

MINUTES
OF THE MEETING OF
THE EXECUTIVE COMMITTEE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

August 12, 2021

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, August 12, 2021, at 8:45 a.m. in the System's Springfield office at 2101 S. Veterans Parkway.

Committee Members Present:

Marvin Becker, Chairperson
David Morris, Vice-Chairperson
Timothy Blair, Executive Secretary

Others Present:

Jeff Houch, Assistant to the Executive Secretary
James Stivers, General Counsel
Eric Glaub, Manager, Claims Division
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary
Duane Montgomery, Claimant
Kathy Brooks, Claimant
Scott Spooner, Claimant's Attorney
Debra Buckhold, Claimant
John Buckhold, Claimant's Spouse
Rhonda Smith, Claimant

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on July 8, 2021, were presented by Chairperson Becker for approval. Copies of the minutes were previously e-mailed to Committee members for review. Executive Secretary Blair moved to approve the minutes as submitted. The motion was seconded by Vice-Chairperson Morris, and by unanimous vote, the minutes were approved by the Committee members present.

Routine Claims Report

The Routine Claims Report for July 2021 was presented. Following review and discussion, the Routine Claims Report for July 2021, as prepared by staff, was received by the Committee.

Old Business

Duane Montgomery – Appeal of Corrected Monthly Pension Benefit Amount – Personal Hearing – Springfield – 9:00 a.m.

Mr. Duane Montgomery retired December 1, 2015. His file was recently reviewed for a back wage adjustment, and non-pensionable earnings were discovered in his initial final average compensation (FAC) calculation.

The non-pensionable earnings were lump-sum salary payments for holiday and vacation days, which are to be excluded from the calculation of members' "compensation" and, as a consequence, members' "final average compensation" under Article 14 of the Illinois Pension Code. *See* 40 ILCS 5/14-103.10 and 14-103.12. Because Mr. Montgomery's monthly pension benefit had been initially set at an incorrect amount as a result of the inclusion of these lump-sum payments, the System was required, under Section 14-148.1 of the Illinois Pension Code (40 ILCS 5/14-148.1), to recalculate Mr. Montgomery's gross monthly pension benefit and adjust the benefit to the correct level. In addition, the System was required to refund the contributions Mr. Montgomery had made on his non-pensionable earnings.

After performing the required calculations, the System determined that it had overpaid Mr. Montgomery. However, under Section 14-148.1 of the Illinois Pension Code, these amounts overpaid cannot be collected from Mr. Montgomery, as the error occurred more than three years ago and was not the result of incorrect information he supplied to the System.

Mr. Montgomery is appealing the System's adjustment of his monthly retirement annuity in response to its discovery that non-pensionable earnings were included in his FAC calculation.

After hearing Mr. Montgomery present his case, the Committee decided to refer the matter to external counsel for a recommendation.

Raymond Bouton – Appeal of Adjustment to Monthly Pension Amount – Personal Hearing – Springfield – 9:45 a.m.

Mr. Raymond Bouton retired June 1, 2015. His pension required review because additional contributions were posted from back wages paid out by his former agency.

During the review, it was determined that Mr. Bouton's final average compensation (FAC) had been calculated incorrectly as a consequence of his employing agency's inclusion of non-pensionable lump-sum payments for holidays in its initial reporting of his compensation.

However, lump-sum salary payments for holidays are not pensionable under Article 14 of the Illinois Pension Code, so the agency should not have withheld retirement contributions on those payments to Mr. Bouton. *See* 40 ILCS 5/14-103.10 and 14-

103.12. Consequently, the System must refund the excess contributions to Mr. Bouton and recalculate and adjust his monthly pension benefit in accordance with Section 14-148.1 of the Illinois Pension Code (40 ILCS 5/14-148.1).

When the System performed that recalculation, it resulted in a lower final average compensation than the System had used to calculate Mr. Bouton's pension at retirement. Consequently, the System determined that Mr. Bouton's monthly pension benefit had been overpaid. However, since the mistake was undiscovered for more than 3 years and was not caused by incorrect information he supplied, the overpayment was not required to be repaid by Mr. Bouton. Instead, his monthly pension was adjusted to the correct level as required under Section 14-148.1 of the Illinois Pension Code.

Mr. Bouton is appealing the System's adjustment of his monthly retirement annuity in response to its discovery that non-pensionable earnings were included in his FAC calculation.

Mr. Eric Glaub, Claims Division Manager, informed the Committee at its July meeting that Mr. Bouton had asked to defer his case until he is able to attend the hearing in person. Mr. Bouton did not attend the August meeting and his case was again deferred.

Kathy Brooks – Reappeal to Reverse Decision to Decline Social Security Offset Removal Option – Deceased Mbr: Lloyd Brooks – Personal Hearing – Springfield – 10:15 a.m.

Under subsection (g) of Section 14-121 of the Illinois Pension Code (40 ILCS 5/14-121(g)), certain State employees may elect at the time of retirement to have their retirement annuities reduced by 3.825% in exchange for not having the SERS survivor annuities that are payable to their beneficiaries reduced by survivor benefits to which the beneficiaries would otherwise be entitled under the federal Social Security Act.

The retirement application received by the System for deceased member Lloyd Brooks indicated that he did not want to make this election to have his retirement annuity reduced. However, Mrs. Kathy Brooks, the widow of Mr. Brooks, appealed to the Executive Committee on March 11, 2021, to reverse Mr. Brooks' election to decline this option. She contended that her husband did not understand his election.

Mr. Brooks was receiving a gross monthly retirement benefit of \$4,324.19, whereas Mrs. Brooks is receiving a gross monthly survivors benefit of \$573.05 with the Social Security offset applied. Had Mr. Brooks elected the Social Security offset removal, the total SERS survivors benefits payable to Mr. Brooks' survivors would be \$2,162.09.

The Executive Committee denied Ms. Brooks' appeal in accordance with subsection (g) of Section 14-121 of the Illinois Pension Code (40 ILCS 5/14-121(g)), which provides that the member must make the election to eliminate the Social Security offset "at the time of retirement." This decision was ratified by the Board on April 27, 2021.

Mrs. Brooks requested a reappeal of this decision and provided additional evidence that she contends illustrates that Mr. Brooks was mentally incapable of making rational

decisions at the time of his retirement. The Committee granted Mrs. Brooks' request for a reappeal at its July meeting.

Mr. Scott Spooner, attorney for Mrs. Brooks, presented the case for her reappeal. After hearing Mr. Spooner present the case, the Committee decided to refer the matter to external counsel for a recommendation.

Louis Webster – Appeal to Establish Service Credit in SERS for Service with the Missouri State Employees' Retirement System – Recommendation

Mr. Louis Webster is an active SERS member who is serving as an Illinois State Police officer. Mr. Webster has inquired about establishing service credit with SERS for his time spent as a uniformed officer with the Missouri State Highway Patrol. Illinois State Police officers are eligible to purchase up to 5 years of law enforcement service with the federal government or a state or local government located outside the State of Illinois, provided that "credit is not held in any other public employee pension fund or retirement system" for the period of service in question.

In 2017, Mr. Webster elected to receive a voluntary buyout payment from the Missouri State Employees' Retirement System (MOSERS). The program offered by MOSERS is very similar to the total buyout program offered through the SERS plan, as both programs provide a retirement benefit payment option as a lump sum. Additionally, the payment reflected a discount to the present value of his retirement benefits. His request to establish the service credit was denied because his credits held by MOSERS were used to produce a retirement benefit.

Mr. Webster is appealing to be allowed to establish service with SERS for his law enforcement employment with Missouri. His contention is that he meets the statutory criteria because, after he received the buyout payment from MOSERS, credit was no longer held within his MOSERS account for the period in question.

After reviewing Mr. Webster's written appeal, the Committee decided to refer the matter to outside counsel for a recommendation.

Attorney Evans presented Recommendation No. 2021-7 to deny Mr. Webster's appeal. After review of the case and some discussion, Executive Secretary Blair moved to adopt Recommendation No. 2021-7. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

Carlton Dotson – Appeal of Temporary Disability Benefit Conversion – Recommendation

Ms. Carlton Dotson was working as a Human Service Caseworker for the Department of Human Services in 2015 when she was injured on the job. After initially being denied employer-paid temporary total disability benefits, Ms. Dotson applied for and received SERS temporary disability benefits for the period from January 27, 2015, through September 15, 2015. She then returned to work on September 16, 2015.

SERS recently learned Ms. Dotson received an employer-paid disability benefit under the Workers' Compensation Act for her 2015 injury. As a result, her SERS temporary disability benefit was converted to a SERS occupational disability benefit in accordance with subsection (d) of Section 14-123.1 of the Illinois Pension Code (40 ILCS 5/14-123.1(d)). This benefit conversion created a net overpayment of \$7,837.47. Ms. Dotson is appealing the overpayment of benefits. She explained that her settlement was for "loss of use" and that none of her living expenses or medical bills were covered by the settlement. She also asserted that SERS should not convert her SERS temporary disability benefits to SERS occupational disability benefits because she received no settlement for weekly employer-paid temporary total disability benefits. Mrs. Dotson is asking SERS to reconsider its benefit conversion and rescind its request for reimbursement.

After hearing Ms. Dotson present her case at its July meeting, the Committee decided to refer the matter to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2021-5 to deny Ms. Dotson's appeal. After review of the case and some discussion, a motion was made by Chairperson Becker to adopt Recommendation No. 2021-5. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

Willard Weger – Appeal of Adjustment to Monthly Pension Amount – Recommendation

Mr. Willard Weger retired July 1, 2015. His pension required review because additional contributions were posted from back wages paid out by his former agency.

During the review, it was determined that Mr. Weger's final average compensation (FAC) had been calculated incorrectly as a consequence of his employing agency's inclusion of non-pensionable lump-sum payments for holidays in its initial reporting of his compensation.

However, lump-sum salary payments for holidays are not pensionable under Article 14 of the Illinois Pension Code, so the agency should not have withheld retirement contributions on those payments to Mr. Weger. *See* 40 ILCS 5/14-103.10 and 14-103.12. Consequently, the System must refund the excess contributions to Mr. Weger and recalculate and adjust his monthly pension benefit in accordance with Section 14-148.1 of the Illinois Pension Code (40 ILCS 5/14-148.1).

When the System performed that recalculation, it resulted in a lower final average compensation than the System had used to calculate Mr. Weger's pension at retirement. Consequently, the System determined that Mr. Weger's monthly pension benefit had been overpaid. However, since the mistake was undiscovered for more than 3 years and was not caused by incorrect information he supplied, the overpayment was not required to be repaid by Mr. Weger. Instead, Mr. Weger's monthly pension was adjusted to the correct level as required under Section 14-148.1 of the Illinois Pension Code.

Mr. Weger is appealing the adjustment to his monthly pension amount.

After hearing Mr. Weger present his case at its July meeting, the Committee decided to refer the matter to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2021-6 to deny Mr. Weger's appeal. After review of the case and some discussion, Executive Secretary Blair moved to adopt Recommendation No. 2021-6. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

Charles Martie – Appeal of Total Buyout Payment Suspension Due to Pending Felony Charges – Recommendation

Mr. Charles Martie is a former employee of the Illinois Department of Corrections (IDOC) who is on inactive status. Mr. Martie began receiving nonoccupational disability benefits effective November 14, 2018. He remained on the benefit until November of 2020, when he requested to cease his benefits because he desired a refund of his contributions. During his refund application process, Mr. Martie was informed about the total buyout program and that he could receive a lump-sum payment while retaining eligibility in the State Employees Group Insurance Program. On March 18, 2021, Mr. Martie returned his total buyout election form and elected to receive the total buyout payment, which totaled \$367,667.11.

When staff requested the necessary paperwork from IDOC, the materials indicated that they were aware of official misconduct charges that were connected to Mr. Martie's employment with the State. Staff also uncovered that Mr. Martie has pending federal felony charges.

Mr. Martie was informed that his benefit claim was suspended pending the outcome of his felony case. Mr. Martie then requested an appeal to lift the suspension of the processing of his total buyout payment claim.

After hearing Mr. Martie present his case at their July meeting, the Executive Committee decided to refer the matter to outside counsel for a recommendation.

Attorney Evans presented Recommendation No. 2021-8 to deny Mr. Martie's appeal. After review of the case and some discussion, Vice-Chairperson Morris moved to adopt Recommendation No. 2021-8. The motion was seconded by Chairperson Becker and passed unanimously.

New Business

Debra Buckhold – Appeal to Establish Service Credit for a Leave of Absence Exceeding One Year – Personal Hearing via Videoconference – 11:45 a.m.

Ms. Debra Buckhold is a Tier I participant with over 27 years of service credit with SERS. From November 1, 2007, through February 28, 2009, she took leave to care for

her prematurely born son. Ms. Buckhold inquired about purchasing service for this period on leave but was told that she is ineligible to purchase that time because subsection (l) of Section 14-104 of the Illinois Pension Code (40 ILCS 5/14-104(l)) provides that a member may establish service credit “for periods of less than one year spent on authorized leave of absence from service.”

Ms. Buckhold is appealing to the Executive Committee to be granted the ability to purchase the service credit associated with this leave.

After hearing Ms. Buckhold present her case, the Committee decided to refer the matter to external counsel for a recommendation.

Kale Wallace – Request to Transfer IMRF SLEP Service into SERS

Mr. Kale Wallace is an Illinois Commerce Commission police officer who is participating in the Tier 1 non-coordinated alternative formula plan but also has 74 months of service credit with the Illinois Municipal Retirement Fund (IMRF) as a Sheriff’s Law Enforcement Employee (SLEP). Mr. Wallace has asked that he be permitted to transfer his IMRF service credit earned under the SLEP program into his SERS account as a consequence of the recent enactment of Public Act 102-210.

After review of the case and some discussion, a motion was made by Executive Secretary Blair to deny Mr. Wallace’s appeal. The motion was seconded by Chairperson Becker and passed unanimously.

Tamala Caldwell – Request to Reinstate Written-Off Account

Ms. Tamala Caldwell’s account was written off in June of 2005. Ms. Caldwell is requesting to reinstate her account so that she may receive a proportional annuity from SERS under the Retirement Systems Reciprocal Act.

Executive Secretary Blair moved to approve Ms. Caldwell’s appeal. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Derrick Watson – Request to Change Tier Status

Mr. Derrick Watson is a Tier 2 alternative formula member employed by the Department of Corrections (IDOC) who first became a contributing member of SERS on June 3, 2019. Before he became a contributing member of SERS, Mr. Watson was a contractual employee who worked in IDOC facilities for approximately 23 years. During that period, Mr. Watson was employed by TASC, Inc., and the Gateway Foundation.

Mr. Watson contends that his contractual service within IDOC facilities should grandfather him into the Tier I plan even though he did not become a member of the System before the effective date of the Tier 2 plan. Mr. Watson is appealing to the Executive Committee to grant him Tier I status due to his contractual service with the State that began before January 1, 2011.

After discussing the facts of the case, Chairperson Becker moved to deny Mr. Watson's appeal. The motion was seconded by Executive Secretary Blair and passed unanimously.

Rhonda Smith – Appeal of SSA Award Overpayment – Personal Hearing via Teleconference – 12:45 p.m.

Ms. Rhonda Smith worked for the Illinois Department of Human Services as a Residential Service Supervisor and went on a nonoccupational disability leave in October 2019.

In June 2021, SERS was notified that Ms. Smith was approved for a retroactive Social Security Administration (SSA) disability benefit effective April 1, 2020, in the amount of \$1,621.00 per month. The retroactive benefit created an overpayment totaling \$21,073.00 from April 1, 2020, through April 30, 2021. The overpayment is due in accordance with Section 14-125 of the Illinois Pension Code.

SERS sent Ms. Smith a notification letter on May 25, 2021, to explain the calculation of the overpayment and amount due. A second letter was sent on June 26, 2021. The outstanding balance is \$20,431.22.

Ms. Smith's monthly gross disability benefit is \$1,283.56. She also receives \$1,642.10 per month from her SSA disability benefit. Per her SSA award letter, she is to receive back pay from the SSA in the amount of \$21,178.00. Half of her gross SERS disability benefit is being deducted and applied to her overpayment.

Ms. Smith is appealing the full overpayment amount.

After review of the case and some discussion, the Committee decided to refer the matter to external counsel for a recommendation. The Committee also directed staff to set up a payment plan that will repay the overpayment in 60 months (5 years) in the interim.

Steven Ham – Appeal of SSA Award Overpayment Repayment Terms

Mr. Steven Ham was approved for a nonoccupational benefit from SERS effective September 3, 2017.

In April 2021, SERS was notified Mr. Ham was approved for a retroactive Social Security Administration (SSA) disability benefit effective February 1, 2018. The retroactive benefit created an overpayment of SERS disability benefits from February 1, 2018, through March 31, 2021.

The overpayment is due in accordance with Section 14-125 of the Illinois Pension Code (40 ILCS 5/14-125). SERS sent Mr. Ham a notification letter on April 30, 2021, explaining the calculation of the overpayment and the amount due.

SERS deducted the full gross disability benefit for one month before it ended April 30, 2021, due to his halftime ceasing. Mr. Ham has not returned to work. A minimum payment of \$966.97 per month is required to pay the remaining balance within 60 months (5 years). A repayment plan letter was sent on June 22, 2021.

Mr. Ham is an inactive member and is requesting a payment plan of \$250.00 per month. The overpayment will be paid in 233 months (19 years, 5 months).

Following a discussion of the case, Executive Secretary Blair moved to deny Mr. Ham's appeal. The motion was seconded by Chairperson Becker and passed unanimously.

Burnell Coleman, Jr. – Reinstatement of Written-Off Account for Refund of Contributions

The account of Mr. Burnell Coleman, Jr., was written off in June of 2008. Mr. Coleman, Jr., has requested a refund of his retirement contributions.

The Claims Support section is requesting that the Executive Committee allow the reinstatement of his account so that his refund request can be processed.

A motion was made by Executive Secretary Blair to approve the reinstatement of Mr. Coleman Jr.'s account. The motion was seconded by Chairperson Becker and passed unanimously.

Melvina Ward – Staff Direction for Processing of Survivor Annuity Claim

Melvina Ward, a State retiree, died on January 7, 2019. James Ward applied for a survivor benefit as a spouse but could not produce a tax return or other documents to prove they were married at the time of Melvina's death. As a result, no survivor annuity was processed at that time.

James died on March 20, 2020. Melvina's child, Anthony Williams, has submitted a small estate affidavit to claim the first and final survivor benefit. He, too, is unable to produce a tax return or other documents to prove James and Melvina were married at the time of her death.

The Pension and Death Section is requesting direction on whether to pay the survivor annuity claim without the documentation showing marriage at the time of Ms. Ward's death.

After review of the case and some discussion, the Committee directed staff to proceed with the processing of the survivor annuity claim under the assumption that Melvina was still married to James Ward at the time of her death.

Colleen Bennett-Houston – Appeal to Repay Refund without Interest

Ms. Colleen Bennett-Houston was terminated by her agency in May 2016 and took a

resignation refund of her SERS membership contributions in June 2016.

An arbitrator ordered that Ms. Bennett-Houston be reinstated and made whole to her position in February 2018. A back wage claim was processed through CMS back wages giving her SERS earnings and service credit for the period of termination with the applicable employee contributions deducted for the back wages paid.

Pursuant to one of the Board's administrative rules (80 Ill. Admin. Code 1540.60(d)), Ms. Bennett-Houston received an "Option 6" letter from the Accounting Division of SERS as is process whenever a settlement or arbitration agreement is provided. The "Option 6" letter allows for the immediate repayment of the termination refund without any interest, providing that the refund is paid in full, or a payment plan is in place within 30 days from the date of notification by the System. The "Option 6" letter was mailed to Ms. Bennett-Houston on April 30, 2018.

Ms. Bennett-Houston recently requested to repay the refund with the intent of retiring this year. Accounting Division staff recognized the 2018 "Option 6" letter and sent her the normal service purchase offer letter with interest calculated.

Ms. Bennett-Houston is requesting to repay the refund without interest due to the hardship she faced with wrongful termination, a retaliatory work environment and the effects of the COVID pandemic.

After review of the case and some discussion, Chairperson Becker moved to deny Ms. Bennett-Houston's request. The motion was seconded by Executive Secretary Blair and passed unanimously.

Dana Tylka – Appeal to Retire Effective September 1, 2020

Ms. Dana Tylka is currently deferred with SERS with a retirement date of September 1, 2025. Ms. Tylka was an employee with the Illinois Department of Corrections (IDOC) and earned 142.50 months of eligible creditable service, as defined in Section 14-110 of the Illinois Pension Code for service in that position. Prior to becoming a SERS member, Ms. Tylka earned 124 months of service credit with the Illinois Municipal Retirement Fund (IMRF).

Ms. Tylka terminated her employment with the State on November 30, 2016. She submitted a retirement application on June 21, 2020, indicating her desired retirement date of September 1, 2020. On April 19, 2021, SERS issued Ms. Tylka a letter informing her that her SERS reciprocal pension had been processed but that it would be deferred until her earliest retirement eligibility date, September 1, 2025. Subsection (a) of Section 14-110 of the Illinois Pension Code provides that an alternative formula member must have at least 20 years of eligible creditable service, as defined in Section 14-110, to retire at age 55.

Ms. Tylka is appealing to the Executive Committee to grant her SERS reciprocal retirement pension effective September 1, 2020, as she contends that her IMRF service

should count towards the alternative formula retirement requirement of 20 years of service. Furthermore, she states that she was told by SERS representatives that she was eligible to begin receiving SERS pension payments upon attaining age 55. After review of the case and some discussion, a motion was made by Executive Secretary Blair to deny Ms. Tylka's appeal. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

There being no further business to be brought before the Committee, the meeting adjourned at 1:56 p.m.

The next meeting of the Executive Committee is scheduled for September 9, 2021, in the System's Springfield office.

Marvin Becker, Chairperson

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary