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City to pay out \$93M to retirees

Contracts let workers retire with six-figure sums for unused leave, sick pay

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By squirreling away hundreds of hours of unused holiday, vacation and sick days, more than 900 Cincinnati employees - nearly one in five - may receive at least six months' extra pay when they retire, costing taxpayers more than \$93 million.

A total of 120 of them can look forward to at least a year's extra salary upon retirement thanks to contract provisions that make it relatively easy for workers to accumulate and cash in huge amounts of unused leave, an Enquirer analysis of city records shows.

The City Council-approved contracts include benefits that, among other things, permit many workers to draw 13 sick days a year, grant three weeks' worth of compensatory time to public safety employees for holidays whether they work them or not, and entitle veteran police officers to nearly 10½ weeks of various leaves annually.

Fourteen workers are eligible for two or more extra years' salary, led by Cincinnati police Lt. David Fink. Over his 25-year career, Fink has stored up nearly 10,600 hours - the equivalent of five years of work worth at least \$434,857.

Fink is one of 10 police supervisors who could eventually retire with unused compensatory and leave time valued at more than \$200,000 - money that can be taken in either a lump sum or, for tax considerations or other reasons, by continuing to draw a regular check from the city after leaving the department.

"That's some gold watch," said Steve Erie, a political science professor and director of urban studies at the University of California, San Diego.

Another 38 Cincinnati workers currently are in line for \$100,000-plus checks - "lump-outs," in city payroll jargon - when they retire or leave for another job. Hundreds more of the city's 5,092 full-time workers, though, also could walk away with tens of thousands of dollars, with 206 having balances between \$50,000 and \$100,000.

The biggest payouts - all legal and permitted under city decisions and state laws dating back, in many instances, a quarter century or longer - generally will go to 914 employees with more than six months of accumulated leave.

To critics, the hefty paydays not only prove that City Hall could benefit by stricter adherence to basic business practices and attitudes - just try getting 10 weeks a year off in the private sector, they say - but also are particularly difficult to justify in a city that for the past two years has grappled with \$50 million-plus budget shortfalls.

"It's absolutely indefensible and offensive to taxpayers," said City Councilman Jeff Berding, who has repeatedly pressed for the city to take a harder line in contract talks. "It violates every standard of economic common sense and shows complete disregard for the city. People who just watched us

struggle to try to cut \$54 million from the budget have every right to look at this and be outraged."

City Hall - and thus, taxpayers - owed at least \$93.9 million to city workers as a result of the time they had stored up as of January, the Enquirer found. But the amount the city will eventually pay is likely to be much more, for two reasons:

- First, city employees cash out the accrued time at their final salaries, not what they were paid when they earned it. For example, a worker who saved five sick days when he started his city career as a \$600-a-week employee could, three decades later, cash in that time at a pay scale perhaps two to three times higher.
- Second, because city pensions are based on the average of workers' three highest years' salary, the payments can significantly increase some employees' retirement benefits.

A city worker who receives a \$60,000 payment could, under certain circumstances, see a pension grow by up to \$18,000 a year. Police and firefighters' big final checks will not add to their pensions because their state retirement fund guidelines exclude end-of-career lump sums.

The city's payouts far exceed what is typically found in the private sector, where sick time normally is awarded on a use-it-or-lose-it basis and where sizable retirement bonuses are rare and largely confined to top executives.

"Sick time should be there if you need it, period," Berding said. "It was never supposed to be some kind of salary supplement. City workers are turning their sick time into an annuity."

Golden parachutes

Cashing in at least some unused vacation and sick time is common in public jobs, said Erie, a widely respected expert on public compensation. Even so, he said Cincinnati "seems to be among the most charitable of the bunch."

"This is the golden parachute, public-sector style," Erie said. "This is beyond generous - nobody gets that kind of package. You'd never get away with this in the private sector. If you tried, your company probably would be bankrupt."

City workers and union leaders, however, emphasize that employees who build up huge leave balances are simply abiding by rules agreed to by the city in contract negotiations.

"There are two sides in any negotiation, so the city at some point obviously saw these things as being in its interest, too," said Diana Frey, president of the Cincinnati Organized and Dedicated Employees, a union with some of the most modest leave policies in city government.

"It's important to remember that our employees are doing nothing at all wrong," City Councilman Wendell Young said. "The question, though, is whether we can afford to continue to do business the same way."

Most employees with the highest leave totals are police officers, whose contract is laced with liberal amounts of holidays, vacation and sick days, and who also benefit from frequent opportunities to earn overtime or "comp time" through court appearances and other routine duties.

Because there is no overall ceiling on the time many carry over from year to year throughout their career, 1,000-hour-plus leave balances are common among the department's 1,068 officers.

At the top of the list, the balances soar to two to three years of pay - or more - for Fink and other top police supervisors. Fink did not return phone calls.

That group includes Lt. Col. James Whalen, who had 5,719 hours - nearly three years - on the books worth \$316,088 as of last month, and Capt. David Bailey, whose 6,872 hours could bring him a check for \$327,432.

When retiring Chief Thomas Streicher steps down next month, he will pocket about \$245,000 from time built up during his 36½-year career.

Firefighters' payments also high

Among city employees who work outside law enforcement, the highest potential "lump-outs" fall below \$100,000. Many of those belong to Fire Department bosses, with six top district supervisors and the fire union president having balances worth at least \$63,000 to \$81,000, according to city documents.

The higher amounts among police owe much to a contract that provides officers with more time off annually than - especially at higher ranks - can realistically be taken when it is earned.

Under the Fraternal Order of Police's contract with the city, officers earn:

- 120 hours of comp time every Jan. 1 - time and a half for 10, eight-hour holiday shifts, based on the possibility that they *may* have to work those days throughout the year. Officers who work holidays also earn their regular salary for that day, giving them pay and time off totaling 2½ times the normal rate.

Many officers retain most or all of those 120 hours to cash in later, effectively building a three weeks-per-year salary bonus. That would not be possible in the private sector, which is governed by stricter pay rules.

Why not simply pay overtime to officers who actually work the holidays?

"That's not an unreasonable question," said city labor relations official Ursula McDonnell. "It's something that's come up here and there. But frankly, it's never been one of the top priorities."

- Two hours of sick leave per week, or 13 days a year. Officers may convert accumulated sick time to cash, receiving one hour of pay for every two hours of sick leave in their account, up to a maximum of 600 hours - 15 weeks.
- Annual vacation based on length of service, ranging from 88 hours for rookie cops to 193 hours - 24 days - for those with 19-plus years on the force. Officers hired before July 1997 may accumulate up to 587 unused vacation hours, worth more than 14½ weeks' pay, while those whose career began after that date are limited to 394 hours.
- Overtime for which they may choose or are required to take comp time in lieu of immediate pay, but which may be cashed in later.

Benefits replaced pay

Some of those provisions were added to the police contract over the years as a trade-off for the city awarding smaller immediate pay raises or other benefits.

That fact, FOP president Kathy Harrell argues, blunts any criticism.

"During hard economic times from the '70s on, we negotiated the right to these time banks by giving up things, so there wouldn't be a big initial financial hit to the city," Harrell said. "It's not just a gift being given to us. Every one of these hours was earned."

That negotiating tack by the city, however, has simply delayed - and, many contend, magnified - the financial day of reckoning.

City Hall's contracts with other unions also include leave allowances that would be the envy of many workers, private or public.

- The members of Cincinnati Fire Fighters Union Local 48 may convert even more unused sick time to cash than police officers, up to 770 hours.

The purpose behind the higher ceiling, McDonnell said, stems from the fact that minimum fire crew staffing levels usually require overtime for someone to fill in for a sick colleague. In most other departments, including police, officials often can "work around" a slot vacant due to illness, she said.

"It was considered beneficial to have a stronger incentive for folks not to call in sick," McDonnell said.

- The agreement with the American Federation of State, County and Municipal Employees, the city's biggest union, awards eight hours of personal leave to any worker who used no more than eight hours of sick time during the previous six months. While those extra hours must be taken over the next six months, they make it easier for employees to hang onto time that can be cashed in later.
- Similarly, Cincinnati Building Trades Council members who take no more than one day of sick time in one year receive an eight-hour "sick use incentive day" to be used the following year.

Cash-for-time allowances as generous as Cincinnati's, said Jerry Newman, a professor in the University of Buffalo's School of Management, "all but beg for individuals to find ways to abuse them by hoarding those hours."

"You can play within the rules and still work them to your advantage," Newman said.

To Berding, the \$93 million-plus leave balance is evidence that some workers "expect taxpayers to keep giving, giving, giving."

"They know the situation we're in, but they're still looking to fatten their own wallets," he said. "To say past councils or city administrations made it possible isn't a justification. When you go to an all-you-can-eat buffet, that doesn't mean you should stuff yourself just because you can. It's like a lot of city workers are saying, 'I'll have 10 helpings.'"

The current situation, particularly with regard to the police and fire contracts, also has its origins in Ohio's collective bargaining law.

While taking away Ohio police officers' and firefighters' right to strike, the 1983 law replaced it with a binding arbitration process used to resolve contract issues that cannot be settled at the negotiating table.

Under the procedure, an arbitrator must choose either the union's position or the city's. That rigid guideline, combined with a track record in which arbitrators generally sided with unions, has, city leaders argue, given unions an incentive to pile on demands in negotiations, forcing the city to make concessions to avoid a potentially onerous request reaching arbitration.

"Bottom line, because of Ohio state law, it is not ridiculous for unions to make ridiculous demands," Cincinnati Human Resources Director Hilary Bohannon told City Manager Milton Dohoney Jr. in a memo last year.

The FOP's Harrell, though, contends the law "has been a win-win for both cities and employees," partly because of the relative tranquillity the law brought to labor relations.

Debate over the financial impact of the city's leave allowances often begins with the sick and vacation provisions.

Cincinnati awards two hours of sick time weekly - 13 days per year - to most employees, a generous level compared to nearly all private companies and many public ones.

The city's reasoning, labor official McDonnell explained, is that because City Hall does not fund workers' short-term disability coverage, the ample sick leave would enable workers to build up substantial banks of paid time available in the event of serious illness or injury.

While that is widely seen as a reasonable alternative, the question often asked is why employees who do not need to tap deeply into that sick time throughout their careers are permitted to cash in much of it when they retire.

"You showed up for work every day, like you're supposed to," Berding said. "Why should you get paid extra for that?"

'Fiscal insanity'

Part of the answer, said Marianne Steger, director of health care and public policy for AFSCME Ohio Council 8, is that the city - and residents - ultimately benefit from incentives that reduce sick time usage, enhancing public service.

"These benefits are a form of deferred compensation for the employees," she said. "At some point, that has to come back to them."

One of the most effective means of reining in the hefty payments, public budget experts say, would be to limit the amount of unused time that ultimately could be cashed in, both on an annual basis and upon retirement. The absence of an overall ceiling for all employees, the University of Buffalo's Newman said, is "fiscal insanity."

Top Cincinnati leaders recognize that, but also do not underestimate the challenge of persuading any union to give up a valuable benefit - unless the city is willing to make concessions in other areas.

"When you look at these contracts, you immediately realize one thing," Berding said. "The benefits go in but never come out."

Additional Facts

Top 10 Payouts

All 10 individuals are police officers. Lists hours and value:

1. David Fink: 10,587; \$434,857
2. David Bailey: 6,872; \$327,432
3. James Whalen: 5,719; 316,088
4. Thomas Streicher Jr.: 3,834; \$245,597 *
5. Michael Cureton: 4,253; \$235,080
6. Paul Broxterman: 4,927; \$234,758
7. Gary Conner: 6,554; \$232,080
8. Andrew Raabe: 4,654; \$221,770
9. Joseph Borger: 5,320; \$218,518
10. Matthew Cornacchione: 6,082; \$215,371

* Based on estimated pay back of portion of annual leave due to mid-year retirement.

Source: *City of Cincinnati records*

