

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

July 8, 2021

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, July 8, 2021, at 8:45 a.m. in the System's Springfield office at 2101 S. Veterans Parkway and by videoconference as allowed under Section 7(e) of the Open Meetings Act (5 ILCS 120/7(e)) and Executive Order 2020-7, as amended and reissued by Executive Orders 2020-33, 2020-44, and 2021-14.

Committee Members Present:

David Morris, Vice-Chairperson
Timothy Blair, Executive Secretary

Committee Members Absent:

Marvin Becker, Chairperson

Others Present:

Jeff Houch, Assistant to the Executive Secretary
James Stivers, General Counsel
Eric Glaub, Manager, Claims Division
Karen Brown, Supervisor, Disability Section
Cory Michelle, Supervisor, Pension & Death Section
Justin Onken, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary
Willard Weger, Claimant
Teresa Weger, Claimant's Spouse
Ben Haynes, Claimant's Son-in-law
Carlton Dotson, Claimant
Charles Martie, Claimant
Jamie Martie, Claimant's Spouse
Louis Webster, Claimant

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on June 10, 2021, were presented by Vice-Chairperson Morris 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 June 2021 was presented. Following review and discussion, the Routine Claims Report for June 2021, as prepared by staff, was received by the Committee.

Old Business

Carlton Dotson – Appeal of Temporary Disability Benefit Conversion – Personal Hearing via Teleconference – 10:30 a.m.

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, the Committee decided to refer the case to external counsel for a recommendation.

Vincente McElroy – Appeal of Temporary Disability Overpayment – Recommendation

Vincente McElroy worked for the Department of Human Services as a Security Therapy Aide and was injured on the job in 2011. As a result of his work-related injury, Mr. McElroy began receiving employer-paid temporary total disability benefits from the State, as well as a SERS occupational disability benefit, in 2012. Except for a 6-month return-to-work period in 2015, SERS continued providing its occupational disability benefit to Mr. McElroy until he once again returned to work in 2016. Following his 2016 return to work, the State denied Mr. McElroy employer-paid temporary total disability benefits for noncompliance with the requirements for receipt of those benefits. With the termination of employer-paid temporary total disability benefits, Mr. McElroy was no longer eligible for the SERS occupational disability benefit. Consequently, he filed a petition with the Illinois Workers' Compensation Commission and began receiving the SERS temporary disability benefit on November 3, 2016.

Subsequently, an arbitrator for the Illinois Workers' Compensation Commission found Mr. McElroy permanently and totally disabled on an "odd-lot" basis (i.e., on account of repeated unsuccessful attempts to find work following a work-related injury) and awarded him a prospective weekly benefit commencing on June 25, 2020. No employer-paid temporary total disability benefit was ever provided to Mr. McElroy for the period from November 3, 2016 (i.e., the date when Mr. McElroy's SERS temporary disability benefit began) to July 15, 2018 (i.e., the date when maintenance payments to Mr. McElroy resumed). However, Mr. McElroy was eventually awarded Social Security disability benefits for the closed period from August 1, 2017, through July 15, 2018.

Under Sections 14-123.1 and 14-125 of the Illinois Pension Code (40 ILCS 5/14-123.1 and 14-125), the amount of a member's SERS temporary or nonoccupational disability benefit must be reduced by the amount of primary benefit the member would be eligible to receive under the Social Security Act. Therefore, an overpayment exists for the overlapping periods during which Mr. McElroy was paid both Social Security disability benefits and a SERS benefit that was subject to the Social Security offset.

Mr. McElroy was sent a letter dated March 9, 2021, which informed him of the SERS benefit overpayment and the amount due. Mr. McElroy requested a personal hearing to appeal the benefit overpayment that resulted from his receipt of the Social Security disability award.

After hearing Mr. McElroy present his case at its May 2021 meeting, the Committee considered and referred the case to outside counsel for a recommendation. Following further discussion of the case at its June 2021 meeting, the Committee deferred its decision pending additional review of the facts of the case.

After further discussion of the case, external counsel presented Recommendation 2014-4. Executive Secretary Blair moved to adopt the recommendation to deny Mr. McElroy's appeal and offer a plan to repay the overpayment. The motion was seconded by Vice-Chairperson Morris, and the recommendation was adopted.

Duane Montgomery – Appeal of Corrected Monthly Pension Benefit Amount

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 reduction to his monthly pension annuity that was applied due to the discovery of this overpayment.

The Manager of the Claims Division, Eric Glaub, reminded the Committee that Mr. Montgomery had asked the Committee to defer its consideration of his case until he could participate in person.

Teresa Beard – Appeal to Receive Alternative Formula Retirement

Teresa Beard applied to retire effective April 1, 2021. In mid-April 2021, the SERS Accounting Division performed an audit on Ms. Beard's account and discovered that service credit had been improperly credited to her account for two months during which she was paid a disability benefit and an agency salary.

Ms. Beard's annual statements through 2020 all specified that she would be eligible to retire under the alternative formula as early as March 1, 2021. However, once the erroneously granted service credit was backed out of her account, it was determined that Ms. Beard was, in fact, one month short of having the 20 years of service credit needed for an alternative formula pension and free health insurance benefits. To attain this additional service credit, Ms. Beard may purchase her unused vacation days.

Ms. Beard is requesting to retire with an alternative formula pension effective April 1, 2021.

After discussing the facts presented, Executive Secretary Blair moved to deny Ms. Beard's appeal but to allow her to purchase the month of service credit needed for her to attain twenty years of service credit. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

Anthony Respondi – Appeal for Refund of Service Credit Purchase with Charged Interest

In 2014, Anthony Respondi, a SERS member who had previously taken a refund of contributions, repaid that refund with "charged interest" and purchased his qualifying period in order to qualify for a benefit under the Retirement Systems Reciprocal Act (40 ILCS 5/Art. 20). The amount of the total payment to be made to SERS was initially calculated at \$10,967.61, with \$8,327.13 representing the charged interest. However, Mr. Respondi repaid the refund earlier than required. Consequently, SERS recalculated the amount of interest due and refunded \$174.57 to Mr. Respondi. Therefore, the total

amount Mr. Respondi paid to establish the service credit was \$10,793.04.

Mr. Respondi was recently provided an estimate of the monthly amount he could expect to receive from SURS and SERS, and he now believes that it is in his best interest to receive a refund of the payment he made in 2014. He is appealing to the Executive Committee that the “charged interest” be included in his refund. The statute and rules do not provide guidance on the treatment of the charged interest as it relates to a member requesting a refund of a payment to establish service credit.

After discussing the facts of the case at its June 2021 meeting, the Committee decided to defer a decision pending further review. After further discussion, Vice-Chairperson Morris moved to approve the appeal. The motion was seconded by Executive Secretary Blair and passed unanimously.

New Business

Raymond Bouton – Appeal of Adjustment to Monthly Pension Amount – Personal Hearing via Videoconference 9:00am

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 the member. *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.

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 adjustment to his monthly pension amount.

Eric Glaub, Claims Division Manager, informed the Committee that Mr. Bouton had asked to defer his case until he is able to attend the hearing in person.

Willard Weger – Appeal of Adjustment to Monthly Pension Amount – Personal Hearing via Videoconference 9:45am

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 the member. *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.

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.

Following a review of the case, the Committee decided to refer the case to external counsel for a recommendation.

Aretha Wilkins-Simmons – Appeal of Disability Benefit Overpayment Repayment Terms

Aretha Wilkins-Simmons received a SERS temporary disability benefit from January 19, 2015, to December 2, 2015.

SERS was notified in May 2021 that Ms. Wilkins-Simmons was awarded employer-paid temporary total disability for the period from January 19, 2015, to December 2, 2015. Due to the award of employer-paid temporary total disability for this period, SERS converted her SERS temporary disability benefit to a SERS occupational disability benefit under subsection (d) of Section 14-123.1 of the Illinois Pension Code (40 ILCS 5/14-123.1(d)).

Conversion of the temporary disability benefit resulted in an overpayment of benefits totaling \$29,952.97 for the period from January 19, 2015, to December 2, 2015.

On May 17, 2021, SERS sent the member a letter explaining the calculation of the overpayment and the amount due. In this situation, the Overpayment Section is to deduct one-half of the member's gross benefit and apply that amount to the overpayment owed to SERS, which, as of the date of the Committee's meeting, was \$29,743.57.

Ms. Wilkins-Simmons is retired. The Overpayment Section is to deduct \$1,763.83 of her gross monthly annuity and apply that amount to the overpayment. At that rate, the overpayment would be repaid in 17 months (1 year, 5 months). Ms. Wilkins-Simmons has requested a payment plan of \$400.00 per month, which will repay the overpayment in 75 months (6 years, 3 months).

After discussing the facts of the case, Executive Secretary Blair moved to deny the appeal and offer a repayment plan that will repay the overpayment in 60 months. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

Cheryl Duvall – Appeal to Receive Survivor Annuity – Deceased Mbr: Thomas Duvall

Thomas Duvall retired on November 1, 2015, and received the survivor contribution refund.

Mr. Duvall died on April 27, 2021, with a surviving spouse, Cheryl Duvall, and he did not repay the survivor contribution refund prior to his death as required under subsection (c) of Section 14-130 of the Illinois Pension Code (40 ILCS 5/14-130(c)).

Mrs. Duvall applied for the \$500 death benefit and has cashed that payment. She is appealing to repay the survivor contribution refund and receive a survivor annuity.

After review of the case and some discussion, a motion was made by Executive Secretary Blair to deny the appeal. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

Susan Sander – Staff Direction for Financial Dependency of Disabled Adult – Deceased Mbr: William Sander

William Sander, a retired State employee, died on November 17, 2020. Mr. Sander has a surviving spouse and a disabled adult daughter, Susan Sander.

For a disabled adult child to be eligible for a survivor annuity, the child must have been at least 50% financially dependent upon the member at the time of the member's death. 80 Ill. Admin. Code 1540.150. This level of dependence is typically proven by the child being claimed on the member's tax return in the year of the member's death. However, Mr. Sander did not claim Susan on his tax return.

Staff direction is requested to determine if Susan was financially dependent upon Mr. Sander at the time of his death.

After some discussion, the Committee directed staff to accept the documentation provided in the appeal as proof of financial dependency and pay a survivor annuity to Susan Sander.

Joanne Brodanex – Appeal of SSA Award Overpayment Repayment Terms

Joanne Brodanex was approved for a SERS nonoccupational disability benefit effective August 2, 2018.

In May 2021, SERS was notified that Ms. Brodanex had been approved for a retroactive Social Security Administration (SSA) disability benefit effective January 1, 2019. The retroactive benefit created an overpayment totaling \$22,924.00 for the period from January 1, 2019, through April 30, 2021. The overpayment is due in accordance with Section 14-125 of the Illinois Pension Code.

On May 18, 2021, SERS sent Ms. Brodanex a letter explaining the calculation of the overpayment and the amount due. Ms. Brodanex has remitted a payment of \$19,150.00, and the outstanding balance is \$3,774.00. Ms. Brodanex is currently receiving a SERS disability benefit. In this situation, the Overpayment Section is to deduct one-half of her gross monthly benefit and apply that amount to her overpayment. At that rate, the overpayment would be recovered in 3 months.

Ms. Brodanex has submitted an application to retire effective July 1, 2021. She also indicated on her application that she is single and would like to receive a survivor contribution refund.

She has requested a payment plan of \$200.00 per month. At that rate, the overpayment would be repaid in 19 months (1 year, 7 months).

After discussing the facts of the case, Vice-Chairperson Morris moved to approve Ms. Brodanex's appeal. The motion was seconded by Executive Secretary Blair and passed unanimously.

Michelle Robinson – Appeal of Disability Benefit Overpayment Repayment Terms

Michelle Robinson was approved for a SERS temporary disability benefit effective January 31, 2017.

In March 2021, SERS was notified that Ms. Robinson exceeded the quarterly earnings limitation while receiving a SERS disability benefit. As a result, an overpayment totaling \$19,412.89 was required to be repaid to the System under the System's administrative rules, but that amount was never repaid.

Ms. Robinson was sent a notification letter on April 27, 2021, explaining the calculation of the overpayment and the amount due. A repayment plan letter was sent on May 28, 2021.

A current balance of \$19,412.89 remains and a payment of \$400.00 per month (not to exceed five years) is required for inactive members. Under this repayment schedule the overpayment would be repaid in 49 months (4 years, 1 month).

Ms. Robinson states in her appeal letter that she is privately employed and is requesting a payment plan in the amount of \$75.00 per month. At that rate, the overpayment would be repaid in 259 months (21 years, 7 months).

After some discussion, Executive Secretary Blair made a motion to deny Ms. Robinson's request and offer a repayment plan that would repay the balance of the overpayment in 60 months (5 years). The motion was seconded by Vice-Chairperson Morris and passed unanimously.

Kathy Brooks – Request Re-appeal to Reverse Decision to Decline Social Security Offset Removal Option – Deceased Mbr: Lloyd Brooks

Kathy Brooks, the widow of SERS member Lloyd Brooks, appealed to the Executive Committee on March 11, 2021, to reverse Mr. Brooks' election to decline the Social Security Offset Removal option. She contended that her husband did not understand his election.

Mr. Brooks was receiving a gross monthly 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 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 is requesting a re-appeal of this decision and has provided additional evidence that she contends illustrates that Mr. Brooks was mentally incapable of making rational decisions.

After review of the case and some discussion, Executive Secretary Blair moved to allow Mrs. Brooks to reappeal her case. The motion was seconded by Vice Chairperson Morris and passed unanimously.

Charles Martie – Appeal of Total Buyout Payment Suspension Due to Pending Felony Charges – Personal Hearing via Teleconference 11:15am

Charles Martie is a former IDOC employee that 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 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 paperwork 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, the Executive Committee decided to refer the case to outside counsel for a recommendation.

Louis Webster – Appeal to Establish Service Credit in SERS for Service with the Missouri State Employees' Retirement System – Personal Hearing via Videoconference 12:00 p.m.

Louis Webster is active with SERS and is serving as a State Policeman. Mr. Webster has inquired about establishing service with SERS for his time spent as a uniformed officer with the Missouri State Highway Patrol. Illinois State Policemen are eligible to purchase up to 5 years of law enforcement service with the Federal Government or a unit of government located outside the State of Illinois. To establish service credit in this manner, there cannot be credit held in another retirement system for the same period of service.

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, there is no longer credit held within his MOSERS account.

After hearing Mr. Webster present his case and some discussion, the Committee decided to refer the case to outside counsel for a recommendation.

There being no further business to be brought before the Committee, the meeting

adjourned at 12:52 p.m.

The next meeting of the Executive Committee is scheduled for August 12, 2021, in the System's Springfield office.

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary