



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Retirement Systems

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: Law Enforcement Officers' and Fire Fighters' (LEOFF) Plan 2 disaster coverage death and disability benefits:

Implementing Chapter 115, Laws of 2016 (SB 6263), which provides enhanced benefits for a LEOFF Plan 2 member who dies or is disabled before returning to LEOFF employment, after leaving membership to enter federal service in response to a natural disaster or other emergency.

Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 415-104-011 Definitions
 Suspended:

Statutory authority for adoption: 41.50.050 (5)

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-07-117 on March 21, 2017 (date).
 Describe any changes other than editing from proposed to adopted version: No changes.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted:

April 26, 2017

NAME (TYPE OR PRINT)

Tracy Guerin

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 26, 2017

TIME: 12:44 PM

WSR 17-10-035

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>1</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

WAC 415-104-011 Definitions. All definitions in RCW 41.26.030 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.26 RCW are defined in this chapter.

(1) **Commissioned** means that an employee is employed as an officer of a general authority Washington law enforcement agency and is empowered by that employer to enforce the criminal laws of the state of Washington.

(2) **Director of public safety** means a person who is employed on or after January 1, 1993, by a city or town on a full-time, fully compensated basis to administer the programs and personnel of a public safety department.

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a director of public safety.

(3) **Elective employer** means the employer of the LEOFF Plan 1 elected official during the member's leave of absence from the LEOFF employer for the purpose of serving in elective office.

(4) **Full-time employee** means an employee who is normally expected to earn basic salary from an employer for a minimum of one hundred sixty hours in a calendar month.

(5) **Fully compensated employee** means an employee who is normally expected to earn a basic monthly salary no less than one hundred sixty times the state minimum hourly wage. Nominal sums including, but not limited to, stipends or ancillary benefits such as insurance or leave accrual, provided to volunteer firefighters are not compensation for the purpose of determining whether a firefighter is fully compensated.

(6) Left the employ of an employer as used in RCW 41.26.470, 41.26.510, and 41.26.520 means any break in employment, whether formally separated or not formally separated, due to service in the uniformed services, national guard, military reserves, federal emergency management agency, or national disaster medical system of the United States Department of Health and Human Services.

(7) **LEOFF** means the law enforcement officers' and firefighters' retirement system established by chapter 41.26 RCW.

~~((7))~~ (8) **LEOFF employer** means the employer, as defined in RCW 41.26.030, who employs the member as a law enforcement officer or firefighter.

~~((8))~~ (9) **LEOFF Plan 1 elected official** means a LEOFF Plan 1 member who is a civil service employee on leave of absence because he or she has been elected or appointed to an elective public office and who chooses to preserve retirement rights as an active LEOFF member under the procedure described in this chapter.

~~((9))~~ (10) Performing service as used in RCW 41.26.470, 41.26.510, and 41.26.520 means engaging in activities in response to a disaster, major emergency, special event, federal exercise, or official training after having left the employ of an employer as described in subsection (6) of this section.

(11) Plan 1 and Plan 2.

(a) "Plan 1" means the law enforcement officers' and firefighters' retirement system providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(b) "Plan 2" means the law enforcement officers' and firefighters' retirement system providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

((+10+)) (12) **Public safety officer** means a person who is employed on or after January 1, 1993, on a full-time, fully compensated basis by a city or town to perform both law enforcement and firefighter duties.

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a public safety officer.

((+11+)) (13) **Uniformed firefighter position** means a position which may only be filled by uniformed personnel as that term is defined in RCW 41.56.030 (7)(e) as in effect on July 1, 1995. A position only qualifies as a uniformed firefighter position if the employer has identified it as such for all purposes. An employer may designate a position as uniformed regardless of whether the employer is covered by public employees' collective bargaining under chapter 41.56 RCW.

NEW SECTION

WAC 415-104-490 Death or disability while performing nonduty emergency management service. (1) **If I die or become disabled while performing nonduty emergency management service, will I or my survivors be eligible for LEOFF benefits?** As a LEOFF Plan 2 member, you or your survivors may be eligible for nonduty disability or death benefits if you become disabled or die while you are performing nonduty emergency management service.

(2) **What are the criteria for eligibility?** To be eligible for benefits under this section, you must meet all of the following criteria:

(a) You must be determined by DRS to be eligible for disability benefits as described in RCW 41.26.470 and WAC 415-104-485, or death benefits as described in RCW 41.26.510.

(b) You must have "left the employ of an employer" to "perform service" as both of those terms are defined in WAC 415-104-011. You will need to show evidence, such as a DD214, proof of leave status from your LEOFF employer, orders, or other relevant sources of information.

(c) Your disability or death must have resulted from conditions or events that occurred while you were performing the service described in (b) of this subsection, on or after March 22, 2014.

(3) **Will I receive service credit for the emergency management service?**

(a) You or your survivors may apply for up to five years of service credit for your emergency management service:

(i) Up to the date of your separation from such service if you are disabled; or

(ii) Up to the date of your death if you die while performing service.

(b) There will be no cost to you for the service credit. The department will bill your employer for contributions. No interest will be charged.

(4) **How will the benefits be calculated?** If you are approved for benefits under this section, your benefit will be a minimum of ten percent of your average final salary, with an additional two percent for each year of service beyond five. Your benefit will not be reduced for early retirement.

(a) If your application for nonduty disability is approved under this section, the benefit will be calculated as described in RCW 41.26.470(11).

(b) If an application for death benefits filed by your survivors is approved under this section, the benefit will be calculated as described in RCW 41.26.510 (4)(c).