

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

April 13, 2023

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, April 13, 2023, 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, Associate Executive Secretary  
Eric Glaub, Manager, Claims Division  
Karen Brown, Supervisor, Disability Section  
Aaron Evans, Attorney, Sorling Northrup  
Jessica Blood, Recording Secretary  
Amy Cramer, Attorney for Bette Ziegler  
Michelle Billhorn-Hartford, Claimant  
Venus Brown, Claimant

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on March 9, 2023, 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 Executive Secretary Blair and passed unanimously.

Routine Claims Report

The Routine Claims Report for March 2023 was presented. Following a brief discussion, the Routine Claims Report for March 2023 as prepared by staff, was received by the Committee.

## Old Business

### Ratification of Revised January 2023 Meeting Minutes

Eric Glaub, Claims Division Manager, informed the Committee of a change to the January 2023 meeting minutes. After a brief discussion regarding the change, Executive Secretary Blair moved to approve the revised January 2023 meeting minutes. The motion was seconded by Chairperson Becker and passed unanimously.

### Lance Fancher – Appeal to Include Temporary Assignment Pay in Final Average Compensation Calculation – Formal Hearing via Videoconference – Recommendation

Lance Fancher retired under the Tier 1 alternative formula plan with a benefit start date of November 1, 2022. Mr. Fancher contends that he was told verbally and “has in writing” by SERS representatives and his payroll office that his temporary assignment (T.A.) pay would be included in his “monthly rate of compensation” certification. The monthly rate of compensation can be used as the Final Average Compensation (FAC) component for the pension calculation of a Tier 1 alternative formula member if such rate exceeds the monthly average for the highest 48 consecutive months of service within his last 120 months of service.

Mr. Fancher is appealing that the “rate of compensation” option of his FAC component of the calculation of his retirement annuity should reflect the total monthly compensation amount that he was receiving at the time of his retirement, which would include his T.A. payment. He makes this contention because he alleges that he was told by SERS representatives and his payroll officer that his T.A. pay would be included in his rate of compensation determination and that he relied on such information to make his decision to retire. Furthermore, he alleges that there are numerous retired IDOC employees who received similar artificial increases under similar circumstances.

Mr. Fancher presented his appeal to the Committee at their March 2023 meeting. The oral proceedings were recorded by a stenographer, Mike Duffy, and the transcripts were provided to Mr. Fancher and the Executive Committee. After reviewing the information presented in Mr. Fancher’s appeal and some discussion, the Committee decided to refer his case to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2023-11, to deny Mr. Fancher’s appeal. The recommendation recognizes that the System’s interpretation that Section 14-103.11 limits an employee’s “rate of compensation” to the employee’s regular base salary, excluding additional and extraordinary items, such as overtime pay, temporary assignment pay, and the like. The recommendation agrees that the System’s interpretation is consistent with the plain meaning of “temporary assignment pay.” On its face, temporary assignment pay is not part of the Petitioner’s regular rate of compensation. Title 80, Section 310.100(d) of the Illinois Administrative Code provides that temporary assignment pay is a “temporary” amount that is “added to the employee's base salary for a given pay period for work performed in excess of the normal requirements for the position and work schedule.”

The recommendation addresses the petitioner's contention that he should be entitled to include his temporary assignment pay in his rate of compensation because he contends that SERS staff told him as much prior to his retirement. Though SERS staff acknowledged having told Petitioner that staff thought temporary assignment pay would be included in Petitioner's rate of compensation, staff also advised Petitioner that additional research was necessary to confirm whether that was accurate. Petitioner admitted in his appeal that SERS staff informed him that staff had "people left to consult with" in order to confirm that the temporary assignment pay would be included in his FAC. Petitioner's admission that he proceeded to retire without such confirmation contradicts Petitioner's assertion that he relied upon SERS in deciding to retire.

Furthermore, the meeting giving rise to Petitioner's alleged reliance took place in October 2022, mere days in advance of Petitioner's retirement at the end of the month. As demonstrated on Petitioner's Request to Establish Optional Service Credits received by SERS on August 29, 2022, Petitioner had already planned a November 1, 2022 retirement date prior to his meeting with SERS staff. Accordingly, Petitioner's alleged reliance on SERS staff in deciding to retire is not supported by the evidence.

The recommendation points out that even if SERS had provided Petitioner with misleading information that caused his decision, Petitioner is not entitled to rely upon an error by SERS as a basis for increasing his retirement annuity as the 4<sup>th</sup> Appellate District Court determined in its ruling of *Desai v. State Universities Retirement System of Illinois*.

The recommendation also extinguishes the petitioner's argument that it is commonplace within the Department of Corrections to employ various questionable practices designed to increase pensions. The petitioner declined to elaborate further on these alleged practices. As such, there is no evidence of this alleged conduct having taken place. That others may have succeeded in improperly inflating their FAC does not entitle the petitioner to include temporary assignment pay in his rate of compensation for purposes of calculating his FAC.

Based on the foregoing, the recommendation concluded that temporary assignment pay Petitioner received on the last day of his eligible creditable service is not included in Petitioner's rate of compensation for purposes of calculating his FAC under the Tier 1 alternative formula.

Executive Secretary Blair moved to adopt Recommendation No. 2023-11. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

#### Angela Mason – Appeal of Adjustment to Monthly Pension Amount – Recommendation

Angela Mason retired April 1, 2018. Her file was recently reviewed for a back wage adjustment from retirement contributions that were posted to her account after she retired. The contributions were the result of payments made for both the Quinn era and

Rauner era wage freezes.

The review led to Ms. Mason's FAC being increased. However, when many of the earnings from her Quinn back wage payments were spread into the months in which they were earned, some earnings used in the initial calculation fell outside her FAC range. Additionally, funds had to be removed from her earnings due to non-pensionable holidays that were paid out by her agency with retirement contributions withheld in error. Ms. Mason is owed a refund of these contributions.

These both reduced the impact of the additional earnings also added to increase the FAC from the Rauner back wages. The increased FAC led to a slight increase in her pension amount.

In accordance with Section 14-148.1 of the Illinois Pension Code, Ms. Mason's gross monthly pension benefit amount has been corrected.

Angela Mason is appealing the recent adjustment to her monthly pension annuity, contending that the amount should be higher. After hearing Ms. Mason present her appeal at their March 2023 meeting, the Committee decided to refer to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2023-12, to deny Ms. Mason's appeal. After a brief discussion regarding Ms. Mason's case, a motion was made by Executive Secretary Blair to adopt Recommendation No. 2023-12. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

### New Business

#### Bette Ziegler – Appeal to Receive Pension Annuity after Required Minimum Distribution – Personal Hearing via Videoconference – 9:00 a.m.

Bette Ziegler was notified on February 10, 2021 that she met the criteria for a Required Minimum Distribution (RMD) from her retirement account, in accordance with Section 401(a)(9) of the Internal Revenue Code, because she attained age 72. She was informed that failure to act would result in a forced refund of her retirement contributions. The letter also informed her she was eligible for a retirement annuity if interested.

After receiving no response, SERS staff sent a second and final notice via certified mail on March 16, 2021 to inform Ms. Ziegler she needed to act by April 1, 2021. The returned certified mail card was received with a March 20, 2021 date of delivery. Nothing further was received by the deadline and on April 5, 2021 a letter was sent to inform Ms. Ziegler that an involuntary refund was being issued to her. A letter with the payment details was sent on April 9, 2021, and the refund was issued on April 14, 2021.

Prior to this, Ms. Ziegler was notified on January 2, 2020 that she met the criteria for a RMD from her retirement account because she was aged 70½. The letter also informed her she was eligible to apply for a retirement annuity. However, the RMD process was

halted by the IRS because of the global pandemic and no follow up or refund took place.

Ms. Ziegler had previously applied to retire and on May 14, 2019 her application was returned to her requesting completion of the survivor contribution refund question and a copy of her birth certificate. A second request was sent on August 23, 2019. This notice was sent again via certified mail once the account was flagged for RMD as noted above in 2020. No responses were ever received, and the pension claim was later purged.

Bette Ziegler is appealing to receive a retirement annuity two years after her RMD was paid out.

Attorney Amy Cramer presented the appeal on behalf of Ms. Ziegler. After hearing the facts presented and some discussion, the Committee decided to defer a decision pending further research into the applicable statute.

Michelle Billhorn-Hartford – Appeal of Nonoccupational Disability Benefit Claim Denial – Personal Hearing – Springfield – 9:45 a.m.

Ms. Billhorn-Hartford works as a Public Service Representative at Driver Services for the Secretary of State. She last worked 10/29/2021 and began a leave of absence on 11/2/2021 due to medical issues. She has applied for a SERS nonoccupational disability benefit.

Ms. Billhorn-Hartford's case was reviewed by SERS' medical consultants and was denied for lack of medical evidence to support her inability to perform her job duties. She supplied additional medical records with her request for an appeal of her denial to the Executive Committee.

The additional medical records provided were submitted to the medical consultants, who were asked to re-review her claim. The claim was again denied.

Ms. Billhorn-Hartford is requesting a personal hearing in the Springfield office to appeal the denial of her disability claim.

Ms. Billhorn-Hartford presented her claim and informed the Committee that she had further medical documentation to provide to the Committee, though it was not with her at the time. After hearing Ms. Billhorn-Hartford's appeal, the Committee decided to defer a decision pending receipt of the additional medical documentation.

Tara Kulavic (POA) – Appeal of Nonoccupational Disability Benefit SSA Overpayment – Mbr: Martha Kohlrus – Deferred

Martha Kohlrus was on SERS' nonoccupational disability benefit and was required to file for Social Security disability benefits. She was approved with an entitlement date of February 1, 2021. SERS then applied an offset of her nonoccupational disability benefit from February 1, 2021 through November 30, 2022. This offset created an overpayment

of benefits.

Ms. Kohlrus is appealing the total amount of her overpayment, as she did not receive the full amount of the offset for these same months from Social Security. She did not receive her full back pay, as she had been receiving widow/survivor benefits under her deceased husband's account.

Ms. Kohlrus, through her daughter and POA Tara Kulavic, is appealing to have her overpayment reduced to the amount she received from SSA for her disability from February 1, 2021 through November 30, 2022.

Ms. Kohlrus' disability<sup>1/2</sup> time ceased and she will begin receiving her pension. She has requested a personal hearing in Springfield.

Mr. Glaub informed the Committee that Ms. Kohlrus' requested her appeal be deferred to the May meeting due to a scheduling conflict.

Venus Brown – Appeal of Nonoccupational Disability Benefit Claim Denial – Personal Hearing via Videoconference – 11:15 a.m.

Venus Brown applied for SERS' nonoccupational disability benefit. Her case was sent to the medical consultants for review and determination of disability. The returned report indicated that Ms. Brown was not incapacitated from performing her job duties.

Ms. Brown is appealing the denial, stating she wasn't told what she needed to submit to be approved. Ms. Brown also questioned why she wasn't given the opportunity to provide additional documentation and why SERS did not request additional information after Ms. Brown provided a release of information form.

Ms. Brown is requesting a Zoom hearing and states all documentation has been provided to SERS through her Examiner.

During Ms. Brown's presentation of her appeal, she noted that she had additional medical documentation to provide to the Committee. After a brief discussion, the Committee decided to defer a decision pending receipt of the additional medical documentation.

Joyce Guccione – Request to Reappeal Death Claim and Overpayment – Deceased Mbr: Salvatore Guccione

Joyce Guccione presented a personal appeal that was heard at the September 8, 2022 meeting of the Executive Committee. She appealed the death claim determination and overpayment that was created.

Ms. Guccione's appeal of the death claim determination and overpayment was denied, and the decision became final at the meeting of the Board of Trustees on January 10, 2023.

Per correspondence received on April 6, 2023, Ms. Guccione is requesting a reappeal of the death claim determination and the overpayment that was created.

After reviewing the documentation provided in Ms. Guccione's request for reappeal, no member of the Committee moved to grant a reappeal of her case.

#### Michael Resendiz – Request to Establish Service for Administrative Leave of Absence

Michael Resendiz is an employee of the Department of Military Affairs and was initially placed on "suspended pending discharge" status effective October 11, 2021. On January 26, 2022, his employer notified him that he may return to work on February 7, 2022 and that his status between October 11, 2021 through February 6, 2022 would be changed to "administrative leave of absence".

Mr. Resendiz inquired with SERS about purchasing the period that he was on an "administrative leave of absence". SERS informed Mr. Resendiz that an "administrative leave of absence" is not an "authorized leave of absence" and that he is unable to purchase such time. Section 14-104(I) of the Pension Code provides that a member may establish service credit for periods of less than one year spent on "authorized leave of absence". The System contends that an "administrative leave of absence" is not an "authorized leave of absence" and therefore may not be purchased. Mr. Resendiz is appealing to the Committee to purchase this period he spent on administrative leave of absence.

After reviewing Mr. Resendiz's case and some discussion, the Executive Committee unanimously agreed that an "administrative leave" is not an "authorized leave of absence", and only an authorized leave of absence may be purchased in accordance with Section 14-104(I) of the Pension Code. This position is supported by the 4<sup>th</sup> Appellate District Court's ruling in *Department of Corrections. v. Welch*, as it opined that an "administrative leave" is not a "leave of absence." Chairperson Becker moved to deny his appeal. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

#### Garrick Randolph – Appeal Determination that Felony was Job-Connected

On February 9, 2023, the Executive Committee unanimously adopted recommendation 2023-6, which effectively suspended the processing of Garrick Randolph's retirement claim. It was determined that the felony charge to which Mr. Randolph was convicted of was connected to his service as an employee, in accordance with 40 ILCS 5/14-149.

Mr. Randolph's request for a written appeal of such decision was received by SERS on March 8, 2023. Mr. Randolph contends that the complaint for aggravated battery does not mention the victim's name and that SERS had to assume that such "battery victim" identified with the initials of J.K. is also the same alleged victim of the other felony charges that were dropped. He also contends that because the sentencing order omits his position as a parole officer, then such conviction cannot be connected to his service as an employee.

After discussing the facts presented, the Executive Committee unanimously agreed that the System has received acceptable documentation that supports that the victim of the aggravated battery conviction is a former parolee who was previously under his oversight. Based on the arrest file supplied by the Illinois State Police, coupled with the portion of the felony sentencing order that bars Mr. Randolph from all contact with the named victim, the committee concluded that the battery victim was a parolee that reported to Mr. Randolph. Chairperson Becker moved to deny Mr. Randolph'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 was adjourned at 12:22 p.m.

The next meeting of the Executive Committee is scheduled for May 11, 2023, in the System's Springfield office.

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Marvin Becker, Chairperson

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David Morris, Vice-Chairperson

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Timothy Blair, Executive Secretary