

FLAWED DISABILITY FUND IS A COSTLY CRUTCH FOR THE CITY

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Summary: Injured Portland police and firefighters, under a system that uses millions of taxpayer dollars, can get benefits until retiring even if they can work other jobs

A disabled police officer stands guard over Portland Trail Blazers owner Paul Allen at the Rose Garden.

An injured firefighter scrambles up mountains and through woods on his TV show, "Northwest Hunter."

Another disabled firefighter owns an upscale Portland restaurant, aided by city taxpayers who subsidized his training at the prestigious French Culinary Institute in New York.

All have one thing in common: Though clearly able to work, they continue to collect thousands of dollars in benefits each month from the Portland Fire and Police Disability and Retirement Fund.

Disability programs in Oregon and most major U.S. cities serve as a temporary safety net for injured police or firefighters while they are unable to work, moving them off benefits and back to jobs as soon as possible.

Not in Portland.

An investigation by The Oregonian found the city's system is an open checkbook, with rules that allow injured police and firefighters to collect checks until they retire, even if they can earn a living in another job.

Although voters tried to fix the system 16 years ago, the newspaper found that the reforms have had little lasting effect in moving people off disability rolls and reducing costs.

Instead, one in nine Portland police and firefighters is on disability, and they go out at four times the rate of their peers statewide. Although injury claims typically close after about a year in other Oregon cities, half the recipients in Portland's \$15-million-a-year system have been collecting checks for a decade or more. A claim for lost wages in Portland costs \$37,390 a year on average -- seven times that of police and firefighters statewide.

The program's costs have doubled in the past decade and are projected to keep rising. And meaningful cost controls don't exist because City Hall has never had to worry about paying the bills: Money for the disability fund comes straight from Portlanders' property taxes -- \$373 this year for the average house.

"All of the incentives are backwards," said Edward Welch, a workers' compensation expert at Michigan State University. "It's an incredible system. I can hardly believe it."

Nor does it work for the injured. Many police and firefighters say that, once hurt, they find the city no longer wants them, leaving them to collect disability checks even though they could work in some capacity.

"The system is flawed because of its design," said John Hash, a police officer on disability since 1992 who now helps oversee operations of TriMet's light rail. Benefits helped while he couldn't work, he said, but it feels awkward to accept them since he's recovered.

"Ultimately, who's losing in this? The citizens in the city of Portland," he said. "I feel kind of bad for taking it, but at the same time I'd feel stupid for not taking it."

The Oregonian's findings come despite resistance from fund trustees, who voted to block the newspaper's requests for financial and other records and in April sued to prevent them from being released. With the lawsuit still pending, the paper relied on dozens of interviews and previously released fund documents to prepare this report.

Defenders of the system, which voters created in 1948, agree that it needs improvement. But they say police and firefighters who risk their lives in the state's biggest city are deserving. Some suffer grievous injuries from falls, car accidents or gunshots. Many had their careers cut short and hold little hope of returning to any job.

"I truly believe if you're a firefighter or police officer and you're injured on duty protecting Portland citizens, the city has an obligation to maintain your living standards," said Tom Chamberlain, a former trustee on the fund's board and a past president of the Portland Firefighters Association.

City Commissioner Randy Leonard, a former fire union president and past trustee of the fund, says police and firefighters have come to depend upon a system that has proved to be stable, predictable and professional.

"If every bureau in the city ran as well as (the fund), we'd be a very well-run city," Leonard said. "They take caring for taxpayer dollars very seriously."

But the fund has done just the opposite -- failing to enforce rules that could rein in costs.

The fund can suspend the benefits of anyone who is capable of working and won't look for a job. It never has.

A fund consultant found last fall that staff did a poor job of tracking medical conditions for the 212 members now out on disability, as required by the city charter. Nor did the fund's staff often know whose responsibility it was to get people on disability back to work.

And police officers have filed and won disability claims that allowed them to sidestep being disciplined or fired, despite reforms intended to halt the practice.

Oversight of the fund comes from a board of trustees dominated by police and fire union members and other bureau officials. Even though the disability fund's staff work as part of the city auditor's office, there has been no city audit of the fund's operations for 11 years.

Fund officials say they don't calculate basic spending benchmarks -- such as how long claims stay open or what they cost -- because the trustees don't ask them to. The staff did not know that they approved 95 percent of all disability claims until The Oregonian filed a public records request to discover the number.

Spending on the disability program is only part of the fund's \$86.5 million a year budget, which mainly goes to funding police and fire pensions. But disability costs are growing at a faster rate.

The fund is exempted from property tax limits, which means its tax rate can rise automatically to cover all of its costs. Other government services -- still subject to tax limits -- get what's left. As a result, the fund consumed \$14 million that otherwise would have flowed to schools, libraries and parks over the past eight years.

Fund trustees and officials say they are improving the system. The Fire and Police Bureaus recently have agreed to offer a few light-duty jobs to disabled employees after years of resistance.

But many of these changes come as the fund faces greater scrutiny. In January, the City Council appointed a nine-member citizen task force to study the fund and propose reforms by year's end.

Mayor Tom Potter sat on the fund's board in the early 1990s when he was Portland police chief. As mayor, he serves as its chairman.

Potter said he's determined to fix the system, knows that significant changes will require voters to approve a city charter amendment, and understands that police and firefighters unions could mount campaigns to protect the status quo.

City Auditor Gary Blackmer, who also is a fund trustee, said that as things stand now, the board lacks authority to force police and firefighters off disability if they are able to work.

"If they can be gainfully employed," Blackmer said, "why should we keep paying them?"

Payments go back decades

In November 1967, The Beatles released their "Magical Mystery Tour" album and "The Andy Griffith Show" was the most popular series on television. That same month, Portland police Officer Arthur Bell was hurt on the job.

As of the start of this year, records show, he still was collecting a monthly disability check of \$3,294.

The exact nature of Bell's 37-year-old injury isn't known. Records aren't available to show when he left work. And Bell won't say. "I respectfully decline to comment," he told The Oregonian.

His case illustrates one of the fund's biggest problems -- claims that have been open for decades.

As of December, 75 police and firefighters were under what is called the fund's "old plan," covering those hurt before voter-approved changes in 1990. Members of this group receive 60 percent of their base pay, regardless of whether they are able to work and are earning income from another job.

The fund's records show these recipients collected \$2.8 million in benefits a year.

Bell, 61, now lives in the south coast town of Lakeside. He co-founded Bell Family Nursery in Aurora in 1979 and sold it in 1999, according to state and county records.

The newspaper used court files, business records and interviews to locate Bell and others like him who have worked in other jobs while continuing to collect benefits. The Oregonian found as many as 11 who have worked in construction. Others, who've lived as far away as Hawaii and the Virgin Islands, have been real estate agents, bus drivers or run their own businesses.

* Lawrence Barnum, 61, a police officer injured in 1976, collects \$3,294 a month. Today, he's a homebuilder working through his company, Vintage Homes NW of Tigard.

* John V. Pahlke Jr., 59, a police officer injured in 1982, collects \$1,163 a month. Pahlke has worked as a registered nurse in Oregon and Arizona since 1986, according to state records. As recently as last year, Pahlke worked at Legacy Emanuel Hospital & Health Center in Portland.

* Leonard Collins, 57, a police officer injured in 1976, collects \$3,294 a month. State records show Collins in the past few years has worked as a home inspector and owned a business called Freeway Fix-It Man in Milwaukie.

By comparison, a police officer on the job at least five years makes \$5,299 a month today.

Taking bullet, benefits

Barnum, Pahlke and Collins all declined interview requests. But one disabled officer said he nearly gave his life protecting the community and deserves ongoing benefits even though he has another job.

Jeffery Brose, 49, a police officer injured in 1980, collects \$3,232 a month. Since June 1998, Brose has been licensed as a private investigator in Gresham.

"I took a .357 Magnum right there," Brose said, lowering his shirt collar to reveal a scar on his upper chest. Brose said he had been on the job six months when he was shot on July 31, 1980. He was chasing a prisoner who escaped from the Yamhill County Courthouse, where Brose was off-duty and waiting to testify. Brose went back to work for several years, but he said he never was "100 percent again."

Just because he can work private investigations, Brose said, does not mean he could return to police work.

"What I do is Sunday school compared to what the police on the streets do," he said. "No one shoots at me. I never have to fight. . . . What I do is shuffle a bunch of papers."

Others on disability have far more active jobs, however.

Richard Young said he injured his left knee in training in 1981 as he ran to jump onto a fire truck. Since then, he said he's had five surgeries. He went on disability in 1988 and now receives \$4,036 a month in benefits.

Since 1992, Young has starred in his own TV show, "Northwest Hunter," and sold videos called "Northwest Hunter Greatest Hits." The show and videos feature him pursuing mountain goats, white-tail deer and moose in Canada, Alaska and Montana.

Young said his injuries make it impossible to resume firefighting. Hunting is another matter, he said.

"It's a controlled atmosphere," Young, 46, said. "That's the big difference."

Young said the disability board approved what he's doing but added that the fund recently left him with the impression he should "get off TV."

Babette Heefle, the fund's administrator, declined to discuss Young's case, citing privacy concerns. But she said she doubted the fund's staff would have told him to quit TV.

Young said he wouldn't give up his show anyway.

"I'm not doing anything illegal," he said. "Why should I quit?"

Rules allow moonlighting

Among other things, the 1990 reforms were meant to prevent police and firefighters from collecting full benefits while holding outside jobs. The changes set up what is called the fund's "new plan," which allows a higher maximum benefit -- 75 percent of base salary -- but requires members to report any outside income.

Under the plan, benefits are supposed to be reduced based on how much members earn and the status of their disability, although there is a minimum benefit of 25 percent of base pay. As with the state workers' compensation system, benefits are tax-free if the disability is work related.

In other systems, workers who are deemed to have a permanent partial disability but can make a living doing other work usually receive a lump-sum award. Typically, their claims are then closed and disability checks for lost wages stop.

Portland's system allows some disabled workers to hold high-profile jobs, rankling former co-workers.

On Blazers game nights, police Lt. Rex Price works the Rose Garden. Dressed in a dark blazer and tie, he surveys the crowd from an aisle as he keeps an eye on billionaire team owner Paul Allen, seated nearby.

Price, 54, used to patrol the Rose Garden and nearby Lloyd Center when he worked as a Portland police officer. In 1997, while still on the force, he started moonlighting for the Trail Blazers.

Two years later, he went on disability, filing a claim that cited heart disease, but he continues to work for the Blazers. Alice Carrick, who works in the team's personnel department, said Price serves as Allen's "personal escort." His duty is to chaperone Allen "so he knows where he's going . . . just to be there if he has any requests. Rex knows who to contact if he wants anything done."

Price collects a monthly benefit of \$5,320, according to the fund's December report. Police officers say they have complained to the disability fund, wondering how Price can work as a bodyguard but not as a cop.

"I'm not security," Price said. "I'm just a facilitator. The pension board has approved what I'm doing."

Retrained but still paid

Like other disability systems, Portland's fund helps injured cops and firefighters by paying for vocational rehabilitation. The fund has sent one worker to flight instructor school, another to real estate classes and another to improve his private investigator's business.

But unlike other systems, Portland keeps paying after they've landed new careers.

Firefighter Tom Hurley, one of Portland's best-known chefs, benefited from the retraining. At his Northwest Portland restaurant, featured in Gourmet magazine last year, Hurley serves up wild Scottish pheasant and other entrees with prices as high as \$32.

Contacted by The Oregonian on a recent Friday afternoon, Hurley stood in the restaurant's kitchen wearing a blue Fire & Rescue shirt, fixing a broken freezer before an event with a French winemaker.

A fifth-generation firefighter, Hurley, 46, said he fractured his right knee when he fell through a second-story floor that collapsed in a fire. In a subsequent injury, he said, he hurt his back when he was thrown by the force of a fire.

Hurley declined to offer more details, except to say that he worked on and off before going on long-term disability in November 1993. Records from city archives show an independent medical examiner said in May 1995 that he was able to return to work. Instead, the fund's board sent Hurley to another doctor and he remained off work.

State records show that Hurley was a licensed drywall contractor from 1992 to no later than 1995. He said he also worked as an estimator for a construction company.

After that, Hurley took advantage of the fund's vocational rehabilitation program, which helps retrain injured workers in hopes that benefits can be reduced when they go back to work. "I presented a business plan to show them how they could save money by giving me a chance to be retrained," he said.

The fund helped send him to the French Culinary Institute of New York in June 2000 to study classic culinary arts with artisanal baking. Hurley said he wanted to work in the "food capital of the world." He graduated July 26, 2001, according to the institute, which said tuition at the time was about \$25,000.

Hurley said the fund subsidized his training. By how much, he would not say. Records from December 2004 said Hurley received \$3,948 a month in benefits. Hurley disputed that, putting the amount at about \$2,600. Fund officials say Hurley's benefits and how much was spent on his training are confidential.

"Don't rock the boat"

When complaints arise about the activities of those on disability, the fund has the power to investigate and suspend benefits if rules are being broken.

It doesn't always happen.

A study by Mercer Human Resource Consulting Inc. concluded last fall that the fund is "reluctant to use this power. This reluctance certainly results in higher costs as some

claimants can 'beat the system' and other claimants, when they see this occur, attempt to do the same."

Documents obtained by The Oregonian bear this out.

Board minutes show the staff failed to follow up on an anonymous call in 2003 about the activities of a police officer on disability. A board subcommittee decided the staff was under no obligation to check such tips unless they receive at least two anonymous calls or the caller identifies himself.

Heeftle said the fund has no such rule. Instead, each complaint is weighed on its merits. "We will usually err on the side of investigating," Heeftle said.

Earlier, the spouse of a firefighter said she found she couldn't get the fund's staff to look into her concerns when she questioned the extent of her husband's injuries.

In the fall of 2001, Mary Catherine Huben said she met with Heeftle about her husband Brian Runyan, a Portland fire paramedic.

"I know this certainly is going to impact me financially, but I have a problem. He's not hurt," Huben said she told Heeftle. "He did get injured as a firefighter, but he recovered."

Runyan had been off duty since April 1990. He said he hurt himself "lifting heavy patients in awkward positions," and that he has since had two back surgeries. Today he receives \$3,229 a month in benefits.

While on disability, Runyan has worked part time as a TriMet bus driver and as a sales associate for a condominium complex in Vancouver. Despite his injury, he is an avid cyclist who finished more than one Cycle Oregon, the weeklong tour that runs hundreds of miles.

Runyan, 58, said he's only able to ride using a recumbent bicycle.

"I have to be able to do the job of a firefighter at 100 percent, so going back, limited duty -- that's not an option," Runyan said. "Surgeries can only correct you so much, and will never get you back to where you've been before."

To Huben, Heeftle seemed uninterested. "Honest to God," Huben said, "it was like, 'Don't rock the boat.' "

Citing privacy concerns, Heeftle declined to discuss Runyan's case. "We do listen and take an interest and investigate when needed," Heeftle said. "I'm surprised somebody would characterize it that way."

Runyan later was convicted of assault for repeatedly striking Huben. She got a restraining order and a stalking order against him. They divorced in March 2004.

Huben said her father was a New York City firefighter who was injured when a roof collapsed as he was battling a blaze.

"Nobody should be pulling in (benefits) with no physical disability," she said, "when there are others out there with real physically disabling conditions."

Cost controls neglected

Some of the trustees, including Potter and Blackmer, say they worry that the fund doesn't do enough to track whether disabled police and firefighters are reporting their outside income.

The issue surfaced in December, when the fund's board suspended the \$2,287 monthly checks firefighter Mark Vrvilo was collecting for a back injury. Vrvilo, 41, had been serving as a medic with the Oregon National Guard in Iraq. He had not disclosed his whereabouts or his income as a reservist. Vrvilo is back from Iraq and has asked for a board hearing to address the matter, said Diana Godwin, one of his lawyers.

Staff at the fund said they discovered Vrvilo's situation only after receiving a tip and searching for him on the Internet.

Bambi Heup, 38, joined Portland police in December 1990. In an interview, she said that in 1992 she was struck with a 2-by-4 while pursuing a thief. The blow broke her nose, and she said that she required brain surgery two years later. She said she worked off and on for years, including doing light duty as recently as 2002 as the bureau's liaison to the disability board.

Heup now co-owns It's Your Logo, a Southeast Portland business that sells embroidered shirts, jerseys and jackets. Records show she bought the business with a partner in August 2003.

The most up-to-date fund records available show Heup receiving a monthly benefit of \$3,885.

Heup said her benefits aren't reduced because she has no outside income to report and that the business is not turning a profit. "I'm not employed here," Heup said in an interview at her business. "This is just an investment for me."

The fund's rules contain a potential loophole for people on disability who run businesses. They must report outside income -- except for "income from investments such as interest, dividends, rentals and capital gains."

As a result, someone collecting disability could accept a dividend from a business rather than a salary, and avoid a benefit reduction.

Plans to improve

Heeftle said the fund staff is working to improve case and program management.

Disability costs fell to \$13.1 million in 2005, down from \$13.3 million a year earlier. Heeftle said the primary reason was outside the fund's control: Police and firefighters filed fewer claims than expected.

One way to reduce costs further is to stop benefits for anyone who is capable of performing outside work but who won't look for a job or retrain. Fund officials say the board has that power but has never used it.

Firefighter Randall Olson is on disability, owns his own business and said he is not reporting any income.

Olson joined the bureau in August 1990. Around 1997 or 1998, he said, he tested positive for hepatitis C, contracted during one of his emergency medical runs. He went on disability in 2000.

Today, Olson, 48, owns and runs Ducks Moorage on the Columbia River along Northeast Marine Drive. "I don't make any money here, but my wife makes a salary," he said. "I'm the president of the corporation."

Because his medical condition is stable, Olson is collecting 50 percent of his firefighter's pay -- \$2,680 a month, according to city records.

The fund tried to get Olson to take an inspector's job with the Fire Bureau -- one that would have further reduced his benefits. He said he refused.

Olson said the fund's staff then suggested he train for a new career. He went to a few vocational rehabilitation meetings and quit. The fund staff then backed off.

"I got very angry about having to go get trained to do something else," Olson said on a recent sunny day as he looked out from his office over the Columbia River. "I'm happy here in my marina."

News researchers Kathleen Blythe, Margie Gultry and Lynne Palombo contributed to this story.

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FIRST OF TWO PARTS

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Graphic -- 12 color photos and text -- FIRE, POLICE BUREAUS DOMINATE FUND BOARD, THE BOARD OF TRUSTEES - Portland voters approved the Fire and Police Disability and Retirement fund in 1948. Since it's inception the fund has been controlled by the members it serves...

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Graphic -- Charts and text by DERRIK QUENZER/The Oregonian -- HOW PORTLAND

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