

LEOFF 2 Benefit Improvement Account (BIA)

April 3, 2019

The future benefit improvement has moved one step closer to final passage! HB 2144 passed 26 to 7 out of the House Appropriations committee this week. We are expecting a hearing in the Senate soon.

You have received quite a lot of information about this LEOFF 2 issue since it surfaced at the end of February. I have sent you updates on [HB2144](#) on 3/12, 3/20, 3/27, and 3/29. In those earlier updates a list of questions and answers were provided. The Q&A below is largely the same as the 3/29 update, with one exception. Please see question 13, the affiliated answers, and the additional footnote.

Since the list of questions below is long and out of context, please watch the video provided [here](#). In this 3.5-minute video a summary of the issue is provided. This may be enough for you, or it may generate an interest to review the Q&A below. Please be sure to watch the video clips offered in the answers to questions 1, 2 and 3 that follow. You will gain significant historical information about the account and why it is so important for LEOFF 2 members.

Q & A

1)What is the current law and how will this proposal affect it?

A: Follow this link to watch an excellent, brief, explanation of the current law and how HB2144 changes it. This link is of David Pringle Non-Partisan House Committee staff:

<https://www.tvw.org/watch/?clientID=9375922947&eventID=2019031196&startStreamAt=9&stopStreamAt=183&autoStartStream=true>

2)Why was the 2008 Legislation passed to create a BIA?

A: Watch this short video of testimony before the Senate Ways and Means Committee on SB5983.

<https://www.tvw.org/watch/?clientID=9375922947&eventID=2019031183&startStreamAt=2891&stopStreamAt=2981&autoStartStream=true>

3)Why are LEOFF 2 pensioners different than other pensioners in our state?

<https://www.tvw.org/watch/?clientID=9375922947&eventID=2019031183&startStreamAt=3095&stopStreamAt=3172&autoStartStream=true>

4) If we agree to this, aren't we letting the Legislature "off the hook"?

A: In a way, yes. However, after a decade of considerable lobbying effort by the largest LEOFF stakeholders (WSCFF and WACOPS) the "hook" hasn't set. Only one payment has ever been made to the account and it was for the 2013-2015 Biennium. The legislature authorized a \$16 million transfer from the LEOFF 2 surplus. The state has never made a single contribution from the general fund.

5) Since the law mandates the Legislature authorize the contribution, can't we sue them?

A: Yes. You, the LEOFF 2 pensioners, could sue the State. If you wish to launch a suit, the statutory deadline for the oldest missed payment will be up in the coming year. Litigation would need to begin very soon.

6) If a lawsuit is filed, will the LEOFF 2 Pension System pay for the suit?

A: No. Such a suit would need to be paid for by the pensioners themselves. We do not know how such litigation would be funded.

7) What are the risks for suing the State?

A: There are several. Litigation will be complicated and expensive. The case would not move quickly and would likely drag out for years. During that time, the Legislature could easily repeal the current law and stop its future liability and our future BIA funding. The consequences of filing (win or lose) will work against us, probably for years, making our work to protect and improve your pension more difficult.

8) Isn't this "robbing Peter to pay Paul"?

A: No. In this case the surplus is more like a bank account with a balance beyond what is needed to pay for current liabilities. Consider the transfer like an investment decision you might make to move funds from your checking account (where you pay out your liabilities) into a savings account or even more so, into a long-term investment account.

9) Will transferring money from the surplus to the protected BIA put the fund at risk?

A: No. LEOFF 2 is the best funded, open, public pension system in the Country and is currently more than fully funded at 109%. *According to the State Actuary*, the fund will continue to be more than fully funded after the transfer at approximately 106%.

10) Has there ever been a time that LEOFF 2 has been less than 100% funded?

A: No. Even in the worst of the economic recession, LEOFF 2 remained fully funded.

11) Is there any risk by leaving the money in the regular LEOFF 2 account?

A: Yes. The fund currently has a funded rate of 109%. Some contributors to that fund, the state and the employers, may see those funds as a source of revenue or a source of future liability savings/offset. Either scenario could put those dollars at risk to be swept or used as an offset to a contribution holiday.

12) Is there any risk to putting this off another year or longer?

A: Yes. A negotiating position is strengthened when both parties have something to gain by the outcome. We believe the timing is right and we should push for this solution now and resolve this decade-long standoff between the State and the LEOFF 2 pensioners.

13) Did any organizations take a position other than support?

A: Yes. The WA Fraternal Order of Police testified that they were “other”¹ as part of a panel with the Association of Washington Cities and the Washington Association of Counties who both testified “opposed.” The video of each of their testimony on HB 2144 is linked below.

Association of Washington Cities:

<https://www.tvw.org/watch/?clientID=9375922947&eventID=2019031196&startStreamAt=1681&stopStreamAt=1805&autoStartStream=true>

WA Fraternal Order of Police:

<https://www.tvw.org/watch/?clientID=9375922947&eventID=2019031196&startStreamAt=1809&stopStreamAt=1948&autoStartStream=true>

*** The only caveat to keep in mind is that FOP is not exclusively a LEOFF 2 advocate. They have members in other pension systems, including WSP and DOC. While they represent some LEOFF 2 members, they do not represent 3,000 of them as they suggest by their testimony. In fact, very few of WAFOP’s LEOFF 2 members are uniquely WAFOP; most are likely members of WACOPS (4,400) or COMPAS (2,000).*

Washington Association of Counties:

<https://www.tvw.org/watch/?clientID=9375922947&eventID=2019031196&startStreamAt=1945&stopStreamAt=2015&autoStartStream=true>

You may also watch the entire Senate Ways & Means hearing on SB 5983. All testimony is included in the one link below:

<https://www.tvw.org/watch/?clientID=9375922947&eventID=2019031183&startStreamAt=2546&stopStreamAt=3790&autoStartStream=true>

14) Will this transfer result in a benefit improvement?

A: It is unknown at this time if \$300 million is enough money to execute a benefit improvement, or what the actual benefit could be. There are many variables to consider, and each one affects the final cost. There are also a variety of pensioners in various places in their careers to consider.

15) Shouldn’t the LEOFF 2 Board figure out the preferred benefit improvement first?

A: No. The 2008 legislation creating the fund, didn’t require the BI to be identified before the legislature would make the required deposits. If the legislature decided to bring the account whole, they’d make one deposit of a large sum (\$55 million) now. A contribution from another source (LEOFF 2 surplus) shouldn’t warrant different consideration.

Consider this analogy:

¹ What is the meaning of signing in “other” for testimony? This option is best used when your testimony is to assist legislators in understanding a technical matter related to the bill, but you aren’t taking a position on the outcome of the bill. If you want a specific outcome it is most transparent to sign-in indicating the way you’d like legislators to vote. A person genuinely positioned as “other” should stop short of trying to influence the vote. It is irregular for someone to sign-in as “other” but then testify or lobby legislators to gain a specific outcome.

Think about saving to buy a house. You know you want a house. You know you will need to have a lot of money for the down payment. You don't know which house you'll buy, but that doesn't stop you from saving money toward that purchase.

16) When did WACOPS first learn of the idea to run a funds transfer bill?

A: At the February 27, 2019 LEOFF 2 Stakeholder's meeting. All the LEOFF 2 Stakeholders were present at that meeting (WACOPS, WSCFF, COMPAS, WAFOP)

17) How does WACOPS evaluate ideas like this, or others, that come up during session?

A: It varies a little, but all consideration goes through the Government Relations Committee (made up of elected Executive Board members). That committee is well-positioned to evaluate opportunities and threats as they materialize in a rapidly evolving session.

The GRC Chair, working regularly with the Executive Board President, GRC members, and the Executive Director ensures WACOPS is thoughtful in its consideration of issues while remaining nimble and responsive to the fast-paced demands of the legislative session. In this case, the issue was one of your 2019 Legislative Priorities.

18) When did WACOPS first report the idea to members?

A: March 12, 2019.

19) When did the funds transfer idea become a bill(s)?

A: The senate version was introduced on March 12 and the House bill on March 13.

20) Has the WACOPS board of directors considered this proposal, if so, when?

The Executive Board was briefed by the President in early March. At the March 15 meeting, the Board discussed the proposal. A motion was made to support the proposed legislation. A second was given and after discussion the motion passed.

21) If we left the BIA as it is currently, when will the account reach \$300 million?

A: At this rate? Never. But *assuming* the legislature paid up what they currently owe, with interest that's about \$55 million; and, *assuming* every future biennium the economy is good, and the deposit is triggered; and, *assuming* the legislature always pays what's owed, the fund will have \$300 million sometime around 2029 or later.

$\$300 \text{ million} - \$55 \text{ million} = \$245 \text{ million owed going forward}$

$\$245 \text{ million} / \$25 \text{ million} = 9.8 \text{ future deposits (rounded up to 10)}$.

Deposits are made **every 2 years**, not annually. To get to 10 deposits it will take 20 years.

However, with the cost of inflation, the value of \$25 million goes down over time. So, to reach a future value equivalent to what \$300 million is worth today would take a slightly different calculation, and

likely **more than 20 years**, but you would also consider the interest accrued as well. So, this is just “back of the napkin” math to give you an idea.

[Click Here](#) for a recent report prepared for the LEOFF 2 board including a net present value assessment done by the State Actuary (see page 4 when in the linked document).

22) Is this one of WACOPS identified legislative priorities?

A: Yes. Since before the BIA was passed in 2008, our members have been asking for a benefit improvement. The BIA was hoped to be the vehicle to get to a future BI. Each year since its passage, funding the BIA has been a member approved legislative priority.

Please contact WACOPS with any questions. We are vested in LEOFF 2 also and take seriously the trust you have in our advocacy on your behalf. You can reach the office at 360-352-8224 or find all the Board of Directors’ contact information on our website at www.wacops.org.