

WSPRS: Use of Leave in Final Average Salary

Issue

Should members of the Washington State Patrol Retirement System (WSPRS) Plan 1, specifically, troopers commissioned between July 1, 2001, and December 31, 2002, be able to include unused vacation and holiday pay in their benefit calculation?

Background

Most of Washington's retirement plans do not allow members to include leave cash-outs in their benefit calculation. Most members of WSPRS 1 can include up to 240 hours of vacation and 80 hours of holiday pay in their benefit calculation. Troopers commissioned in the window between July 1, 2001, and Dec 31, 2002, are also considered WSPRS 1 members, but cannot include vacation and holiday pay.

This window was a product of legislation. In 1999, an audit of the Washington State Patrol showed, among other things, that troopers were using voluntary overtime to spike their pensions. Increases ranged from 3 percent to 50 percent.

In 2001, the Legislature enacted a bill ([Engrossed Senate Bill 5143](#)) with multiple effective dates.

- ❖ Effective July 1, 2001:
 - A. Voluntary overtime was removed for current and future employees.
 - B. Vacation and holiday pay were removed for new hires.
 - C. New post-retirement Cost-Of-Living Adjustment (COLA) enacted.
- ❖ Effective January 1, 2003:
 - D. WSPRS 2 created.
 - E. All new hires join WSPRS 2.
 - F. Cannot include voluntary overtime or vacation and holiday pay.

Part of this legislation—item A, above—is currently subject to litigation in *Hester et al. v. DRS and WSP*. While the Select Committee on Pension Policy (SCPP) has focused on item B, above, both A and B involve the same statutory change to the definition of salary.

In 2017, the Legislature enacted a new option for voluntary overtime. Specifically, all troopers in WSPRS 1 and 2 can include up to 70 hours per year of voluntary overtime earned on or after July 1, 2017 in their benefit calculation.

The following table shows each of these changes. The yellow highlighting shows the change the SCPP recommends.

For Troopers Commissioned New Troopers Join FAS Period	Prior to July 1, 2001	Between July 1, 2001 and December 31, 2002	After January 1, 2003
	Plan 1	Plan 1	Plan 2
	2-year FAS	2-year FAS	5-year FAS
Can Include in FAS			
Vacation/Holiday Pay	Y	N	N
Voluntary Overtime Earned			
Before July 1, 2001	Y	N/A	N/A
Between July 1, 2001 and June 30, 2017	N**	N	N
On or After July 1, 2017	Y	Y	Y

**Currently subject to litigation.

Highlights

- ❖ Some likely reasons for the hiring window and the changes it created include:
 - ◇ Allowing lawmakers to take immediate action while also giving the Department of Retirement Systems time to create WSPRS 2.
 - ◇ Creating a savings which partially offset the new COLA.
- ❖ While the Legislature has adopted the policy of consistent benefits where possible, policy makers may disagree on how the consistency should be applied. For example, some policy makers may feel:
 - ◇ All WSPRS 1 members should have the same benefits.
 - ◇ All WSPRS members should not be able to include vacation/holiday pay in their average salary, but contractual rights prevented removal from troopers hired before July 1, 2001.
- ❖ Pension spiking has no objective measure. Perceptions of it can vary; often based on the means used, and the size of the increase.
 - ◇ Isn't necessarily against the rules but is often viewed negatively.

Committee Activity

The Committee held a work session at the July 2019 meeting, and public hearings at the October and November meetings. At the November meeting, the Committee voted to sponsor a bill draft that would allow troopers commissioned during the window to include unused vacation and holiday pay in their benefit calculation.

Recommendation to the 2020 Legislature

Allow troopers commissioned between July 1, 2001, and December 31, 2002, to include unused vacation and holiday pay in their benefit calculation.

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