

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

September 9, 2021

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, September 9, 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 (via teleconference)
Dominic Romanazzi, Claimant (via videoconference)
Mark Ippolito, Claimant (via teleconference)
David Booker, Claimant (via videoconference)

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on August 12, 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 August 2021 was presented. Following review and discussion, the Routine Claims Report for August 2021, as prepared by staff, was received by the Committee.

Old Business

Raymond Bouton – Appeal of Adjustment to Monthly Pension Amount – Deferred

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. 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.

Mr. Glaub informed that Committee that Mr. Bouton had recently requested a formal hearing that would be scheduled as soon as logistically possible.

Duane Montgomery – Appeal of Corrected Monthly Pension Benefit Amount – Recommendation

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. 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.

Attorney Evans presented Recommendation No. 2021-11 to deny Mr. Montgomery's appeal. After review of the case and some discussion, Chairperson Becker moved to adopt Recommendation No. 2021-11. The motion was seconded by Executive Secretary Blair and passed unanimously.

Kathy Brooks – Reappeal to Reverse Decision to Decline Social Security Offset Removal Option – Deceased Mbr: Lloyd Brooks – Recommendation

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 at the August meeting of the Executive Committee. After hearing Mr. Spooner present the case, the Committee decided to refer the matter to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2021-9 to deny Mrs. Brooks' appeal. After review of the case and some discussion, Executive Secretary Blair moved to adopt Recommendation No. 2021-9. The motion was seconded by Chairperson Becker and passed unanimously.

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 at their August meeting, the Committee decided to refer the matter to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2021-10 to deny Ms. Buckhold's appeal. After review of the case and some discussion, Vice-Chairperson Morris moved to adopt Recommendation No. 2021-10. The motion was seconded by Chairperson Becker 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.

Attorney Evans presented Recommendation No. 2021-12 to deny Ms. Smith's appeal. After review and some discussion, Chairperson Becker moved to adopt Recommendation No. 2021-12. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

New Business

Dominic Romanazzi – Request to Establish Service Credit for Leave of Absence with a Statewide Labor Organization Exceeding One Year – Personal Hearing via Videoconference – 9:00 a.m.

Mr. Dominic Romanazzi is an inactive member who began a leave of absence from the Department of Transportation in April of 1998. At that time, he began employment with a labor organization that represents SERS members. Since taking leave, Mr. Romanazzi has not returned to service with the State.

Mr. Romanazzi inquired about purchasing service credit for this leave of absence under subsection (l) of Section 14-104 of the Illinois Pension Code (40 ILCS 5/14-104(l)). This provision allows a member to purchase SERS service credit “. . . for periods of less than one year spent on authorized leave of absence from service, provided that (1) the period of leave began on or after January 1, 1982, and (2) any credit established by the member for the period of leave in any other public employee retirement system has been terminated.” Mr. Romanazzi contends that he has been on multiple separate one-year leaves of absence with IDOT since 1998 and that he should be eligible to purchase every leave going back to April of 1998. Furthermore, he contends that a response was provided from a SERS employee that indicated he could purchase such leaves in this manner. As noted above, the relevant statutory provision states that:

By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, a member may establish service credit for periods of less than one year spent on authorized leave of absence from service, provided that (1) the period of leave began on or after January 1, 1982 and (2) any credit established by the member for the period of leave in any other public employee retirement system has been terminated. A member may establish service credit under this subsection for more than one period of authorized leave, and in that case the total period of service credit established by the member under this subsection may exceed one year. In determining the contributions required for establishing service credit under this subsection, the interest shall be calculated from the beginning of the leave of absence to the date of payment. 40 ILCS 5/14-104(l).

Mr. Romanazzi recognizes that, even if he is denied the ability to purchase every leave since 1998, he is still permitted under subsection (l-5) of Section 14-104 of the Illinois Pension Code (40 ILCS 5/14-104(l-5)) to purchase service credit for up to two years spent on authorized leave of absence with a statewide labor organization that represents SERS members. Staff agrees that the statute supports his position, and on July 8, 2021, the cost to establish such service credit was provided to Mr. Romanazzi. When calculating the cost, staff determined that interest would be charged from the date that his leave of absence from the State's payroll commenced (April of 1998).

Upon receiving the cost to establish the service, Mr. Romanazzi contended that the interest component was calculated in error, and he argues that every time his leave of absence was extended represents a separate one-year leave of absence, and that the interest should be charged going back to the two most recent periods his leave of absence was extended. The relevant statutory provisions both provide that interest is to be calculated from the beginning of the applicable leave of absence to the date of payment. *See* 40 ILCS 5/14-104(l) and (l-5).

Staff researched Mr. Romanazzi's leaves through the State's personnel system. According to the personnel system, IDOT extended his original leave of absence on the following dates:

- 4/15 from 1999-2001
- 4/16 in 2002
- 4/17 in 2003
- 4/18 in 2004
- 4/17 from 2005-2008
- 4/18 from 2009-2021

Mr. Romanazzi is appealing that the Executive Committee either (i) grant his appeal to purchase every period following the date his leave of absence was extended dating back to April of 1998 or (ii) approve the calculation of his cost to establish two years of service credit under subsection (l-5) of Section 14-104 of the Illinois Pension Code by

charging interest from the start of the period for which service credit would be granted (rather than the date that his leave of absence commenced).

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

Mark Ippolito – Appeal of SSA Award Overpayment – Personal Hearing via Teleconference – 10:15 a.m.

Mark Ippolito has been receiving a SERS nonoccupational disability benefit since June 29, 2017.

In June 2021, SERS was notified Mr. Ippolito was approved for a retroactive Social Security Administration (SSA) disability benefit effective December 1, 2018, for \$1,684.00 per month. The retroactive SSA disability benefit created an overpayment of SERS nonoccupational disability benefits totaling \$52,204 for the period from December 1, 2018, through June 30, 2021. The overpayment is due in accordance with Section 14-125 of the Illinois Pension Code (40 ILCS 5/14-125), which specifies that a member's nonoccupational disability benefit is to be reduced by the amount of the primary benefit the member would be eligible to receive under the federal Social Security Act.

SERS sent Mr. Ippolito a notification letter on July 1, 2021, to explain the calculation of the overpayment and amount due. The outstanding balance remains in full.

Mr. Ippolito is appealing the full overpayment amount.

After discussing the facts of the case, the Committee decided to defer a decision pending further communication with Mr. Ippolito regarding the possibility of retroactive retirement.

David Booker – Appeal of Adjustment to Monthly Pension Benefit Amount – Personal Hearing via Videoconference – 11:00 a.m.

David Booker retired February 1, 2016. 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. Booker's final average compensation (FAC) had been calculated incorrectly at retirement as a consequence of his employing agency's inclusion of \$61,082.28 in 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. Booker. *See* 40 ILCS 5/14-103.10 and 14-103.12. Consequently, the System must refund the excess contributions (\$5,191.99) to Mr. Booker 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. Booker's pension at retirement. Consequently, the System determined that Mr. Booker's monthly pension benefit had been overpaid by \$59,994.35. 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. Booker. Instead, his monthly pension was adjusted to the correct level as required under Section 14-148.1 of the Illinois Pension Code.

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

After review of the case and some discussion, the Committee decided to refer the case to external counsel for a recommendation.

Linda Jordan – Appeal of SSA Award Overpayment Repayment Terms

Ms. Linda Jordan was approved for a nonoccupational disability benefit from SERS effective May 20, 2020.

In February 2021, SERS was notified Ms. Jordan was approved for a retroactive Social Security Administration (SSA) disability benefit effective October 1, 2019. The retroactive SSA disability benefit created an overpayment of SERS nonoccupational disability benefits totaling \$11,943.00 for the period from May 1, 2020, through January 31, 2021.

The overpayment is due in accordance with Section 14-125 of the Illinois Pension Code (40 ILCS 5/14-125), which specifies that a member's nonoccupational disability benefit is to be reduced by the amount of the primary benefit the member would be eligible to receive under the federal Social Security Act. SERS sent the member a notification letter on March 4, 2021, explaining the calculation of the overpayment and the amount due. The current balance is \$11,349.95.

Ms. Jordan's disability benefit ended April 30, 2021, due to her half-time ceasing. She has not returned to work. Therefore, a minimum payment of \$400.00 per month is required per the repayment schedule. A repayment plan letter was sent on July 1, 2021. A second notice was sent on August 2, 2021.

Ms. Jordan is inactive and receives \$1,396.00 per month from SSA. Under the required repayment plan of \$400.00 per month, the overpayment would be paid in 29 months (2 years, 5 months). She is requesting a payment plan of \$100.00 per month. The overpayment will be paid in 114 months (9 years, 6 months).

Ms. Jordan is a Tier 2 member and does not meet the minimum requirements for pension eligibility. Her total contributions are \$5,154.12.

After review of the case and some discussion, Chairperson Becker moved to deny Ms. Jordan's request and offer a repayment plan that will repay the balance within 60 months (5 years). The motion was seconded by Executive Secretary Blair and passed unanimously.

Federico Trevino – Appeal of SSA Award Overpayment Repayment Terms

Mr. Federico Trevino was approved for a nonoccupational disability benefit from SERS effective October 12, 1994.

In April 1998, SERS was notified Mr. Trevino was approved for a retroactive Social Security Administration (SSA) disability benefit effective March 1, 1995. The retroactive benefit created an overpayment of SERS disability benefits totaling \$41,810.00 for the period from March 1, 1995, through March 31, 1998. The overpayment is due in accordance with Section 14-125 of the Illinois Pension Code (40 ILCS 5/14-125), which specifies that a member's nonoccupational disability benefit is to be reduced by the amount of the primary benefit the member would be eligible to receive under the federal Social Security Act.

Mr. Trevino's disability benefit ended March 31, 1998, due to failure to return the semi-annual Certification of Disability Form, and he did not return to work. Several notices were sent to Mr. Trevino regarding the overpayment and outstanding balance.

Mr. Trevino filed Chapter 7 Bankruptcy on November 9, 2013, and it was discharged on February 10, 2014. A letter was sent to Mr. Trevino on July 5, 2017, explaining SERS' right to recoup the overpaid benefits from any future benefits payable.

Mr. Trevino retired June 1, 2021, upon meeting Tier 1 eligibility at age 60. The Overpayment Section is to deduct the member's gross annuity to be applied to the overpayment owed to SERS and a repayment plan letter was sent on August 5, 2021. The current balance is \$27,674.08.

Mr. Trevino's monthly gross retirement annuity is \$807.53. He has opted out of the State of Illinois Group Insurance Program and receives a financial incentive in the amount of \$150.00 per month. The full gross benefit offset will satisfy the overpayment in 35 months (2 years, 11 months). He is requesting a payment plan of \$400.00 per month. The overpayment will be paid in 70 months (5 years, 10 months).

After review of the case and some discussion, a motion was made by Executive Secretary Blair to deny Mr. Trevino and offer a repayment plan that will repay the balance in 60 months (5 years). The motion was seconded by Chairperson Becker and passed unanimously.

Claudia Gabriel – Appeal of SSA Award Overpayment Repayment Terms

Ms. Claudia Gabriel was approved for a nonoccupational disability benefit from SERS effective December 17, 2017.

In February 2020, SERS was notified Ms. Gabriel 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 totaling \$33,021.00 for the period from February 1, 2018, through December 31, 2019.

The overpayment is due in accordance with Section 14-125 of the Illinois Pension Code (40 ILCS 5/14-125), which specifies that a member's nonoccupational disability benefit is to be reduced by the amount of the primary benefit the member would be eligible to receive under the federal Social Security Act. SERS sent Ms. Gabriel a notification letter on February 27, 2020, explaining the calculation of the overpayment and the amount due. The current balance is \$25,740.96.

Ms. Gabriel's disability benefit ended March 31, 2021, due to her half-time ceasing. She has not returned to work, and a minimum payment of \$429.12 per month is required to pay the remaining balance within five years (60 months). A repayment plan letter was sent on June 10, 2021.

Ms. Gabriel is inactive and receives \$1,498.81 per month from SSA. Under the required repayment plan of \$429.12 per month, the overpayment would be paid in 60 months (5 years). According to her appeal, due to impaired health and financial hardship, the Power of Attorney (POA) for Ms. Gabriel is requesting the overpayment be forgiven.

Ms. Gabriel is a Tier 2 member and has not satisfied the requirements to vest in a SERS retirement annuity. Her total contributions are \$19,962.18.

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

Tamara Stockdale – Appeal of Felony Service Credit Purchase

Ms. Tamara Stockdale applied for a retirement benefit effective August 1, 2021. She indicated on her application that she had a prior felony as a state employee.

Ms. Stockdale worked at Mental Health from September 1978 through November 1978 and took a refund of 2.00 months. She worked again for Mental Health from November 1979 through March 1983 and took a refund of 41.00 months. She began working for IDOC from February 1985 through February 1993 and took a refund of 90.25 months. The felony was from her employment at IDOC.

In June 2015, Ms. Stockdale purchased a partial refund of 46.00 months from the 1993 refund.

Ms. Stockdale is requesting the purchase of the 1993 refund be applied to purchasing service credit from her 1983 refund when she did not have a felony conviction. If this is denied, she is requesting a refund of the entire amount paid to purchase the refund.

After discussing the facts of the case, a motion was made by Executive Secretary Blair to deny Ms. Stockdale's appeal and instruct staff to return the cost of the erroneously purchased refund to Ms. Stockdale. The motion was seconded by Chairperson Becker and passed unanimously.

Discussion – Request to Permit IMRF SLEP Transfers to SERS for Commerce Commission Police Officers

Public Act 102-0210 permits eligible State law enforcement employees to transfer up to 5 years of IMRF service credit derived from the performance of "police duties for a participating municipality" into their SERS accounts. Two Commerce Commission police officers have inquired about transferring their IMRF Sheriff's Law Enforcement Employment (SLEP) service credit into their SERS account. One of those police officers, Kale Wallace, inquired about transferring his SLEP service to his SERS account, but was denied by staff who utilized incorrect information. He then appealed to Executive Committee but was denied based on that incorrect information.

After the committee denied his appeal, staff followed up with IMRF's attorneys who stated that they have interpreted the term "police duties for a participating municipality" as including all types of "sworn" employment for an IMRF-covered employer. It should also be mentioned that the term "municipality" which is defined under Section 7-105 of the Illinois Pension Code also includes counties. Furthermore, the phrase "police duties for a participating municipality" is not defined under the IMRF article of statute and was first enacted into that Article on August 25, 2009. Such term was used to capture other forms of law enforcement positions not covered under the "sheriffs law enforcement employee" (SLEP) program. However, IMRF stated that when such term was created, it was done at a time when IMRF was unable to amend the language to eliminate "interpretation" issues. Given these dynamics, IMRF's legal interpretation is that "police duties for a participating municipality" includes SLEP service.

Given these dynamics, Mr. Houch recommends that the Committee approve staff to permit such SLEP service transfers to Commerce Commission police officers' SERS accounts.

After some discussion, Executive Secretary Blair moved to adopt the policy of allowing SERS staff to permit such SLEP service transfers to Commerce Commission police officers' SERS accounts. The motion was seconded by Chairperson Becker and passed unanimously.

There being no further business to be brought before the Committee, the meeting adjourned at 11:29 a.m.

The next meeting of the Executive Committee is scheduled for October 14, 2021, in the System's Springfield office.

Marvin Becker, Chairperson

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary