

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

July 14, 2022

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, July 14, 2022, 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)).

Committee Members Present:

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

Others Present:

Jeff Houch, Assistant to the Executive Secretary
Eric Glaub, Manager, Claims Division
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on June 9, 2022, were presented by Chairperson Becker for approval. Copies of the minutes were previously e-mailed to Committee members for review. Chairperson Becker 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 2022 was presented. Following review and discussion, the Routine Claims Report for June 2022 as prepared by staff, was received by the Committee.

Old Business

Paul Wangerin – Appeal of Final Average Compensation Calculation for Proportional Annuity

Paul Wangerin retired utilizing the Reciprocal Retirement Systems Act. He began receiving proportional annuities from SERS and SURS effective January 1, 2022. The monthly Final Average Compensation (FAC) used to calculate both proportional

annuities totaled \$7,602.38. Mr. Wangerin had 31 months of service with SURS, as he was a contributing member of SURS from June 1, 2019, through December 31, 2021.

Because Mr. Wangerin had less than 48 months of service with SURS, earnings he received as a SERS member from May 1, 1978, through August 31, 1979, were used to complete the 48-month period the statute requires for determining a member's FAC.

Mr. Wangerin contends the passage found in Section 14-103.12(a) of the Pension Code prohibits the inclusion of his SERS earnings to his FAC because his service with SERS was not consecutive with his service in SURS:

"the 48 consecutive months of service within the last 120 months of service in which the total compensation was the highest".

Staff contends that the statutory language Mr. Wangerin cites directs the System to connect all the years of service a member has earned under all reciprocal systems for purposes of determining his or her FAC period, even when those years of service are separated by significant periods of non-service. Furthermore, officials from IMRF, SURS, and TRS confirm that they too interpret their applicable statutes, which utilize essentially the same language as the language found in Section 14-103.12(a), in the same manner.

After reviewing Mr. Wangerin's case at their June 2022 meeting, the Committee decided to refer to outside counsel for a recommendation.

Attorney Evans presented Recommendation No. 2022-10, to deny Mr. Wangerin's appeal. After discussing the appeal and the facts presented, Executive Secretary Blair moved to adopt Recommendation No. 2022-10. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

New Business

Abigail Robinson – Request to Change Tier Status

Abigail Robinson is a Tier 2 member employed by the Department of Transportation (IDOT) who first became a contributing member of SERS on September 1, 2011. Before she became a contributing member, Ms. Robinson was employed by the Illinois Tollway Authority for two separate periods. The first period began June 1, 2008, and ended August 31, 2008, and the second period began May 16, 2010, and ended August 15, 2010. During these periods, she made no contributions to SERS as a former statute that required employees to complete a 6-month qualifying period before qualifying for eligibility to participate in SERS was still in effect. Public Act 96-1490 provided that for those individuals who first enrolled in SERS on or after January 1, 2011 would not need to serve 6 consecutive months for a SERS-covered employer before he or she could begin contributing to SERS and attain membership status.

The qualifying period that was ended by Public Act 96-1490 is contained in Section 14-

103.05(a), and provided that between January 1, 1984 and December 1, 2010, an employee needed to accrue 6 continuous months of service before he or she was eligible to be a member in SERS. Once the employee became eligible for membership in SERS, he or she would be eligible to purchase the “qualifying period” or “short periods”. Short periods include periods of state employment prior to becoming a contributing member in which the employee didn’t complete his or her qualifying period.

Ms. Robinson purchased her “short periods” and contends that such periods qualify her to be grandfathered into the Tier 1 plan. Furthermore, she points to her member services account screen that identifies her membership date as June 1, 2008.

Ms. Robinson did not begin making contributions to SERS until September 1, 2011, 9 months after the Tier 2 plan took effect. Section 1-160(a) of the Pension Code provides that the Tier 2 plan applies to a person who, on or after January 1, 2011, first becomes a “member or a participant under any reciprocal retirement system or pension fund established under this Code.” A “member” is defined as “any employee included in the membership of the system.” 40 ILCS 5/14-103.06. Although Ms. Robinson was an “employee” when she received a salary (see 14-103.05(a)), she did not become a member until she first contributed to SERS on September 1, 2011.

SERS contends that the governing statutes and administrative rules are clear, an employee becomes a member on the date he or she meets the eligibility conditions for membership as provided in Section 14-103.05 of the Code, and the earliest date of a service performed during a qualifying period, if applicable, has no bearing on his or her membership date.

Sections 14-103.13 and 14-104(a) of the Pension Code clearly demonstrate that the legislature differentiates service performed during a qualifying period from service performed after the member qualified for membership in the System. When it enacted the provisions of Section 14-104.5 of the Pension Code, the legislature made clear that a member’s membership date is fixed to the date in which the member first met the statutory qualifications of a member. This Section governs the process for establishing service credit for service performed during a qualifying period. A provision of that section provides that the interest that is otherwise required for service credit purchases will be waived if the member completes the purchase in full within 6 months of his or her membership date. This provision is important because it demonstrates that the legislature believes that a member’s membership date is permanently fixed to the date in which the member first attained membership status with SERS. If the legislature intended for the plan design to permit the membership date of a member to change to the date he or she first began service under a qualifying period, then this interest free payment provision would have been technically inoperable because the plain language would prevent members for which that provision was created from benefitting from such payment option.

If the legislature intended for a member’s membership date to change to reflect the dates of a qualifying period or short period that he or she purchased, then it would have included provisions like those contained in Section 16-129.1 of the Pension Code.

“For purposes of this Section and subdivision (a)(B)(1) of Section 16-133, optional creditable service established by a member shall be deemed to have been earned at the time of the employment or other qualifying event upon which the service is based, rather than at the time the credit was established in this System.”

If there remains any doubt on the legislative intent and the plain language of the relevant statutory provisions regarding the date an employee becomes a member, the rule provision contained in Title 80, Section 1540.210 of the Illinois Administrative Code eliminates any doubt. When JCAR approved this rule provision, it confirmed on behalf of the General Assembly, that the membership date does not change if the member purchases service for short periods or qualifying periods.

“The term date he last became a member of the System as it pertains to the purchase of service credits is the first day of the latest or current period of membership and is not affected by the payment of contributions for any periods of service prior to or following this first day.”

Ms. Robinson is appealing to the Executive Committee to grant her Tier 1 status due to her short periods that occurred before January 1, 2011 that she has purchased.

Mr. Houch informed the Committee that Ms. Robinson’s case would be deferred until their August 2022 meeting.

James Hernandez – Appeal to Calculate Pension with Different Salary

James Hernandez has been receiving an occupational disability benefit since November 2000. While he has not applied to retire, he is questioning the way his pension will be calculated upon retirement.

Mr. Hernandez is appealing to have his pension calculated based on a rate of pay that he would have been earning had he not been on the occupational disability benefit.

Following a review of the facts of the case, Executive Secretary Blair moved to deny Mr. Hernandez’s request. The motion was seconded by Chairperson Becker, and all were in favor.

Sarah Shaw – Appeal to Receive Termination Refund

Sarah Shaw worked for the Illinois Department of Human Services as a Registered Nurse II. She began receiving a nonoccupational disability benefit on April 10, 2020. Ms. Shaw requested a voluntary termination of her nonoccupational disability benefit to be effective January 31, 2022, and then applied to receive a termination refund.

After twelve (12) months on a disability benefit, a member is required to file a Social Security Administration (SSA) disability claim. No final determination has been made on Ms. Shaw’s SSA disability claim.

Per Title 80, Section 1540.60 e) of the Illinois Administrative Code, 'An election for a refund that is submitted by a member that received disability benefits and has a pending claim for either Social Security disability benefits...shall not be processed until that claim has been determined.' Therefore, Ms. Shaw's termination refund claim cannot be released.

When contacted about resuming her nonoccupational disability benefit because of this situation, Ms. Shaw stated she started working another job which earnings exceed the gainful employment limit. Therefore, a statutory end point for her nonoccupational disability benefit has been met and she is now ineligible to resume the benefit.

Ms. Shaw has requested a written appeal to approve the release of her termination refund.

After some discussion, Vice-Chairperson Morris moved to deny Ms. Shaw's appeal. The motion was seconded by Executive Secretary Blair and passed unanimously.

Staff Direction for Approval of Survivor Benefit Claim – Deceased Mbr: Dante Adkins

Dante Adkins, an active state employee, died on April 8, 2022. Devon Adkins, age 17, applied for a child survivor benefit from Dante's retirement account. However, no father is listed on Devon's birth certificate, so it does not include Dante's name.

Supporting documents have been provided by Devon's mother as evidence that Dante Adkins was in fact Devon's father despite not being listed on the birth certificate.

The Pension and Death Section is requesting direction on whether to approve the survivor benefit claim.

After reviewing the facts pertaining to the case, Executive Secretary Blair moved to direct the Pension and Death section to approve the survivor benefit claim. The motion was seconded by Chairperson Becker, and all were in favor.

Staff Direction for Approval of Survivor Benefit Claim – Deceased Mbr: Barbara Wickell

Barbara Wickell, a state retiree, died on May 9, 2020. Daniel Wickell, her assumed spouse, did not submit a survivor benefit application. Daniel Wickell died on April 29, 2021.

The family has been unable to provide a marriage certificate, any tax returns for Barbara Wickell or Daniel Wickell, or any other supporting documents for the marriage.

Robert Shelist, attorney at law, has provided some correspondence and supporting documents to prove the marriage.

The Pension and Death Section is requesting direction on whether to approve the survivor benefit claim.

After reviewing the documentation provided and a brief discussion, Chairperson Becker moved to direct the Pension and Death section to approve the survivor benefit claim. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Tim Daiber – Appeal Reduction to Pension due to Corrected Final Average Compensation

Tim Daiber began receiving retirement benefits effective May 1, 2017. His original Final Average Compensation (FAC) period was May 1, 2013 through April 30, 2017. Due to pay raises that were initially denied, he was issued multiple payments for back wages that represented the initially denied raises. For purposes of calculating his FAC, those lump sum payments were initially included in the pay period in which they were issued rather than the pay periods in which they were earned.

Given the volume of back wages issued to thousands of members, coupled with the lack of payroll information from his employing agency (DNR), staff initially based the FAC period, and the related FAC calculation based on the date the payments were issued rather than when they were earned. After staff was able to obtain the accurate payroll data from DNR and work through the back wage adjustment backlog and the normal workload, staff went through and adjusted his FAC earnings by assigning the back wages to the pay periods in which they were earned. When performing this procedure to Mr. Daiber's account, his FAC period changed to June 1, 2011 through May 31, 2015.

It should be noted that while the entire amount of the back wages issued remained in his FAC calculation, his FAC period changed and the total amount of compensation within his FAC calculation decreased by \$13,323.01. Because his true "FAC" earnings were reduced by this amount, his monthly FAC dropped from \$10,669.75 to \$10,392.18. His "inflated" starting monthly pension based on the incorrect FAC period and inflated earnings was \$8,535.80, while his true starting monthly pension that reflects the assignment of back wages to the periods in which they were earned is \$8,313.74. The action to assign back wages to the pay period in which they were earned is supported by Title 80, Section 1540.190 c) of the Illinois Administrative Code, which provides that "Compensation received for back wages shall be applied to the pay period in which it was earned, rather than when it was received."

Mr. Daiber makes multiple contentions regarding his benefit calculation, but none of those contentions are relevant or remotely support his actual appeal. He is appealing to either have his benefit restored to the original incorrect level, or to be issued two months of pension payments to compensate him for his decision to delay his retirement date by two months based on incorrect information that he contends SERS should have corrected before he made his decision to retire. He also contends that his compensation records on file with SERS do not accurately reflect when payments for overtime, temporary assignment service, and unused holidays were earned.

After review and some discussion, Executive Secretary Blair moved to deny Mr. Daiber's appeal. The motion was seconded by Chairperson Becker and passed unanimously.

Tony Eckhardt – Appeal Reduction to Pension due to Corrected Average Final Compensation

Tony Eckhardt began receiving retirement benefits effective July 1, 2017. His original Final Average Compensation (FAC) period was July 1, 2013 through June 30, 2017. Due to pay raises that were initially denied, he was issued multiple payments for back wages that represented those initially denied raises. For purposes of calculating his FAC, those lump sum payments were initially included in the pay period in which they were issued rather than the pay periods in which they were earned.

Given the volume of back wages issued to thousands of members, coupled with the lack of payroll information from his employing agency (IDOC), staff initially based the FAC period, and the related FAC calculation on the date the payments were issued. After staff was able to obtain the accurate payroll data from IDOC and work through the back wages adjustment backlog and the normal workload, staff went through and adjusted his FAC earnings by assigning the back wages to the pay periods in which they were earned. When performing this procedure to Mr. Eckhardt's account, his FAC period changed to February 1, 2013 through January 31, 2017.

Mr. Eckhardt was issued lump sum payments for back wages in the amount of \$268.11 for the pay period June 16-30, 2013 and \$2,839.59 for the pay period June 16-30, 2014, for a total of \$3,107.70.

After staff adjusted the earnings records by assigning the back wages to the pay periods in which they were earned, it was determined that only \$1,283.72 of the \$3,107.70 were earned within his FAC period. Ultimately, the total amount of compensation within his FAC period decreased by \$2,478.38. Because his true "FAC" earnings were reduced by this amount, his monthly FAC dropped from \$6,365.38 to \$6,313.75. His "inflated" starting monthly pension based on the incorrect FAC period and inflated earnings was \$4,558.54, while his true starting monthly pension that reflects the assignment of back wages to the periods in which they were earned is \$4,521.57. The action to assign back wages to the pay periods in which they were earned is supported by Title 80, Section 1540.190 c) of the Illinois Administrative Code, which provides that "Compensation received for back wages shall be applied to the pay period in which it was earned, rather than when it was received."

Mr. Eckhardt is appealing the reduction to his pension resulting from the recalculation of his FAC.

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

Carmen Terrones – Appeal to Rescind Election to Participate in SERS

Carmen Terrones is a SERS retiree, and recently began a term as a Board member of the Prisoner Review Board (PRB). Board members of the PRB are appointed by the Governor and require the advice and consent of the Senate. Given this dynamic, Ms. Terrones had the option to accept or reject participation in SERS during her tenure as a board member, 40 ILCS 5/14-103.05(b)(3). Ms. Terrones elected to participate in SERS for the duration of her service as a board member.

Ms. Terrones retired effective December 1, 2020. She was appointed by Governor Pritzker to serve as a board member of the PRB. Immediately after she submitted her election to participate, she was notified that her proportional annuities payable from SERS and the Cook County Pension Fund would be suspended due to the provision found in Section 20-125 of the Illinois Pension Code. That Section provides that if a retiree returns to service under a System that he or she receives a proportional annuity from, then all those proportional annuities are suspended until he or she separates from service.

Ms. Terrones is appealing to revoke her initial election and to decline participation in SERS for her service as a PRB board member for the term that began on June 27, 2022, as she contends that she thought that she had to elect to participate in SERS in order to serve on that Board.

After a brief discussion regarding the facts presented, Vice-Chairperson Morris moved to approve Ms. Terrones' appeal. The motion was seconded by Executive Secretary Blair, and all were in favor.

Robin Shoffner – Appeal to Rescind Election to Decline Participation in SERS

Robin Shoffner is currently receiving proportional annuities from the Chicago Municipal Employees' Annuity and Benefit Fund (MEABF) and SERS. She will also receive a proportional annuity from the Judges' Retirement System (JRS) in November of 2022, as such payment is deferred until she meets the eligibility requirements. On May 1, 2022, she began a term as a Board member of the Prisoner Review Board (PRB). Board members of the PRB are appointed by the Governor and require the advice and consent of the Senate. Given this dynamic, Ms. Shoffner had the option to accept or reject participation in SERS during her tenure as a board member, 40 ILCS 5/14-103.05(b)(3). Ms. Shoffner elected to decline to participate in SERS for the duration of her service as a board member.

Ms. Shoffner is appealing to revoke her initial election as she seeks to participate in SERS for her service as a PRB board member for the term that began on May 1, 2022. Her reasoning is that she did not understand that by opting out of SERS coverage, she would also be ineligible for insurance coverage. It should be noted that Ms. Shoffner has not yet qualified for coverage under the State's retiree insurance program because she has less than 8 years of eligible State service.

Following a review of the case, Chairperson Becker moved to approve Ms. Shoffner's appeal. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

There being no further business to be brought before the Committee, the meeting was adjourned at 10:09 a.m.

The next meeting of the Executive Committee is scheduled for August 18, 2022, in the System's Springfield office.

Marvin Becker, Chairperson

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary