected if you choose a survivor option.

(2) **What are my benefit options?**

(a) **Option one: Standard benefit (nonsurvivor option).** The department will pay you a monthly retirement benefit throughout your lifetime. Your monthly benefit will cease upon your death.

(b) **Option two: Joint and 100 percent survivor benefit.** The department will pay you a reduced monthly retirement benefit throughout your lifetime. After your death, your survivor beneficiary will receive a gross monthly benefit equal to your gross monthly benefit.

(c) **Option three: Joint and 50 percent survivor benefit.** The department will pay you a reduced monthly retirement benefit throughout your lifetime. After your death, your survivor beneficiary will receive a gross monthly benefit equal to 50 percent of your gross monthly benefit.

(d) **Option four: Joint and two-thirds benefit.** The department will pay you a reduced monthly retirement benefit throughout your lifetime. After your death, your survivor beneficiary will receive a gross monthly benefit equal to two-thirds (66.667%) of your gross monthly benefit.

(3) **Do I need my spouse's consent on the option I choose?** The option you select will determine whether spousal consent is required.

(a) If you are married and select a nonsurvivor benefit option, you must provide your spouse's consent, verified by notarization or other means acceptable to the department. If you do not provide verified spousal consent, the department will pay you a monthly retirement benefit based on option three (joint and 50 percent benefit) with your spouse as the survivor beneficiary as required by RCW 41.26.460(2).

(b) If you are married and select a survivor benefit option for your spouse, spousal consent is not required. The department will pay you a monthly benefit based on the option you selected.

(c) If you are married and select a survivor benefit option for someone other than your spouse, verified spousal consent is required. If you do not provide spousal consent, verified by notarization or other means acceptable to the department, the department will pay you a monthly retirement benefit based on option three (joint and 50 percent benefit) with your spouse as the survivor beneficiary as required by RCW 41.26.460(2).

(d) If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least 30 days before your retirement date, spousal consent is not required.

(4) **Do I have a benefit enhancements choice between the tiered multiplier and lump-sum benefit?**

(a) If you were a LEOFF Plan 2 member on or before February 1, 2021, and are retiring with more than 15 years of service credit, you have a choice between the tiered multiplier and the lump-sum benefit. If you are retiring with 15 years or less service credit, you do not have a choice and will receive the lump-sum benefit.

(b) If you elect the lump-sum benefit and it is \$20,000 or more, you are eligible to purchase an annuity with all or a portion of the lump-sum benefit. The minimum annuity purchase price is \$20,000.

(c) If you became a LEOFF Plan 2 member after February 1, 2021, and are retiring with more than 15 years of service credit, you will receive the tiered multiplier benefit enhancement. Members retiring with 15 years of service credit or less will receive the standard retirement benefit calculation and not an enhanced benefit.

(5) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

~~((+5))~~ **(6) What happens if I choose a benefit option with a survivor option and my survivor beneficiary dies before I do?** If your survivor beneficiary dies before you do, you may request to have your benefit increased as described in WAC 415-02-380.

~~((+6))~~ **(7) May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following five exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

(b) **Postretirement marriage option.** If you select the standard benefit option at the time of retirement and marry after retirement, you may select a benefit option with a survivor option and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department; and

(iv) You provide proof of your current spouse's birth date.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor option and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard benefit. You may exercise this option one time only.

(d) **One-time change of survivor.** You may change your benefit option and/or designated survivor one time within 90 days from the date your first benefit payment is issued. Your change request must be in writing, and must comply with other requirements as described in this section. Your new benefit amount will be effective the first of the month following the receipt of your request by the department.

(e) **Retirement type changes.** If your retirement status changes due to the acceptance of a new retirement application from service retirement to a nonduty, duty or catastrophic retirement, or duty to catastrophic retirement, you may select a different survivor benefit option. Your benefit will be recalculated to reflect your new survivor option in accordance with WAC 415-104-483.

~~((+7))~~ **(8) Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement benefit paid

equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a) (i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement benefit paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b) (i) or (ii) of this subsection, then to your survivor beneficiary's estate.

((+8)) (9) For more information, see RCW 41.26.460.

AMENDATORY SECTION (Amending WSR 21-22-049, filed 10/28/21, effective 11/28/21)

WAC 415-104-482 How are the different LEOFF Plan 2 disability benefits calculated? (1) **Line of duty:** As a line of duty disability retiree, you may choose between:

(a) A (~~nontaxable,~~) one-time lump sum payment equal to (~~one hundred fifty~~) 150 percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at (~~one hundred~~) 100 percent; or

(b) A monthly disability benefit equal to:

(i) Ten percent of your final average salary (FAS), which is nontaxable; and

(ii) Two percent of your FAS for each year of service beyond five years.

Calculation of monthly disability benefit:

Example 1: Chris was approved for line of duty disability. The final average salary (FAS) was \$10,000. Chris had 20 years of service credit at the time of retirement. To determine the line of duty disability benefit amount:

$$1. \quad \begin{array}{l} 10\% \times \text{FAS} = \text{Nontaxable amount} \\ .10 \times \$10,000 = \$1,000 \end{array}$$

$$2. \quad \begin{array}{l} 2\% \times \text{FAS} \times \text{Number of} \\ \text{Service Years beyond Five} = \text{Taxable} \\ \text{Years} \quad \text{amount} \\ .02 \times \$10,000 \times 15 = \$3,000 \end{array}$$

$$3. \quad \begin{array}{l} \text{Nontaxable amount} + \\ \text{Taxable amount} = \text{Total benefit} \\ \$1,000 + \$3,000 = \$4,000 \end{array}$$

Example 2: Pat was approved for line of duty disability. The final average salary (FAS) was \$10,000. Pat had 2 years of service credit at the time of retirement. To determine the line of duty disability benefit amount:

1. $10\% \times \text{FAS} = \text{Nontaxable amount}$
 $.10 \times \$10,000 = \$1,000$
2. $2\% \times \text{FAS} \times \text{Number of Service Years beyond Five Years} = \text{Taxable amount}$
 $.02 \times \$10,000 \times 0 = \0
3. $\text{Nontaxable amount} + \text{Taxable amount} = \text{Total benefit}$
 $\$1,000 + \$0 = \$1,000$

(2) **Catastrophic duty disability:** As a catastrophic duty disability retiree, you may choose between:

(a) A (~~nontaxable~~) one-time lump sum payment equal to (~~one hundred fifty~~) 150 percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at (~~one hundred~~) 100 percent. Under this option you waive your right to the medical insurance premium reimbursement; or

(b) A monthly disability benefit equal to:

(i) Seventy percent of your final average salary (FAS), which is nontaxable, reduced by any temporary disability benefits provided under Title 51 RCW and federal Social Security disability benefits, if necessary to ensure that the total combined benefits do not exceed (~~one hundred~~) 100 percent of the member's final average salary (FAS). Any such adjustment will be applied prospectively from the time the Title 51 RCW or Social Security determination is made, even if the Title 51 RCW or Social Security disability benefits are retroactively adjusted.

(ii) The reduced benefit cannot be less than the earned service retirement benefit. When the earned service benefit is more than the reduced benefit, the difference is taxable.

(3) LEOFF benefit enhancements.

(a) If you were a LEOFF Plan 2 member on or before February 1, 2021, and are retiring with more than 15 years of service credit, you will have a choice between the tiered multiplier and the lump-sum benefit with a minimum of \$20,000. If a percentage of your monthly pension is nontaxable, the lump-sum enhancement payment will be nontaxable at the same percentage. If you are retiring with less than 15 years of service credit, you will not have a choice and will receive the lump-sum benefit of \$20,000.

(b) If you became a LEOFF Plan 2 member after February 1, 2021, and are retiring with more than 15 years of service credit, you will receive the tiered multiplier benefit enhancement. Members retiring with 15 years of service credit or less will receive the standard retirement benefit calculation and not an enhanced benefit.

(c) If you qualify for and elect the lump-sum benefit and it is \$20,000 or more you are eligible to purchase a lump-sum annuity with some or all of your funds. The minimum purchase price is \$20,000.

Calculation of monthly disability benefit:

Example 1: Terry was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Terry was not receiving benefits from LNI (Title 51 RCW) or Social Security disability insurance (SSDI). Terry had 20 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. $70\% \text{ of FAS} = \text{Monthly disability benefit}$

$$.70 \times \$10,000 = \$7,000$$

$$2. \quad 2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$$

$$.02 \times \$10,000 \times 20 = \$4,000$$

Since there is no offset and the monthly disability benefit is greater than the earned benefit, Terry's benefit will be \$7,000 a month.

Example 2: Pat was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Pat was receiving benefits from LNI (Title 51 RCW) and Social Security disability insurance (SSDI) in the amounts of \$5,000 and \$2,000. Pat had 2 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. $70\% \text{ of FAS} = \text{Monthly disability benefit}$
 $.70 \times \$10,000 = \$7,000$
2. $\text{Monthly disability benefit} + \text{LNI benefits} + \text{SSDI benefit} = \text{Total of all benefits}$
 $\$7,000 + \$5,000 + \$2,000 = \$14,000$
3. $\text{Total of all benefits} - \text{FAS} = \text{Reduction amount}$
 $\$14,000 - \$10,000 = \$4,000$
4. $\text{Monthly disability benefit} - \text{Reduction Amount} = \text{Reduced monthly benefit}$
 $\$7,000 - \$4,000 = \$3,000$
5. $2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$
 $.02 \times \$10,000 \times 2 = \400

Since the reduced monthly benefit amount is greater than the earned benefit, Pat's nontaxable benefit will be \$3,000 a month.

Example 3: Chris was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Chris was receiving benefits from LNI (Title 51 RCW) and Social Security disability insurance (SSDI) in the amounts of \$5,000 and \$2,000 respectively. Chris had 20 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. $70\% \text{ of FAS} = \text{Monthly disability benefit}$
 $.70 \times \$10,000 = \$7,000$
2. $\text{Monthly disability benefit} + \text{LNI benefits} + \text{SSDI benefit} = \text{Total of all benefits}$
 $\$7,000 + \$5,000 + \$2,000 = \$14,000$
3. $\text{Total of all benefits} - \text{FAS} = \text{Reduction amount (to not exceed 100\% of FAS)}$
 $\$14,000 - \$10,000 = \$4,000$
4. $\text{Monthly disability benefit} - \text{Reduction Amount} = \text{Reduced monthly benefit}$
 $\$7,000 - \$4,000 = \$3,000$
5. $2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$
 $.02 \times \$10,000 \times 20 = \$4,000$
6. $\underline{\text{Earned benefit} - \text{Reduced monthly benefit}} = \underline{\text{Difference}}$
 $\underline{\$4,000 - \$3,000} = \underline{\$1,000}$

Chris is entitled to the greater of the catastrophic retirement calculation or the earned benefit. Since the earned benefit is greater than the reduced catastrophic benefit, Chris' benefit will be \$4,000 a month and \$1,000 of that benefit will be taxable.

Calculation of lump-sum benefit enhancement: If you are eligible for and elect the lump-sum benefit enhancement, you will receive a one-time payment equal to \$100 per service credit month or \$20,000, whichever is greater.

Example 1: Terry retired with 140 service credit months and has elected the lump-sum benefit enhancement payment:

$$140 \text{ months} \times \$100 = \$14,000$$

Terry's lump-sum benefit falls below the minimum amount owed and they will be paid a lump-sum benefit enhancement of \$20,000.

Example 2: Pat retired with 300 service credit months and has elected the lump-sum benefit enhancement payment:

$$300 \text{ months} \times \$100 = \$30,000$$

Pat's lump-sum benefit calculation is greater than the minimum and they will be paid their total earned lump-sum benefit enhancement of \$30,000.

Calculation of a tiered multiplier enhancement payment: If you are eligible for and elect the tiered multiplier enhancement your benefit for years 15-25 will have a 2.5 percent multiplier.

Example 1: Sam retired with 26 service credit years, a final average salary of \$9,500 and has elected the tiered multiplier benefit enhancement:

$$.02 \times \text{services years less than 15 and above 25} \times \text{final average salary} = \text{total 1}$$

$$.02 \times 16 \times \$9,500 = \$3,040$$

$$.025 \times \text{services years between 15 and 25} \times \text{final average salary} = \text{total 2}$$

$$.025 \times 10 \times \$9,500 = \$2,375$$

$$\text{total 1} + \text{total 2} = \text{total monthly benefit with the tiered multiplier}$$

$$\$3,040 + \$2,375 = \$5,415$$

Sam's nontaxable monthly benefit with the tiered multiplier enhancement would be \$5,415 per month.

(4) Do I have a benefit enhancement choice between the tiered multiplier and lump-sum benefit?

(a) If you were a LEOFF Plan 2 member on or before February 1, 2021, and are retiring with more than 15 years of service credit, you will have a choice between the tiered multiplier and the lump-sum benefit with a minimum of \$20,000. If you are retiring with less than 15 years of service credit, you will not have a choice and will receive the lump-sum benefit with a minimum of \$20,000.

(b) If you elect the lump-sum benefit and it is \$20,000 or more, you are eligible to purchase a lump-sum annuity with some or all of your funds. The minimum annuity purchase price is \$20,000.

(c) If you became a LEOFF Plan 2 member after February 1, 2021, and are retiring with more than 15 years of service credit, you will receive the tiered multiplier benefit enhancement. Members retiring with 15 years of service credit or less will receive the standard retirement benefit calculation and not an enhanced benefit.

((+3)) **(5) Nonduty disability:** As a nonduty disability retiree, you receive a benefit of two percent times your final average salary times your service credit years. This disability benefit will be actuarially reduced to reflect the difference in age at the time of disability retirement and age ((fifty-three)) 53.

Calculation of monthly disability benefit:

Example 1 – Full actuarial reduction:

Chris, age 47, was approved for a nonduty disability. The final average salary (FAS) was \$10,000. Chris had 20 years of service credit at the time of retirement. To determine the nonduty disability benefit amount:

$$\begin{array}{rcl} 2\% \times \text{FAS} \times \text{Service Years} \times \text{early} & = & \text{Benefit} \\ \text{retirement factor (2018 table)} & & \text{amount} \\ .02 \times \$10,000 \times 20 \times 0.5980 & = & \$2,392 \end{array}$$

(6) Do I have a benefit enhancements choice between the tiered multiplier and lump-sum benefit?

(a) If you were a LEOFF Plan 2 member on or before February 1, 2021, and are retiring with more than 15 years of service credit, you will have a choice between the tiered multiplier and the lump-sum benefit. If you are retiring with less than 15 years of service credit, you will not have a choice and will receive the lump-sum benefit of \$20,000.

(b) If you elect the lump-sum benefit and it is \$20,000 or more, you are eligible to purchase an annuity with some or all of your funds. The minimum annuity purchase price is \$20,000.

(c) If you became a LEOFF Plan 2 member after February 1, 2021, and are retiring with more than 15 years of service credit, you will receive the tiered multiplier benefit enhancement. Members retiring with 15 years of service credit or less will receive the standard retirement benefit calculation and not an enhanced benefit.