

Halverson, Beth

From: Gutierrez, Aaron
Sent: Thursday, May 10, 2018 6:28 PM
To: @SCPP Members
Cc: Smith, Matt; Nelson II, Michael (ATG); @SCPP Assistants
Subject: Additional SCPP Correspondence

Members of the Select Committee on Pension Policy,

I am forwarding you the message below from your State Actuary, Matt Smith, at his request. Please contact me if you have any questions.

Thank you,

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This e-mail, related attachments, and any response may be subject to public disclosure under state law (Chapter 42.56 RCW).

Members of the SCPP,

I am writing to you in response to an email the committee received from Mr. Robert Fox on May 9, 2018. In his email, Mr. Fox describes an issue he would like the committee to study and attributes some statements to me. I would like to clarify the statements Mr. Fox attributes to me, clarify which statements came from Mr. Fox, and provide additional context for the record. I also hope you find my response helpful as you assess whether to study the issue raised by Mr. Fox.

I spoke to Mr. Fox on February 22, 2018, on a conference call that lasted approximately 45 minutes. I was joined on the call by Mitch DeCamp, an actuarial analyst from the Office of the State Actuary, two representatives from DRS, and a friend of Mr. Fox that he introduced as a PERS 1 retiree.

Our conversation covered many technical issues concerning the prior gain-sharing benefit and Plan 1 Uniform COLA (UCOLA) laws, reservation of rights clauses contained in the enabling statutes for both laws, and the ultimate repeal of both benefits. It was a long conversation and I don't intend to address every point of discussion in this communication or respond to all the points raised by Mr. Fox in his correspondence to the committee.

For your reference, I do summarize below, from my recollection, the main issues we discussed during the conference call.

- As I recall, Mr. Fox was under the impression that dedicated funds existed for the payment of past Plan 1 gain-sharing benefits and he believed he was not provided a benefit he felt he had earned.
- I clarified that no transfer of funds occurred for Plan 1 gain-sharing benefits. I clarified that no dedicated fund ever existed for the exclusive payment of gain-sharing benefits. When a Plan 1 gain-sharing event occurred, the plan provided larger retirement benefits via the Plan 1 UCOLA for eligible members.
- I explained that the Legislature reserved the right to repeal both future gain-sharing benefits and the Plan 1 UCOLA when they enacted both laws. I further explained that the Legislature ultimately repealed both benefits and the state supreme court upheld the Legislature's actions. With the repeal of the Plan 1 UCOLA, all members not yet eligible to receive the UCOLA, like Mr. Fox, lost all future UCOLA payments including any increases from past gain-sharing events.
- In terms of gain-sharing benefits, we discussed how Plan 3 members were treated differently than Plan 1 members. The Legislature provided gain-sharing benefits to eligible Plan 3 members via a lump sum to their member accounts. Unlike the eligibility for the Plan 1 UCOLA where a member had to be at least age 66 and retired for one year to receive the UCOLA, eligible Plan 3 members (with an account balance of at least \$1,000) received an immediate lump sum benefit as their gain-sharing benefit.
- To illustrate the impact from differences in plan provisions between Plan 1 and Plan 3, I explained that had the Legislature provided Plan 1 and Plan 3 gain-sharing benefits in a lump sum, all eligible members would have been impacted in the same manner after the repeal of gain-sharing benefits. However, because the Legislature provided Plan 1 gain-sharing benefits through the UCOLA, and then repealed the UCOLA after the repeal of future gain-sharing benefits, members ineligible for the UCOLA at the time the Legislature repealed the UCOLA, like Mr. Fox, lost all future UCOLA payments.
- Mr. Fox asked me what should he do. I shared that I could not offer him legal advice, but if he could provide evidence that he was denied a benefit he had earned under the law, I would like to see it. I also told Mr. Fox he could contact his legislator and seek legislation to provide the benefit he desires or contact the SCPP and request they study the issue.

It may not be clear in Mr. Fox's email which statements represent his own statements and which statements he attributes to me. The three statements below are the only statements that I interpret as statements he attributes directly to me based on the statements I made during the conference call. All the other statements in Mr. Fox's May 9, 2018, email represent his statements, beliefs, or opinions.

- Mr. Fox states "... Mr. Smith basically said the gainsharing money, that was declared on extra ordinary gains on the investments were placed in the pension trust." As I noted above, I clarified with Mr. Fox that no transfer of funds occurred for Plan 1 gain-sharing benefits. I further clarified that no dedicated fund ever existed for the exclusive payment of gain-sharing benefits.
- Mr. Fox states "Mr. Smith said the only way Plan 1 members could receive their earned investments was to have a bill passed that would allow payment such as a lump sum similar to what Plan 3 members received. Or a bill allowing the UCOLA to continue with only using the gainsharing enhancements as the adjustments." As I noted above, I told Mr. Fox he could contact his legislator and seek legislation to provide the benefit he desires or contact the SCPP and request they study the issue. I did not characterize that any member had "earned investments" that they did not receive.
- Mr. Fox states "Matt Smith said the gainsharing law was not smart and should have never come about." I recall making a similar statement. During the end of the conference call, I also discussed some of the history of how gain-sharing benefits were enacted without a full knowledge of the long-term cost, how the long-term cost was fully identified and fully understood after the enactment of the law, and how that lead to the ultimate repeal of the benefit. I shared with Mr. Fox my personal opinion that the Legislature adopted a benefit without a complete understanding of its cost, but was fortunate to have included a reservation of rights clause that allowed for the removal of the benefit.

I hope you find this information useful in your deliberations, and I know your committee staff would be happy to provide a briefing on this issue if you decide to study it further. I'm also happy to answer any questions you may have about my phone conversation with Mr. Fox.

Matt

Matthew M. Smith

State Actuary