Government Executive

2019 FEDERAL PAY AND BENEFITS OUTLOOK

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2019 Federal Pay and Benefits Outlook

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By Erich Wagner & Eric Katz

It's probably safe to say that relatively few voters were thinking about federal employees' pay and benefits when they cast their ballots in the Nov. 6 midterm election. But the outcome, with Democrats taking control of the House by a comfortable margin, promises to have a big impact on the jobs and compensation for federal employees.

Republicans will sit in the House minority for the first time since 2010. In the time since the GOP took control, federal workers have endured—often through measures signed into law by former President Obama—three pay freezes, higher contributions to their retirement pensions and the erosion of civil service protections. Although the Trump administration is likely to continue to push for changes in federal compensation, it will encounter new opposition in 2019.

Democrats held a meeting with major federal employee unions in October, and, according to those present, promised to be "laser-focused" on federal workforce issues. Democratic leaders listened to employee advocates as they spelled out their priorities, ranging from unwinding pension contribution hikes to lowering premiums for long-term health care insurance. Lawmakers also appeared open to using legislation to try to roll back Trump's workforce orders, which a federal judge largely struck down but are still being deliberated in appeals court.

Matt Biggs, secretary-treasurer at the International Federation of Professional and Technical Engineers, predicted that attempts to slash federal employee compensation "will come to a halt" in 2019.

Jessie Klement, the National Active and Retired Federal Employees Association staff vice president for advocacy, said Congress may offer federal employees a more generous pay raise in 2020 as a result of House control flipping. Democrats have floated a raise closer to the employment cost index—2.8 percent over the last 12 months, according to the Bureau of Labor Statistics—or to reinstate parity with the military. Members of the armed services are set to receive a 2.6 percent pay raise in 2019.

While the pressure may lighten to some degree, Klement cautioned, legislation targeting federal workers is not likely to disappear.

"We play a little less defense," she said of a Democratic House, "but the cuts that have been proposed for federal pay and benefits have come regardless of who is in the White House and some have come regardless of who is in control of Congress."

Tony Reardon, president of the National Treasury Employees Union, similarly said he expects less adversarial action for his members next year, but warned that feds are not out of the woods entirely.

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Tony Readon
National Treasuury Employees Union

“It is certainly my hope that a new Congress will be thoughtful about these issues and do what I think is in the best interest of American taxpayers and federal employees,” Reardon said.

He added, however, that the president can still take unilateral action.

Here are some things to look for in 2019:

Parity in federal pension cost of living adjustments—potentially. Rep. Gerry Connolly, D-Va., introduced the Equal COLA Act, a bill that would ensure that enrollees in the Civil Service Retirement System and the Federal Employees Retirement System receive equal cost of living adjustments to their annuities each year.

Under current rules, which date back to 1986, the CSRS methodology for calculating cost of living adjustments is tied to the change in the consumer price index. But FERS COLAs are extrapolated from the CSRS adjustment: if the CSRS sees a COLA under 2 percent, FERS retirees receive the full COLA. If the adjustment is between 2 and 3 percent, FERS enrollees would only receive a 2 percent increase. And if the CSRS COLA is 3 percent or more, FERS retirees would receive that adjustment, minus 1 percentage point.

Connolly’s bill would ensure that FERS cost of living adjustments are calculated in the same way as CSRS COLAs each year, so that retirees in each program see the same increase in their annuities.

Debate about public-private pay disparities. Members of the Federal Salary Council, a group tasked with advising agency officials about pay disparities between federal employees and their private sector counterparts, are in the midst of a debate about how best to calculate that gap, with Trump administration appointees on one side and labor groups on another.

In November, the council weighed potential changes to how the Bureau of Labor Statistics calculates pay disparities to determine which regions require their own locality pay levels so that federal employees’ pay keeps pace with workers in the private sector. The three Trump administration appointees, arguing that the current methodology does not adequately capture the disparity, advocated that the White House propose legislation to require pay comparisons to include "total compensation," including non-salary benefits like health insurance and pensions. But the proposal, along with two more modest suggestions to widen data collection, were opposed by members representing federal employee unions.

A council working group, despite a lack in consensus among its members, criticized the current model as a "black box" that "relies heavily on statistical modeling," and offered options that would not require a change in law. One would be to continue the current methodology, and another that could be accomplished administratively would be to develop a survey of benchmark jobs, rather than looking at the labor market as a whole. A third option would be to supplement the existing BLS research with additional human capital data like agency attrition rates and recruitment and retention data.

Two proposals that would require legislation include "developing a method for taking benefits into account when comparing federal and non-federal total compensation," and establishing a periodic "comprehensive" review of total compensation for federal workers, akin to the Defense Department's quadrennial review of military compensation.

Federal unions oppose including non-salary benefits in pay comparisons, which they say is a veiled attempt to either reduce locality pay rates or justify cuts to the Federal Employees Retirement System and other programs.

A challenge to the way OPM calculates retired law enforcement annuities. The Federal Law Enforcement Officers Association has asked acting OPM Director Margaret Weichert to roll back an Obama administration decision to change how payments to divorced retirees are distributed to them and their former spouses.

The group, which represents more than 27,000 federal law enforcement professionals across 65 agencies, blasted a 2016 OPM decision to grant a "marital share" of the Federal Employees Retirement System Retiree Annuity Supplement to a retiree's ex-spouse if the retiree is subject to a state divorce decree. Before that decision, the agency would only grant that share based on the basic annuity.

The retiree annuity supplement is the money that is paid to retirees who are not yet eligible for Social Security, which kicks in at age 62. Many law enforcement positions force officers to retire at age 57. For decades, the supplement was not subject to a court-ordered marital share because OPM considered it to be a Social

U.S. Marines with Recruiting Station New York, 1st Marine Corps District, participate in the annual Veterans Day Parade in New York City on Nov. 11, 2018./ Marine Corps photo by Cpl. Maverick Mejiacabrera

Security-type benefit, and thus not part of a divorce agreement.

"This policy change constituted an unwarranted reinterpretation of a 30-year old provision of the FERS statute and, more importantly, has caused real financial harm to federal law enforcement and other retirees for the more than two years that it has been enforced by the agency," wrote association National President Nathan Catura. In addition, the association said that OPM has applied the policy retroactively, leading to many officers suddenly owing money to the government to send to former spouses.

The decision to apply marital share to the annuity supplement has drawn criticism from both Congress and an agency watchdog. Sen. James Lankford, R-Okla., wrote in May that the policy change could constitute a violation of the Administrative Procedures Act, and the OPM Inspector General issued a report in February questioning the manner in which the policy was changed outside of the traditional rule-making process.

A boost for military retirees and survivor beneficiaries. The Defense Department announced in November that military retirees and survivors will receive a 2.8 percent jump in pay and annuities in 2019. Beginning Jan. 1, most military retirees, enrollees in the Survivor Benefit Plan and survivors of service members who died on active or inactive duty, will receive the increase, the Pentagon said in a statement.

Additionally, survivors who are eligible for the Special Survivor Indemnity Allowance program will receive a 2.8 percent increase, with the maximum amount available reaching $318. The Pentagon calculated the cost of living adjustment based on the increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers between September 2017 and September 2018.

Another retirement savings option for military personnel. Service members have until Dec. 31, 2018, to enroll in the federal government's 401(k)-style retirement savings program for matching contributions. That's the deadline for military personnel to decide whether to enroll in the Blended Retirement System. The program offers for the first time an employer match of between 1 percent and 5 percent to the Thrift Savings Plan for military members, provided

they accept a less generous annuity calculation if they stay the full 20 years required to earn pension benefits.

Blended went live on Jan. 1, 2018, and people who joined the military after that date are automatically enrolled in the program. Existing service members who do not opt in by Dec. 31 will be locked into their current retirement savings program with no employer match for TSP contributions.

In an effort to inform service members about their options, the TSP produced a video on the subject, as well as a Q&A about the program to help them make a decision.

New eligibility rules for needs-based veterans programs. The Veterans Affairs Department announced new limits on who is eligible for needs-based defined benefit programs. Regulations governing the VA pension and Parents' Dependency and Indemnity Compensation programs were updated Oct. 18 to reflect the new policy. The programs provide monthly payments to retirement-age wartime veterans and their survivors with an annual income of less than $13,855, although that limit can be mitigated by unreimbursed medical expenses.

Under the new rules, there will be a "clear net-worth limit" for income and assets, and the rules establish a 36-month "look-back" period that allows the department to review asset transfers to ensure they were not done at below fair market value to reduce an applicant's net worth. The new regulations establish "up to a five-year penalty period" based on the portion of covered assets that would have made an applicant's net worth exceed the threshold.

The change also updates definitions of a medical expense to be consistent with "VA internal guidelines."

VA Secretary Robert Wilkie said the changes will ensure the program serves people who need it and will defend it against potential fraud.

About the Authors

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