

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

March 10, 2022

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, March 10, 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
Dennis Williams, Claimant
Mark Wancket, Claimant
Elizabeth Minder, Claimant
Sally Cray, Claimant
Teralandur Venkatesh, Claimant
Carl Holman, Claimant
Ed Graham, Attorney, Illinois State Board of Education
Steve Yokich, Attorney, AFSCME 31 and Illinois Federation of Teachers
Sue Taylor, President, Illinois Federation of State Office Educators
Martha Merrill, AFSCME 31
Deneen Taylor, Illinois Federation of Teachers
Debbie Bault, SERS Member
Kimberly Beachy, SERS Member
Kathleen Dowling, Member of the Public

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on February 10, 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 February 2022 was presented. Following review and discussion, the Routine Claims Report for February 2022 as prepared by staff, was received by the Committee.

Old Business

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

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. Glaub reminded the Committee that Mr. Bouton had requested a formal hearing and his case would be addressed at the Committee's April meeting.

Yeashea Figgures-Lawton – Appeal of Non-occupational Disability Benefit Claim Denial – Deferred

Yeashea Figgures-Lawton works as a Correctional Officer II for the Illinois Department of Corrections. She last physically worked on February 3, 2021. A medical leave of absence was started on February 16, 2021. She applied for a non-occupational disability benefit. The medical report received indicated an onset date of February 3, 2021. There was no release date for her return to work, no medical diagnosis for her pain, and no restrictions were given.

Additional medical records were requested and received. The case file was sent to a medical consultant for review. The medical consultant indicated that the medical evidence in the file supported disability, but not until June 29, 2021.

Ms. Figgures-Lawton started a maternity leave on July 12, 2021. Therefore, she was not disabled for 30 days before she received full payment from her agency for the 10 weeks of maternity leave. She did not return to work after her maternity leave and has not supplied additional medical evidence to support her inability to return to work. As a result, the non-occupational disability claim was denied.

Ms. Figgures-Lawton is appealing the denial of her non-occupational disability claim. She is requesting her claim be approved effective February 2021, as well as for her current time away from work.

After hearing Ms. Figgures-Lawton present her case at their November 2021 meeting, the Committee decided to defer a decision pending receipt of further medical documentation to support her disability from April 2021 through present.

Mr. Glaub provided new medical documentation that had been reviewed by an independent medical examiner to the Committee. The Committee decided to defer a

decision until each committee member has reviewed the independent medical examiner's report and would address the case at their April meeting.

Victor Rodriguez – Appeal of Disability Benefit Overpayment Amount and Repayment Terms - Recommendation

Victor Rodriguez worked for the Illinois Department of Transportation. He was injured on the job on May 4, 2019, and filed a Workers' Compensation (WC) claim. His claim was denied, and he appealed this denial by filing an Application for Adjustment of Claim. He then applied for a SERS temporary disability benefit.

Mr. Rodriguez received temporary disability benefits from SERS from May 14, 2019, through May 10, 2020. He returned to work on May 11, 2020.

Mr. Rodriguez won his WC appeal and was awarded TTD payments for part of the period SERS temporary disability benefits were paid. He also received a lump sum settlement; therefore, SERS converted his temporary disability benefits into occupational disability benefits, which created an overpayment.

The conversion for the settlement resulted in an overpayment of \$8,971.76 and the conversion for the TTD payments resulted in an overpayment of \$11,171.41, for a total overpayment of \$20,143.17 owed to SERS.

Mr. Rodriguez is appealing to seek a reduction in the total overpayment, in addition to a reduction in the monthly repayment terms. The reduction is specifically in the amount of \$11,424.74, which was the cost for attorney fees. He is requesting to repay the remaining overpayment in monthly installments of \$300.

After hearing Attorney Arnevilla present Mr. Rodriguez's case at their February meeting, the Committee decided to refer the case to external counsel for a recommendation. Per Attorney Arnevilla's request, the Committee further decided to cease collection efforts on Mr. Rodriguez's overpayment until his case could be resolved.

Attorney Evans presented recommendation No. 2022-4 to deny Mr. Rodriguez's request. Following a brief discussion, Executive Secretary Blair moved to adopt recommendation No. 2022-4. Chairperson Becker seconded and the motion passed unanimously.

New Business

Discussion – Illinois State Board of Education Unlawful Contract

The Committee discussed the Illinois State Board of Education's contract with regards to the payout of accumulated vacation time spread out over the last one to three years of employment to enhance employee pensions. SERS contends that these payments violate statute.

Ed Graham, attorney speaking on behalf of the Illinois State Board of Education, stated

that the payments in question were made in periodic installments and cannot be considered lump sum payments, which ISBE does not treat as pensionable. He added that ISBE employees had made reasonable decisions based on their contract. Mr. Graham contends that SERS is now applying a non-standard definition of “lump sum payment” and that pension corrections should not be made retroactively.

Mr. Graham also contends that ISBE was not processing these payments in a deceitful manner, stating that there had been discussions with SERS regarding this provision of the contract and mentioning a 2003 document from SERS regarding the processing of these types of payments. Jeff Houch requested a copy of that document, which Mr. Graham agreed to provide.

Steve Yokich, attorney speaking on behalf of AFSCME 31, the Illinois Federation of Teachers and its affiliate, the Illinois Federation of State Office Educators, stated that collective bargaining agreements have special status under the law. He noted that the idea of this collectively bargained benefit is a trade off between giving employees a raise during the last several years of their employment if they agree to the payout of vacation time. He added that it is not illegal to give employees a raise during the last several years of their employment to enhance their final average compensation.

Mr. Yokich stated that these vacation payouts are no different than how holiday time is currently paid out to state employees, noting that these payments are pensionable. Mr. Yokich then pointed to 40 ILCS 5/14-103.10(c) regarding the treatment of sick time in lump sum payments and added that, where there is ambiguity of this kind, the statutory language should be construed in favor of the pensioner.

Mr. Yokich continued by reiterating Mr. Graham’s point that SERS knew these payments were being processed and that the ISBE collective bargaining agreement is posted on public agency websites. He added that the pension protection clause of the Illinois constitution prohibits the correction of benefits being received as a retiree. He further stated that SERS has no authority to correct pensions or recoup overpayments after the administrative review period.

Jeff Houch noted that the courts had previously ruled in SERS’ favor under the mistaken benefits provision and offered to provide the case information. Mr. Houch also stated that he could not find the collective bargaining agreements between ISBE, the Illinois Federation of Teachers and AFSCME and requested a link be provided. Mr. Houch continued with regards to 40 ILCS 5/14-103.10(c) and stated that he believes the legislature’s intention with this amendment was that payments made representing benefit time and not representing lost wages should not be pensionable.

The Committee recommended to all petitioners appealing pension reductions due to the ISBE related vacation payouts, and all petitioners agreed, to defer action on the appeals until the Committee’s April meeting.

Dennis Williams – Appeal to Waive Reduction to Pension – Personal Hearing via Videoconference 9:45 a.m. - Deferred

Mark Wancket – Appeal to Waive Reduction to Pension – Personal Hearing via Videoconference 10:30 a.m. – Deferred

Judith Shafer – Appeal to Waive Reduction of Pension and Overpayment of Benefits - Deferred

Elizabeth Minder - Appeal to Waive Reduction of Pension and Overpayment of Benefits - Deferred

Sally Cray – Appeal to Waive Reduction to Pension and Overpayment of Benefits - Deferred

Teralandur Venkatesh – Appeal to Waive Reduction to Pension - Deferred

Martha Darling – Appeal to Waive Reduction to Pension - Deferred

Carl Holman – Appeal to Waive Reduction to Pension - Deferred

Linda Collins – Appeal to Waive Reduction to Pension – Personal Hearing via Videoconference 11:15 a.m. - Deferred

Linda Collins retired January 1, 2017. Her file was recently reviewed for a back wage adjustment from retirement contributions that 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. Collins's FAC being reduced because when the earnings from her back wage payments were spread into the months in which they were earned, earnings used in the initial calculation fell outside her FAC range.

This reduced FAC led to a reduction in her pension amount. The initial calculation resulted in a monthly annuity amount of \$4,578.68 and the adjustment resulted in a new initial monthly annuity amount of \$4,577.78 for her pension benefit.

In accordance with Section 14-148.1 of the Illinois Pension Code, Ms. Collins's gross monthly pension benefit amount has been corrected. She was overpaid \$58.65 in pension benefits because of this error. However, per Section 14-148.1 of the Illinois Pension Code, these monies cannot be collected as the error occurred over three years ago.

Linda Collins is appealing the reduction to her monthly pension annuity.

Eric Glaub informed the Committee that Ms. Collins requested to defer her case until the Committee's April meeting.

Anthony McAllister – Appeal to Waive Reduction to Pension

Anthony McAllister retired January 1, 2017. His file was recently reviewed for a back wage adjustment and non-pensionable earnings were discovered in his initial final average compensation (FAC).

The non-pensionable earnings were for lump sum holiday payments amounting to \$33,666.30.

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

Mr. McAllister was overpaid \$23,697.86 in pension benefits because of this error. However, per Section 14-148.1 of the Illinois Pension Code, these monies cannot be collected as the error occurred over three years ago.

Mr. McAllister is appealing the reduction to his monthly pension annuity.

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

Maria Ortiz – Appeal to Receive Survivor Contribution Refund after Retirement

Maria Ortiz retired October 1, 2021. She completed her application stating she was divorced with no dependents and did not want to receive the survivor contribution refund.

Ms. Ortiz is appealing to receive the survivor contribution refund after retirement.

After a brief discussion, Executive Secretary Blair motioned to deny Ms. Ortiz's request. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

Peggy Waller – Request Reinstatement of Written-off Account for Death Benefit – Deceased Mbr: Floyd Waller

The account of Floyd Waller was written-off in June 2021, and his spouse is now seeking a death benefit.

The Pension and Death Section is requesting that the Executive Committee approve reinstatement of Mr. Waller's account so the claim may be processed.

After a brief discussion about handling written-off accounts at the staff level in the future, Executive Secretary Blair motioned to approve the reinstatement of Mr. Waller's account. The motion was seconded by Chairperson Becker and passed unanimously.

There being no further business to be brought before the Committee, Executive Secretary Blair motioned to adjourn the meeting. The motion was seconded by Chairperson Becker and the meeting adjourned at 10:04 a.m.

The next meeting of the Executive Committee is scheduled for April 14, 2022, in the System's Springfield office.

Marvin Becker, Chairperson

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary