Suit wants back vacation pay in pension formula

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By BRAD SCHRADE
Staff Writer

A group of 15 retired Metro police and firefighters have filed a lawsuit against Metro government because they say a recent policy change by the Purcell administration caused them to get smaller pensions.

The lawsuit alleges that for years Metro public safety officers were paid a lump sum for unused vacation days on their final paycheck when they retired.

This was often a large sum because officers accrued many vacation days from year to year.

The pay from these days was factored into the "average earnings" used to calculate the monthly pension payment. This fact was taken into consideration by public safety officers when they chose to retire, the lawsuit alleges.

On Sept. 13 a Metro Law Department ruling said the government had no authority to include this benefit and it was discontinued.

The plaintiffs, who all retired within the last year, are suing to recover the higher pension level.

"We think the officers have earned this," attorney David Raybin, who is representing the police officers in the suit, said Tuesday. "They've been told this for years, for decades. These officers are vested after working for 10 years."

Metro attorney Michael Bligh declined to comment about the lawsuit because he hadn't had a chance to review it. But in a legal opinion he issued about a year ago, he wrote that the practice had been done "sporadically" and had not been factored into projecting the costs of pensions.

The opinion said the practice wasn't authorized and is "unlawful," adding that the Metro finance director "has a duty to disallow such payments."

Raybin doesn't dispute Metro's ability to discontinue the practice. He said it would require some action by the Metro Council and be retroactive to unvested employees but should not affect those who have been promised this benefit.

Discontinuance of the calculation is costing the various public safety officials in the suit $25 to more than $100 per month in lost pension benefits, the suit alleges.