Employees sue city, pension system

Demand to pay full cost of retirement credits or lose benefits at issue

8:37 p.m., Aug. 31, 2011

SAN DIEGO — A group of more than 300 current and former city workers are suing San Diego and its pension system for fraud and millions in damages after being asked to pay tens of thousands of dollars to keep their current retirement benefits or accept a smaller pension.

The lawsuit is the latest round in a legal fight that has its genesis in a 2003 decision by city and pension leaders to alter a benefit program that was a money loser for taxpayers and added to San Diego's pension deficit. The "purchase of service credit" program allowed employees to buy up to five additional years of service that they never worked in order to increase the size of their future pensions.

An appellate court ruled last year that the pension system erred by allowing roughly 2,200 workers to enlist in the program during a brief window in 2003 even though pension officials knew the pricing was too low, wrongly leaving taxpayers on the hook for $100 million in future benefits.

Now those workers are being asked to pay the full price plus 8 percent compounded interest to keep their pension or take a lesser pension in order to correct the mistake. The change is devastating for some workers, employees say, especially those already retired and living on a fixed income that may now be reduced.

Ann Smith, the attorney who filed the lawsuit Friday on behalf of the affected city workers, said the employees were urged by city and pension leaders to buy the credits before the cost was scheduled to increase in 2003 and many retired based on what they were promised.

"All the harm, every single drop of harm has been transferred entirely to the people who were blameless in the process, which were the people who relied on both their employer and the trustees of their pension plan to give them the straight scoop about what was available to them and what wasn't available to them," Smith said. "The city's taken no accountability, (the pension system) has taken no accountability, all of its been transferred to all the little people who are now being told their pensions aren't good."

Gina Coburn, a spokeswoman for the City Attorney's Office, issued a brief statement Wednesday in response to the lawsuit.

"We have already won this case once," she said referring to the appellate court decision. "We're not surprised that they are raising these same issues again, but we believe the results will be the same."

The purchase of service credit program was enacted in 1997 under then-Mayor Susan Golding. It's still in effect, although not for new hires.

Employees can buy as many as five years of service that they didn't work. For example, a 15-year worker could retire with 20 years of credit. The move increases future pension payments and, in some cases, allows workers to retire earlier.

The pension system wasn't charging workers enough for the credits between 1997 and 2003 to cover its costs. The pension board voted on Aug. 15, 2003, to increase the rates but delayed implementation for more than two months. Word spread quickly and nearly as many people bought credits during that window as in the previous six years combined.

Of the 2,200 workers who bought credits during the rush, they spent an average of $65,500 each when the true cost was closer to $103,200.

The future benefits of those purchases is valued at about $100 million, or nearly 5 percent of today's $2.1 billion pension deficit.

craig.gustafson@uniontrib.com (619) 293-1399 Twitter @gustafsoncraig