

SENATE BILL REPORT

SHB 1679

As Reported by Senate Committee On:
Ways & Means, March 1, 2010

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: Reimbursing medical expenses for certain totally disabled public safety personnel.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Simpson, Van De Wege, Ericks, Williams, White, Kelley, Sells, Ross, Hope and Conway; by request of LEOFF Plan 2 Retirement Board).

Brief History: Passed House: 2/03/10, 96-0.

Committee Activity: Ways & Means: 2/22/10, 3/01/10 [DPA].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hewitt, Hobbs, Honeyford, Keiser, Kline, McDermott, Murray, Oemig, Parlette, Pridemore, Regala, Rockefeller and Schoesler.

Staff: Erik Sund (786-7454)

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 firefighter 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 to the retirement allowance paid to survivors of all LEOFF Plan 2 members killed in the course of employment reimbursement for the cost of participating in a PEBB health insurance plan. 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

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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 \$1,000 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.

Summary of Bill (Recommended Amendments): 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. A member who is eligible for Medicare must enroll in and maintain enrollment in Medicare Parts A and B in order to remain eligible for the reimbursement for medical premium expenses.

For members of the Washington State Patrol, the compensation of an officer totally disabled during the line of duty must include reimbursement for any payments of premiums for employer-provided medical insurance. Officers are considered totally disabled for purposes of the reimbursement benefit if the officer 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 \$1,000 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.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): The amendment adopted in the Ways & Means Committee established the requirement that a totally disabled member of LEOFF 2 who is eligible for Medicare must enroll and remain enrolled in Medicare Parts A and B in order to continue to receive the reimbursement for medical premium expenses provided by the bill.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: PRO: 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. Because of his injuries he is easily exhausted and cannot deal with stress. Because he cannot work, his family is facing significant financial hardships. They should not have to choose whether to make a mortgage payment or pay their insurance bill. We can't tell our law enforcement officers and fire fighters that their families would be better off if they are killed than if they survive. They need to know that their families will be taken care of – it is the right thing to do.

Persons Testifying: PRO: Jaime Daniels, Washington Council of Police & Sheriffs; Ty Elster, Seattle Police Officers' Guild and Council of Metropolitan Police and Sheriffs; Bill Hanson, Washington State Fraternal Order of Police; Renee Maher, Council of Metropolitan Police and Sheriffs; Kim McKissack, citizen; Steve Nelsen, LEOFF Plan 2 Retirement Board; Rich O'Neill, Seattle Police Officers' Guild.