Firefighter pensions get boost from extended 'DROP' time

Former firefighters union president Frank De Clercq. [Union-Tribune file] (John Gibbins)

By **Lauryn Schroeder**

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Eleven firefighters received pension payments exceeding $500,000 last year, and all of them did so by taking part in a little-known loophole in one of San Diego's most controversial employee benefit programs.

The Deferred Retirement Option Plan, or DROP, allows city employees to collect a paycheck and a pension at the same time, but for a fixed period.

The idea was to retain experienced employees who might otherwise be tempted to retire, saving the city the costs of recruitment and training for newcomers.

The program has been held up as an example of pension excess, amid accusations that employees were double dipping by collecting retirement benefits and a paycheck simultaneously. It was discontinued for new employees starting in 2005.

City workers hired before 2005 can still take advantage of the program, but must leave the payroll after five years in DROP.

That cap was lifted for firefighters in 2002. They have been allowed to extend their time collecting two checks for as long as 16 additional months while their accrued vacation time is paid out.

The retirement payments are deposited into a special account that builds up until the firefighters leave the payroll, resulting in the large checks the year they leave the department.

Last year, the top retirement payee was Frank De Clercq, former president of San Diego Fire Fighters Local 145.

De Clercq's salary was $85,000. He entered the DROP program in 2009, locking in to leave the payroll in June 2014.

When it came time for De Clercq to leave the department in 2014, he still had enough leave time built up to keep him on the payroll — and in the DROP program — through October 2015.

When De Clercq finally left the city's employ, his DROP account had accrued $711,000, paid out in a lump sum. He did not return three calls this past week seeking comment.

During the extended DROP period for such firefighters, the city can't fill their positions — which causes their colleagues to cover more shifts, work more overtime and accrue large leave balances themselves.

"[De Clercq] was the former head of the firefighters union. He knows exactly how to work it and play with the system to get a payout at the taxpayer's expense," City Councilman Scott Sherman said.

"You can't fault them for being in the program. [DROP] was promised to them and it was a good deal at the time. But the ones who are exploiting the system are the problem."

At Sherman's request, City Auditor Eduardo Luna began reviewing department expenses in 2013.

The 2014 audit report identified 11 firefighters extending their DROP period with unused annual leave, and said an additional 33 employees could follow suit when they reach the five-year deadline in June 2014. Twenty-two employees will be eligible next June, followed by another 24 in June 2018, according to audit documents.

Department spokesman Lee Swanson said nine employees are currently in the extended DROP period, some adding an additional year and a half of salary and pension payments to their account.

The program extension comes with consequences for the department, which has come under scrutiny in recent years for regularly going over its overtime budget and allowing employees to accrue a larger vacation time balance than the city contracts call for.

As of February, department employees have accumulated $19 million worth of unused leave time, and almost half of it — some $8.8 million — is above the limits set in labor contracts.

U-T Watchdog was able to identify 25 fire employees who have extended DROP in the past three years using department and audit data. All but four had accrued more annual leave than their position allowed in 2013.

According to the city's personnel regulations, workers with fewer than six years of employment can accrue as much as 136 hours of annual leave each year. After six years of service, the number increases to 176 hours per year and eventually maxes out at 216 hours each year.

Nearly 70 percent of De Clercq's total accrued annual leave in 2013 was above the contracted cap. Kyle Passini, a fire captain who received nearly $679,000 of retirement funds last year, had accrued more than 60 percent over the limit in 2013 and extended his DROP by about 340 days.

Luna's report, which originally identified the excess annual leave, prompted a review of city contracts by City Attorney Jan Goldsmith to determine why the leave caps had been exceeded.

Goldsmith's review of contracts, which were approved by City Council, revealed "that the cap has never been absolute, and it may be lifted by the City's Fire Chief under certain circumstances."

The leave balances will continue to grow until the current labor agreement expires in June 2018, and any annual leave earned until that time will be considered a vested benefit and cannot be eliminated, the memo said.

Sherman said the council plans to ensure the cap is enforced during future negotiations, to lessen the months of leave time now being dispensed at the end of certain people's firefighting careers — a phenomenon that creates the need for more overtime.

Overtime has become a source of controversy in recent years. For years, firefighters and city officials argued that overtime was less expensive than hiring more employees, given the cost of benefits.

More recently, the city auditor has determined that hiring additional employees would be more cost-effective and safe than paying some firefighters overtime amounting to hundreds of thousands of dollars per year.

Chris Olsen, fiscal and policy analyst for the Office of the Independent Budget Analyst, said the department's 2017 budget proposal includes 32 additional positions, which will staff stations that have previously been filled almost entirely with overtime.

"Overtime is paid at a different rate than a straight salary, so in a broad sense, it will save money," Olsen said.

According to an April budget review, the change will reduce personnel expenditures by about $427,000, although that still leaves the department with a $29.9 million overtime budget.

"The fact that you can hire 32 more people and it will save money makes it clear the system's broken," Sherman said. "We want to do a deep dive into what was going on and make sure we keep following up."

Calls and messages seeking comment from current Local 145 president Alan Arrollado, Passini, and more than a dozen firefighters who extended their DROP tenure went unanswered this past week.

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