



PERS Policy Paper – “Police & Fire” Classification

Background

PERS members who work in a position that meets the definition for “Police Officer” and “Firefighter” (“P&F”) are eligible for special benefit provisions such as retiring at an earlier age and calculating their retirement benefit with a higher statutory factor. Frequently, legislation is introduced to expand the definition of “Police Officer” to afford P&F status to a broader range of positions. Recent proposed expansions have included dog control officers, physicians and nurses at Oregon State Hospital, juvenile detention workers, and community college police.

Policy Issue

What should determine whether a position is re-defined as a “Police Officer?”

Discussion

1. Compliance with Federal Tax Law

The federal tax code has special rules for benefits paid to “Public Safety Employees” – positions that principally engage police protection, firefighting services, or emergency medical services. Police protection positions are recognized as those that involve the custody, control, or supervision of individuals convicted of, or arrested for, a criminal offense or confined to a place of incarceration or detention. Those special tax provisions include broader exceptions from the 10% penalty for early distributions from tax-advantaged accounts like the PERS Individual Account Program (IAP) and, in certain circumstances, fully deducting health insurance premiums. Normal retirement age is another – PERS P&F members can retire at an earlier age, but if they do not meet the federal “public safety officer” definition, they could be treated as early retirements, which may change the taxation of their benefits.

Members who do not conform to the federal law definition, regardless of the classification of their position as P&F in the Oregon PERS plan, may have federal tax problems and PERS could incur compliance concerns if they do not qualify for these special federal tax provisions.

2. Cost for P&F Benefits

PERS P&F members are eligible to retire at an earlier age and their retirement benefit is calculated using a higher factor. These enhanced benefits (as well as some other provisions) mean that P&F status raises the cost of the benefits members earn while in that status by 4-5% of payroll. Those costs increase further if existing General Service (non-P&F) members move into that classification.

For example, if a 55 year old Tier One member is in a position that is reclassified as P&F, that member can take full retirement immediately instead of waiting until the General Service normal retirement age of 58. Normally, retiring three years “early” would reduce that member’s benefit by about 24%. Retiring as P&F with an unreduced benefit at age 55 increases the system’s costs for that member’s benefits earned from General Service because the pay-out will be longer than previously expected.

3. Alternate Benefit Structure

Proponents of bills to expand PERS' "Police Officer" definition generally describe the jobs in question as having high physical demands or high stress levels. These characteristics are similar to traditional P&F classifications; members in such positions generally have shorter careers. Given the federal tax law concerns, however, expanding the "Police Officer" definition is not the most appropriate solution for members who are not in positions that principally engage in the custody, control, or supervision of individuals convicted of, or arrested for, a criminal offense or confined to a place of incarceration or detention.

A model for enhanced benefits exists in PERS for "high risk, high stress" jobs. ORS 238.280(2) has a special retirement eligibility rule for telecommunicators, otherwise known as 911 operators. Members with 25 years of service in those positions can retire earlier than General Service members. Their benefit is actuarially reduced and the member does not receive a cost of living adjustment until reaching age 55. These special provisions were added in recognition of the demanding nature of those positions, but modified to limit the cost increase of allowing these members to retire early. Similar limitations and adjustments could be made for other "high risk, high stress" jobs.

Policy Recommendation

Proposals to expand the PERS definition of "Police Officer" should use the same criteria as that classification has in federal tax law. Differences between the state and federal definition put PERS members at risk for federal tax consequences and may subject the overall plan to additional scrutiny of its tax qualified status.

Positions that fall outside the federal tax law definition could be afforded special provisions similar to telecommunicators, in light of their shortened expected careers, but similarly modified to reduce the cost impacts of a reclassification.