

Internal Revenue Code (IRC) Section 415(b) limits the amount of pension benefits that a tax-qualified pension plan, such as the Water and Power Employees' Retirement Plan (WPERP), may pay to an individual each tax year. The dollar limit is adjusted annually by the Internal Revenue Service (IRS). The maximum amount for calendar year 2017 is \$215,000.

**What is the Department's Excess Benefit Arrangement?**

On April 16, 1998, the Retirement Board approved an amendment to the WPERP to implement an Excess Benefit Arrangement (EBA) to allow those who are impacted by IRC Section 415(b) to receive two monthly payments equal to his/her total monthly pension benefit:

1. The WPERP will pay a portion of the pension benefit up to the amount allowed by IRC Section 415(b);  
AND
2. The Department's Payroll and Timekeeping Office (Payroll) will pay the remaining amount in excess of the IRC limit from the EBA.

**What changes will there be to my monthly pension benefit?**

Your total pension benefit will NOT change; however, you will receive one payment from the WPERP, and one payment from the EBA. The total of the two payments will equal your total monthly pension benefit.

Your payment from the WPERP will continue to be reported on a Form 1099-R, and will remain payable on the 1<sup>st</sup> of the month for the preceding month's pension benefit. For example, a pension payment for the month of April is payable on May 1<sup>st</sup>.

*Your payment from the EBA will be treated as ordinary wages and will be reported on a Form W-2.* Your EBA payments will be payable on/after the 1<sup>st</sup> of the month following the end of the month that your pension benefit was payable; however, *EBA payments will follow the active payroll schedule.* Therefore, it is likely that you will not get your EBA portion on the 1<sup>st</sup> of the month; however, you should always receive it by the 15<sup>th</sup> of the month.

**How is the IRC 415(b) limit applied?**

Each year the IRS adopts the maximum dollar limit under 415(b). This limit has grown steadily since 2007 from \$180,000 to the current amount of \$215,000. The limit is then further adjusted for the following factors, but in no circumstances will the adjustments result in an amount higher than the maximum adopted by the IRS, unless you are "grandfathered":

1. **Age at retirement:** If you were under age 62 at retirement, your limit will be adjusted downward.
2. **Years of participation:** If you had less than 10 years of Service Credit (WPERP and LACERS combined), your limit will be adjusted downward.
3. **Continuance after death:** If you selected an option to leave a lifetime continuance to a non-spouse beneficiary or have a spousal continuance of less than 50%, your limit will be adjusted downward.
4. **After-tax contributions:** If you had after-tax contributions, including after-tax contributions to the Additional Annuity account, your limit will be adjusted upward.

**What is “grandfathering” and how will it affect my limit?**

If you were a member of WPERP or LACERS prior to July 1, 1990, and your funds from LACERS were transferred to WPERP under the Reciprocal Agreement, you may be “grandfathered”. WPERP will calculate your “grandfathered” limit by calculating your monthly pension benefit utilizing WPERP rules in existence on October 14, 1987. If your “grandfathered” limit is higher than the IRC limit, WPERP will use the “grandfathered” limit to calculate your EBA amount.

**My membership date is prior to July 1, 1990, why did the “grandfathered” limit not apply to me?**

To calculate the “grandfather” limit, WPERP must use the plan rules that existed as of October 14, 1987. If you would not have qualified for a retirement under those rules, WPERP must use the IRC limit. For example, if you retired under the Staff Reduction Program by adding additional years to your retirement and you would not have qualified for a retirement without this enhancement, then you would not qualify for the “grandfathered” limit and the WPERP must use the IRC limit.

**Will my Cost of Living Adjustments (COLA) be affected?**

There will be NO change to your annual COLA. Your COLAs will be calculated using the combined pension amount as if you had no excess benefit.

**Will my death benefit be affected?**

There will be NO change to your death benefit. Your death benefit will be calculated using the combined pension amount as if you had no excess benefit, and will be paid in accordance with the terms of the WPERP.

**Will the amount payable from the EBA change every year?**

The amount payable from WPERP will depend on factors set annually by the IRS and the COLA adopted by the Retirement Board. Therefore, if you are affected, WPERP will conduct a recalculation each April to determine your EBA amount and will provide you with a notice specific to you.

**What if I’m divorced and my ex-spouse is receiving a portion of my pension?**

There will be NO change to the total amount of pension benefit payable to you and your ex-spouse. Since your ex-spouse may not be a previous employee of the Department, to the extent possible, we will allocate your ex-spouse’s entire community property portion out of the WPERP.

**How will my contributions to the Additional Annuity Program affect me?**

WPERP will annuitize the balance in your Additional Annuity account at retirement, even if you elected a lump sum refund or rollover. The monthly amount calculated will be included in the calculation of the EBA.

**Do I need to provide tax withholding instructions for the EBA?**

Payments from the EBA are treated as ordinary income for withholding purposes. Payroll will apply the rates specified by the IRS and the California Franchise Tax Board. For more information, please contact Andrew Virzi, Assistant Controller, at (213) 367-3125.

**Can payments from the EBA be directly deposited into my bank account?**

Yes. You will need to provide separate direct deposit information to the WPERP and Payroll.

**What if I move?**

You will need to provide separate change of address notifications to WPERP and Payroll; however, WPERP will forward your change of address to the Department at your request.

**For information or questions regarding the Excess Benefit Arrangement, please call  
WPERP at (213) 367-1715.**