



STATE OF WASHINGTON

DEPARTMENT OF RETIREMENT SYSTEMS

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**Notice to Interested Parties**

March 24, 2016

**SUBJECT:** Rule Adoption, Concise Explanatory Statement, as required by RCW 34.05.325

**AMENDED RULE:** WAC 415-02-030 Definitions; WAC 415-02-550 What happens to my defined contributions if I transfer to Plan 3 after the department of retirement systems accepts my property division dissolution order?

**NEW RULE:** WAC 415-113-066 How does service credit from more than one retirement system affect my indexed retirement allowance?

**REPEALED RULE:** WAC 415-113-084 How will my benefit be computed if I retire retroactively from LEOFF Plan 2?

**REASON FOR ADOPTION:** When a member in certain retirement plans (LEOFF 2, PERS 3, SERS 3, TRS 3) has at least twenty years of service credit, and leaves employment, their defined benefit increases by approximately three percent for each year they delay receiving it. These rules clarify how the department applies this provision when the member retires from more than one retirement plan. This revision also removes references to gainsharing from chapter 415-02 WAC.

**HEARING:** March 22, 2016, 10:00 AM

**SUMMARY OF COMMENTS:** The Department received a written comment expressing concerns that this rule would require a member who has both “portability” rights and “indexing” rights to choose between the two. The commenter believes this contradicts statutory provisions, and takes exception to DRS implementing this interpretation through the rule-making process.

DRS believes its interpretation reflects the Legislature’s intent, and this rule-making action codifies administrative procedures already in effect concerning how those statutory provisions are applied.

**EXPLANATION:**

“Portability” refers to retirement from more than one public retirement plan, and allows the higher base salary from either plan to be used as the basis for the retirement calculation for the other plan(s).

“Indexing” is a feature provided in LEOFF 2, PERS 3, SERS 3, and TRS 3, and refers to an adjustment to the member’s base salary when there is a delay between separation from employment and

retirement. Indexing increases the base salary by approximately three percent per year that the retirement is delayed, and is intended to provide an element of protection from the effect of inflation.

This rule does not require a member to choose between portability and indexing. If a member is eligible for a portability benefit, the higher base salary will be used in the retirement calculation, and it may also be indexed. However, indexing will be applied to the base salary only for the period after separation from the employment where that salary was earned. This interpretation reflects the Legislature's intent to provide "a fair and reasonable value from the retirement system"<sup>1</sup> for public employees who make career transitions prior to retirement.

Since a member's salary reflects current wage conditions at the time it is earned, it would be contrary to the legislative intent and contrary to the public interest to substitute current earnings as the base salary for a prior period, and then to apply indexing to increase the base salary even further.

**DIFFERENCES IN TEXT:** The text being adopted is identical to the text as proposed in WSR 16-05-036, filed on February 9, 2016.

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<sup>1</sup> See [Washington Session Law 1995 c 239](#) concerning legislative intent for the creation of Plan 3 provisions. See [Washington Session Law 1993 c 517](#) for legislative intent concerning LEOFF 2.