



City of Portland, Oregon



BUREAU OF FIRE AND POLICE DISABILITY AND RETIREMENT

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FPDR ADVISORY

October 8, 2012

Dear Active Fire and Police Members:

This advisory addresses two subjects:

- A recent court ruling regarding the recovery of overpaid pension benefits
- November ballot measure #26-145, Amends Charter: Changes Provisions of Fire Police Disability Retirement System

Overpayment Recovery Ruling

In July, a Multnomah County Circuit Court judge ruled that FPDR cannot recoup overpaid benefits paid to retirees through the IRS-approved "COLA Holdback" method that FPDR has been using. Stopping the IRS-approved recoupment of the overpayments jeopardizes the FPDR's tax-qualified status. Consequently, in an effort to preserve the FPDR's tax-qualified status, FPDR has decided to appeal the judge's decision and will move for a Stay of the Judgment to permit the recovery process to continue during the appeal process.

When the overpayment of additional tax offset benefits was discovered in 2008, FPDR worked with the IRS to find a way to correct the mistaken overpayments and preserve the FPDR's tax-qualified status. While FPDR asked the IRS if it could forego recovering the overpayments, the IRS determined that recovery of the overpaid benefits was required to preserve the FPDR's tax-qualified status. In response, FPDR worked with the IRS to fashion a recovery plan that provided for recoupment of overpayments with the least possible impact on overpaid members while at the same time preserving the FPDR's tax-qualified status. The recovery process began in 2011.

Preserving the FPDR's tax qualified status is a priority. In the event that the COLA Holdback recovery method is stopped, we could not rely on the compliance statement previously issued to FPDR by the IRS – and the FPDR's tax-qualified status would be in jeopardy. FPDR will continue to work with the IRS to preserve the Fund's tax-qualified status during the appeal process.

Loss of tax-qualified status would result in significant adverse tax consequences for all FPDR members, not just those who received overpayments. At a minimum, FPDR's loss of tax-qualified status would mean that the actuarial present value of all vested benefits (i.e., the current lump-sum value of the vested right to all future payments from

the FPDR) would be immediately taxable to all FPDR's members – whether they are actively employed or retired.

FPDR is continuing to discuss options for the recovery of overpaid benefits with the IRS in a manner that will preserve the tax-qualified status of the plan. FPDR will keep you advised on developments regarding this issue.

Ballot Measure 26-145

In August, the City Council referred a measure to the November ballot regarding the Fire & Police Disability, Retirement & Death Benefit Plan – Chapter 5 of the City Charter – to Portland voters. The following pages explain the proposed changes. The wording for the numbered changes comes from the summary of the ballot measure. Since the summary is limited to a total of 175 words, FPDR has prepared the following to help you understand the possible impact to you.

Each change is explained as it would affect FPDR Two members and as it would affect current FPDR Three members. You are an FPDR Two member if you were first sworn at the City of Portland prior to 2007. You are an FPDR Three member if you were first sworn at the City or Portland in 2007 or later.

A retirement workshop has been scheduled for November 30, 2012. To attend, please complete and send in the registration form at www.portlandonline.com/fpdr.

If you have any questions, please contact Nancy Hartline, FPDR Financial Manager at 503.823.5501 or nancy.hartline@portlandoregon.gov.

Sincerely,

Linda L. Jefferson
Director

From the ballot summary

1. Clarifying the calculation of retirement benefits to include only pay a member received in the year preceding retirement.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
<p>Currently, FPDR calculates Final Pay as the Base Pay received in the 12 calendar months preceding the member's last day of work. (Any of three consecutive 12-month periods can be used.) Depending on the month of the member's last day of work, the 12 months may include either 26 or 27 pay dates. Also included in the 12 months may be a retro payment that applies to a period that may be partially or fully outside those 12 months. For example, the retro payment PFFA members received in August 2008 for July 2007 through June 2008 was included in the 12-month period for those members whose last day of work was in June 2009, but it was largely earned in an earlier period.</p> <p>The ballot measure would amend the calculation to include 365 (366 in a leap year) days of pay, of which the most recent pay date would be same as currently: the last pay date in the month preceding the member's last day of work. The oldest pay date, the 27th, would be prorated to get 365 or 366 days of pay. Only that portion of a retro that was earned in the 365 or 366-day period would be included.</p> <p>The treatment of contracts settled after a member's retirement would also change. Currently, only pay received during the 12-month period is included. The ballot measure would allow final pay to be recalculated to reflect what pay would have been had the contract been in place on its effective date.</p> <p>Also see FPDR Three column.</p>	<p>The Final Pay calculation as explained for FPDR Two members is the one that would be used to pay your survivor(s) service-connected or occupational death before retirement benefits, once your earliest retirement date would have been reached, or nonservice death before retirement benefits.</p>

2. Changing eligibility for disability benefits for newly sworn fire and police employees to after completion of six consecutive months of employment.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
No impact	No impact – this change would only apply to sworn employees hired after 2012 and would delay their FPDR eligibility for disability benefits by six months. During those six months the employees would be covered by Oregon workers' compensation, administered by the City's Risk Management Office.

3. Changing the calculation of service credit to not include post-employment service by another employer.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
<p>Currently the Charter provides for a member's vested termination benefit to be increased by increases in the rate of pay of your former position, after you resign from your sworn City of Portland position if you then work in a PERS-covered position before your FPDR retirement.</p> <p>The ballot measure would amend the plan to eliminate post-resignation increases in your benefit. Once you resign, your vested termination benefit would not change based on subsequent employment.</p>	No impact

4. Giving the Administrator, with the approval of the Board of Trustees, authority to settle claims.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
No impact	No impact

5. Defining service requirements for occupational disability due to heart disease and nonservice-connected disability and death benefits.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
No impact	The ballot measure would amend the plan to define the FPDR Three service calculation to be the same as that for FPDR Two members, to establish eligibility for these benefits.

6. Changing retirement benefits for part-time employees.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
<p>Members accumulate creditable service more slowly while working part-time than while working full-time. They also have lower Final Pay than full-time members, so they are currently being negatively impacted twice for their part-time service: once in service accrual and once in Final Pay. This calculation affects both retirement and death benefits.</p> <p>The ballot measure would amend the plan to provide for a Final Pay calculation based on the Base Pay of a full-time employee.</p>	<p>If you were to die while working part-time, the Final Pay calculation as explained for FPDR Two members is the one that would be used to pay your survivor(s) service-connected or occupational death before retirement benefits, once your earliest retirement date would have been reached, or nonservice death before retirement benefits.</p> <p>The ballot measure would amend the plan to provide for a Final Pay calculation based on the Base Pay of a full-time employee.</p>

7. Providing disability benefits on a monthly or bi-weekly basis.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
<p>If you were working less than full-time (either working a part-time schedule or having periodic medical appointments after your return to work) and had either an approved nonservice claim or an approved service-connected or occupational disability claim for which you had been receiving disability benefits for more than a year, FPDR would be able to pay your disability benefit bi-weekly instead of monthly.</p>	No impact

8. Providing interim disability benefits during the period between the application and approval of benefits.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
<p>Currently you have to use sick or other leave (or be unpaid) if you are off work until your disability claim has been approved. If your claim is approved, FPDR then works with your bureau to restore any leave time you used to your leave bank, or FPDR pays you the disability benefit due for the period before claim approval if you were unpaid.</p> <p>The ballot measure would amend the plan to allow FPDR to pay you interim disability benefits once we receive your disability in the line of duty application for a service-connected or occupational disability. If your claim is denied or you withdraw your claim, however, you would have to repay the interim benefits you received.</p>	<p>Same as FPDR Two.</p>

9. Clarifying language regarding occupational disability benefits.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
<p>No impact</p>	<p>No impact</p>

10. Changing from 10 years to 5 years the vesting period for nonservice-connected death benefits.

What this means to me:

I'm an FPDR Two Member	I'm an FPDR Three Member
<p>If you were to die before retirement of a nonservice-related cause, your survivor(s) would be eligible for death benefits as long as you had completed 5 years of service. Currently the requirement is 10 years of service.</p>	<p>Same as FPDR Two.</p>