

**Subject: Resolution 691 – Adoption of Voluntary Social Security for LEOFF Member**

**Dept. Origin: Clerk’s Office**

**Prepared by: Judy Grams  
 City Clerk**

**Meeting Date: November 6, 2018**

**Exhibits: Resolution 691**

**Proposed Council Action:**

Adopt Resolution #691

Initial & Date

**Concurred by Mayor:** \_\_\_\_\_

**Approved by City Planner:** \_\_\_\_\_

**Approved as to form by City Atty:** \_\_\_\_\_

**Approved by Finance Director:** \_\_\_\_\_

**Approved by Department Head: JG 11-6-18**

**INFORMATION / BACKGROUND**

March 1, 1970 Fire Fighter’s Retirement System LEOFF began. Fire Fighters filling full-time compensated Fire Fighter positions were mandated into LEOFF.

July 2, 1991 Mandatory Social Security coverage extended to most state and local government employees, unless they were already covered under a Section 218 agreement or exempt from Social Security because they were members of a qualifying public retirement plan. This change ensured state and local government employees pay into some sort of retirement plan, whether it was a public pension plan or Social Security. Fire Fighters, both volunteer or career, were exempt from mandatory Social Security because of the participation in the pension portion of the Volunteer Board of Fire Fighters.in 1981

July 19, 2018 Department of Retirement Systems evaluated the Fire Fighter full-time position held by the Ruston Fire Chief and discovered that there was no Section 218 coverage for this position in LEOFF. The Department of Retirement Systems, as the duly designated State Social Security Administrator advised City of Ruston (via email) of the issue and the steps needed to remedy the situation. Full-time employees in Fire Fighter positions who are enrolled into LEOFF membership are exempt from Social Security, and the Fire Chief needed to decide to either:

Stop withholding Social Security on Fire Fighters in LEOFF covered positions or continue to withhold and have the governing board (one full-time Fire Fighter) authorize a “majority vote referendum” on the question of Section 218 coverage (voluntary Social Security coverage) for Fire Fighters in LEOFF. If the referendum is favorable the City would continue to withhold Social Security.

Ruston Fire Chief elected to take voluntary Social Security Coverage. Adoption of the Resolution is recommended.

**BOARD OR COMMITTEE RECOMMENDATION**

None.

**RECOMMENDATION / MOTION**

MOTION 1: I move to adopt Resolution No. 691 establishing voluntary Social Security for the Ruston Fire Chief who is a LEOFF member.

## **RESOLUTION No. 691**

**WHEREAS**, by Public Law 761 of the second session, 83rd Congress, and Chapter 4, Laws of the Extraordinary Session of 1955, Congress and the legislature of the State of Washington have expressed their intent that the benefits of the federal Old Age and Survivors Insurance (OASI) program may be made available at their option to members of existing public retirement systems, in addition to and without any reduction or impairment of the protection and benefits afforded by such systems; and

**WHEREAS**, the City of Ruston desires to offer Social Security coverage to its eligible employees,

**NOW THEREFORE**, be it resolved that the City of Ruston does hereby adopt the following resolution:

**SECTION 1.** It is hereby declared to be the policy and purpose of the City of Ruston to extend the provisions of RCW 41.48.030, providing Social Security coverage to eligible employees of the Law Enforcement Officers' and Fire Fighters' Retirement System , subject to a referendum in favor of voluntary Social Security coverage.

**SECTION 2.** In pursuance of this policy, the Ruston City Council requests the Department of Retirement Systems, as the duly designated State Social Security Administrator, to supervise a majority vote referendum, under Section 218(d)(3) of the Social Security Act, for eligible employees in firefighter positions, who are members of the Law Enforcement Officers' and Fire Fighters' Retirement System. The majority vote referendum will be conducted pursuant to applicable State and Federal laws and regulations for the purpose of allowing eligible employees, as a retirement system group, the opportunity of paying the Social Security tax.

**SECTION 3.** The Mayor is authorized and directed to execute an agreement with the State of Washington to secure Social Security coverage of eligible employees as provided in Section 1.

**SECTION 4.** If the referendum is favorable, the coverage of eligible employees shall be effective as of January 1, 2018.

**SECTION 5.** Withholdings from salaries or wages of employees for the purposes provided in Section 1 of this Resolution are hereby authorized to be made in the amounts and at such times as may be required by applicable State and Federal laws and regulations, and shall be paid to the Internal Revenue Service, in such amounts and at such times as are designated in IRS Code 3121(b)(7)(E) and 3126.

**SECTION 6.** Employer contributions shall be paid from amounts appropriated for such purposes to the Internal Revenue Service in accordance with applicable Federal laws.

**SECTION 7.** The City of Ruston shall maintain such records and submit such reports as may be required by applicable State and Federal laws or regulations.

**SECTION 8.** This resolution shall take effect and be in full force from and after its passage.

**CERTIFICATION:**

I, **Bruce Hopkins, Mayor**, do hereby certify that the foregoing is a true and correct copy of Resolution No. 691 passed by the governing board of the City of Ruston on the 6<sup>th</sup> day of November 2018.

\_\_\_\_\_ November 6, 2018  
Signature & date

# City of Ruston

## History of Washington's Social Security and Medicare Coverage (and how it affects the City's career firefighter positions)

Effective Date	Description
1935	Social Security Act signed into law by President Franklin D. Roosevelt.
1936	City of Ruston's fire department established.
1937	First Social Security taxes collected and first benefit paid.
1937 - 1950	No state or local government employee could participate in Social Security due to a Constitutional question regarding the Federal Government's power to tax state and local governments.
1951	<p><a href="#"><u>Section 218 of the Social Security Act</u></a> authorized states to voluntarily elect Social Security coverage for public employees who were not already covered under a retirement plan (in 1951, it could be any kind of plan; it did not have to be a <i>qualifying plan</i>).</p> <p>Qualifying plan means 'Social Security replacement plan'.</p> <p>These Federal-State Agreements, often referred to as Section 218 Agreements, were entered into by each state with the SSA. Each state administers its Federal-State Agreement to extend coverage to state and local governments.</p> <p>Today, most public employees who are members of a qualifying plan cannot participate in Social Security through their public employment unless their retirement system group is covered by a Section 218 Agreement.</p>
January 1, 1956	<p>Effective date of voluntary Social Security coverage (Section 218 coverage) obtained by the City of Ruston for employees covered by the Statewide City Employees' Retirement System (SCERS). <b>Modification No. 89.</b></p> <p>Note – police positions covered by a retirement plan could not be covered until 1959.</p> <p><i>No coverage for firefighters (does not matter if volunteer or career, all considered firefighter positions for purposes of Section 218 coverage).</i></p>
January 1, 1959	<p>Effective date of voluntary Social Security coverage obtained by the City of Ruston for employees in police positions covered by the SCERS. <b>Modification No. 243.</b></p> <p><i>Still no coverage for firefighters.</i></p>
March 1, 1970	<p>The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) begins.</p> <p>Police – employees in eligible police positions are mandated into</p>

# City of Ruston

## History of Washington's Social Security and Medicare Coverage (and how it affects the City's career firefighter positions)

Effective Date	Description
	<p>LEOFF. Police at the City remain covered for Social Security because of the 'continuation of coverage rules'. Reference: <a href="https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001380">https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001380</a></p> <p>Fire fighters – employees filling full-time, fully compensated firefighter positions are mandated into LEOFF.</p> <p><i>Still no Section 218 coverage for fire fighters.</i></p>
January 1, 1972	<p>SCERS ends. The Public Employees' Retirement System (PERS) begins. All positions covered by PERS remain covered for Social Security because of the 'continuation of coverage rules'. Reference: <a href="https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001380">https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001380</a></p>
1981	<p>First year the firefighters participated in the VBFF pension plan per Julie Foreman, Accounts Manager at the Board for Volunteer Firefighters and Reserve Officers.</p> <p><i>The firefighters had no voluntary coverage prior to this date, and the participation of the firefighters in this pension plan exempts the positions from mandatory coverage later (see July 2, 1991).</i></p>
April 1, 1986	<p>Medicare-only coverage is mandatory for all employees (including state and local government employees) hired on or after this date, unless specifically excluded by law.</p> <p><i>Dan Torbet, Fire Chief since 1/1/18, is subject to Medicare today.</i></p>
July 2, 1991	<p>Mandatory Social Security coverage extended to most state and local government employees, unless they are already covered under a Section 218 agreement or exempt from Social Security because they are members of a qualifying public retirement plan (a.k.a. FICA replacement plan).</p> <p>This is the change that ensures state and local government employees pay into some sort of retirement plan, whether it is a public pension plan or Social Security.</p> <p><i>The firefighters, both volunteer or career, are exempt from mandatory Social Security because of the participation in the pension portion of the VBFF in 1981.</i></p>
March 2, 2004	<p><a href="#">SSA Form 1945</a> required to be given to public employees by the employer to advise that their earnings are not covered by Social Security.</p>

# City of Ruston

## History of Washington's Social Security and Medicare Coverage (and how it affects the City's career firefighter positions)

Effective Date	Description
July 19, 2018	<p>Police Chief of the City inquired about opting out of Social Security. DRS advised that the police are covered at the City.</p> <p><i>DRS then evaluated the firefighter positions and discovered that there is no Section 218 coverage for firefighters in LEOFF.</i></p>
July 20, 2018	<p>DRS, as the duly designated State Social Security Administrator, advised the City of Ruston (via email) of the issue and the steps needed to remedy the situation:</p> <p>Employees in firefighter positions that are enrolled into LEOFF membership are exempt from Social Security, and the City now needs to make a decision to either:</p> <ol style="list-style-type: none"><li>1. Stop withholding Social Security on firefighters in LEOFF-covered positions as of the next paycheck. Must also process Social Security wage corrections and Social Security tax refunds retroactive to Tax Year (TY) 2015 for affected employees.</li></ol> <p>Or</p> <ol style="list-style-type: none"><li>2. Continue withholding and have the governing board authorize a 'majority vote referendum' on the question of Section 218 coverage (voluntary SS coverage) for firefighters in LEOFF.</li></ol> <p>If the referendum is favorable – continue withholding Social Security.</p> <p>If the referendum fails, the City would have to process corrective wage reporting and refunds of social security taxes retro to TY 2015.</p>

For more information about Social Security and Medicare coverage for public employees, contact the State Social Security Administrator at DRS:

Email: [OASI@drs.wa.gov](mailto:OASI@drs.wa.gov)

Phone: DRS OASI Program line at (360) 664-7316