



Illinois Municipal Retirement Fund

2211 York Road Suite 500 Oak Brook IL 60523-2337

Member Services Representatives 1-800-ASK-IMRF

www.imrf.org

GENERAL MEMORANDUM

Revised 9/6/11

Posting information regarding member compensation

Page 6

Revised 9/16/11: removed "the value of" on page 6

Number: 620

Date: August 31, 2011

To: All Authorized Agents

Subject: Recent Public Act signed into law: P.A. 97-0609

Executive Summary

On August 26, 2011, the governor signed Senate Bill 1831 (Public Act 97-0609). This law makes several changes to the IMRF statute and amends the Open Meetings Act. The new provisions have various effective dates that are noted below.

Please note: P.A. 97-0609 includes provisions that were also included in bills recently signed into law (P.A. 97-0272, P.A. 97-0273, P.A. 97-0319, and P.A. 97-0328). Those new Public Acts provide for earlier implementation dates for some of the provisions than those provided in P.A. 97-0609. Provisions that are included in both P.A. 97-0609 and prior Public Acts are not described here, but can be found in General Memoranda 617 and 618.

IMRF Statute

1. Employer action/payment required as a result of certain earnings increases

- A. Employers are required to pay that portion of the present value of a pension attributable to earnings increases exceeding the greater of 6% or 1.5 times the increase in the CPI-urban ("Accelerated Payment")
- B. Employers are required to request a "Pension Impact Statement" from IMRF before increasing the earnings of certain members by 12% or more

2. Final rate of earnings: 125% rule

Expands the 125% rule to apply to the last 24 months in the final rate of earnings periods

3. Retired IMRF members returning to work

- A. Suspends the pension of a retired member who performs services on a contractual basis with a former IMRF employer
- B. Members who retire under ERI and return to work as auxiliary police officers are not subject to ERI restrictions

4. Exception to IMRF participation requirement

Certain employees who are required to participate in a union pension plan do not participate in IMRF

Open Meetings Act

Posting information regarding member compensation

Dear Authorized Agent:

On August 26, 2011, the governor signed Senate Bill 1831 (Public Act 97-0609). This law makes several changes to the IMRF statute and amends the Open Meetings Act. The new provisions have various effective dates that are noted below.

Please note: P.A. 97-0609 includes provisions that were also included in bills recently signed into law (P.A. 97-0272, P.A. 97-0273, P.A. 97-0319, and P.A. 97-0328). Those new Public Acts provide for earlier implementation dates than for some of the provisions provided in P.A. 97-0609.

Provisions that are included in both P.A. 97-0609 and prior Public Acts are not described here, but can be found in General Memoranda 617 and 618.

IMRF Statute

1. Employer action/payment required as a result of certain earnings increases

- A. **Accelerated Payment:** Employers are required to immediately pay that portion of the present value of a pension attributable to earnings increases exceeding the greater of 6% or 1.5 times the increase in the CPI-Urban as of the previous September

Effective date: January 1, 2012

Applies to earnings increases paid on or after January 1, 2012, to members retiring on or after February 1, 2012

NOTE: This new law differs from the immediate payment required by school districts for earnings increases paid to TRS members.

Old Law: Not applicable

New Law: When a member applies for a pension, IMRF calculates the member's final rate of earnings. For pensions with an effective date of February 1, 2012, and later, IMRF will compare each 12 months' earnings within the final rate of earnings period with the earnings for the previous 12 months.

NOTE: Although this new law applies to members retiring on or after February 1, 2012, only earnings increases paid after January 1, 2012 are subject to the limit.

IMRF will identify any year in which the member's earnings are more than the previous 12 months' earnings by the greater of 6% or 1.5 times the increase in the Consumer Price Index-Urban (as of the previous September).

IMRF will calculate the present value of the member's pension with and without the earnings increases that exceed the limit. The member's employer will be required to pay that portion of the present value attributable to earnings increases that exceed the limit ("Accelerated Payment").

August 31, 2011

Recent Public Act signed into law: P.A. 97-0609

Page 3 of 12

After receiving the Accelerated Payment invoice from IMRF, employers may dispute the increase by providing documentation of any exemption within 30 days or pay the amount due without interest within 90 days. After 90 days, employers will be charged 7.50% interest. The full amount must be paid within three years.

Earnings increases exempted from this limit are those resulting from:

- Overload or overtime
- An increase in the number of hours required to be worked
- Standard employment promotions resulting in increased responsibility and workload

Also exempted from the earnings increase limit:

- Earnings increases for members who are more than 10 years from retirement eligibility
- Earnings increases paid under contracts or collective bargaining agreements entered into, amended or renewed before January 1, 2012
- Earnings increases attributable to personnel policies adopted by the governing body before January 1, 2012, and applicable only to members who were participating in IMRF before January 1, 2012.

Personnel policies eligible for this exemption must: Be in writing, and

- Specifically exempt earnings increases that would trigger an Accelerated Payment for employees hired on or after a specific date (but no later than 1/1/2012), and
- Be formally adopted by the employer's governing body on or before 1/1/2012.

You can find a Frequently Asked Questions about this topic beginning on page 8 of this memo.

B. Pension Impact Statement: Employers are required to request a "Pension Impact Statement" from IMRF before increasing the earnings of certain members by 12% or more

Effective date: January 1, 2012

Old Law: Not applicable

New Law: Before an IMRF employer can increase the earnings of an officer, executive, or manager by 12% or more, the employer must request from IMRF a written "Pension Impact Statement."

The statement will provide the:

- Effect the earnings increase could have on the member's pension
- Estimated "Accelerated Payment," the amount the employer would be required to pay immediately: that portion of the present value of the pension attributable to salary increases exceeding 6% or 1.5 times the increase in the Consumer Price Index-Urban as of the previous September if the member retired

Employers will be required to sign and return the Pension Impact Statement to IMRF.

NOTE: This new provision does not apply to earnings increases for members who are more than 10 years from retirement eligibility.

The following earnings increases are exempted from this requirement. Earnings increases:

- Resulting from standard employment promotions resulting in increased responsibility and workload
- Resulting from an increase in the number of hours required to be worked
- Paid under contracts or collective bargaining agreements entered into, amended or renewed before January 1, 2012

2. Final rate of earnings: Expand 125% rule

Expands the 125% rule to apply to last 24 months in the final rate of earnings period

Effective date: January 1, 2012

Applies to members first participating in IMRF or a reciprocal retirement system on or after January 1, 2012

For retirement purposes, a member's final rate of earnings (FRE) is the highest total earnings during any 96 consecutive months (Tier 2) within the member's last 10 years of IMRF service divided by 96.

Old Law: If the member's earnings for any of the last three months were more than 25% greater than the highest earnings in any of the previous 93 months, IMRF reduced those earnings when we calculated the FRE.

New Law: If a member's earnings for any of the last 24 months are more than 25% greater than the highest earnings in any of the previous 72 months, IMRF will reduce those earnings when we calculate the FRE.

3. Retired IMRF members returning to work

- A. Suspend the pension of a retired member who performs services on a contractual basis with a former IMRF employer

Effective date: January 1, 2012

Applies to members first participating in IMRF or a reciprocal retirement system on or after January 1, 2012; does not apply to SLEP members

Old Law: Retired members could perform services for a former IMRF employer if the retiree was returning as an independent contractor. The member's pension payments would continue.

New Law: If a retired member performs services for his or her former IMRF employer on a contractual basis, the member's pension will be suspended during that contractual service.

The retired member must inform IMRF and his or her former employer that he/she is receiving an IMRF pension and is returning to work on a contractual basis.

If the retired member does not inform IMRF and his/her employer, the retired member will be guilty of a Class A misdemeanor and required to pay a \$1,000 fine.

Once the contractual work ends, the retired member's pension will resume.

- B. Members who retire under ERI and return to work as auxiliary police officers are not subject to ERI restrictions

Effective date: August 26, 2011

Applies to all members

Old Law: if a member retired under the Early Retirement Incentive (ERI), he or she could not return to work for an IMRF employer in any capacity (see exception below). If the member did return, he or she would lose the ERI enhancements and be required to repay IMRF any pension payments the retiree would not have been entitled to receive without the ERI.

Exception under old law: A member who retired under ERI can hold an elected position and continue to receive his or her ERI pension if the member chooses to not participate in IMRF and the member's pension is not based on any service earned in that position during any term of office.

New Law: Creates an additional exception. An ERI retiree can return to work for an IMRF employer as an auxiliary police officer appointed pursuant to Section 3.1-30-5 of the Illinois Municipal Code. The retiree will not lose the ERI enhancements.

4. Exception to IMRF participation requirement

Certain employees who are required to participate in a union pension plan do not participate in IMRF

Effective date: August 26, 2011

Applies to (see below)

Old Law: Employees who worked in a position that met or exceeded the employer's hourly standard were required to participate in IMRF.

New Law: Excludes from IMRF participation any employee who:

- Is employed by a theatre, arena, or convention center, and
- The theatre, arena, or convention center is located in Cook County, and
- The municipality is an IMRF employer, and
- The employee contributes (or is eligible to contribute) to a Taft-Hartley (union) pension plan established on or before June 1, 2011.

Employees who meet these criteria but are currently participating in IMRF will continue to participate.

Open Meetings Act

- **Posting information regarding member compensation**

Effective date: January 1, 2012

Applies to all IMRF employers and their employees (including those not participating in IMRF)

Old Law: Not applicable

New Law:

- A. Within six days of approving its budget, an IMRF employer must **post** the total compensation package for each employee receiving a total compensation package that exceeds \$75,000 a year.

At least six days before an IMRF employer approves an employee's total compensation package that will equal or exceed \$150,000 a year, the employer must **post** the total compensation package for that employee.

For this statute, "total compensation package" is defined as salary, employer-paid health insurance premiums, housing allowance, vehicle allowance, clothing allowance, bonuses, loans, vacation days which will be earned in that year and sick days which will be earned in that year.

If an employer maintains a website, it can post the information on its website or **post** the information available at its main office. If it chooses to **post at its office**, it must post on its website on how to access the information.

If the employer does not have a website, it must **post** the above information at its main office.

Because this new law **revises the Open Meetings Act and not the Pension Code, if you have any questions about its implementation, please contact the Illinois Attorney General.**

General Memorandum 620

August 31, 2011


Recent Public Act signed into law: P.A. 97-0609

Page 7 of 12

Questions?

If you have any questions regarding the information presented in this memorandum, please call an IMRF Member Services Representative at 1-800-ASK-IMRF (1-800-275-4673), 7:30 a.m. to 5:30 p.m., Monday through Friday.

Sincerely,


Louis W. Kosiba
Executive Director

General Memorandum 620
Accelerated Payment
Frequently Asked Questions

P. A. 97-0609 (Senate Bill 1831) contains a provision requiring the accelerated payment of pension costs attributable to compensation increases of 6% or more during the period used to calculate the pension, with limited exceptions. The following are answers to the most commonly asked questions about this new accelerated payment:

1. What does the Accelerated Payment (AP) provision of P.A. 97-0609 do?

It requires immediate payment of that portion of the cost of a pension attributable to a compensation increase of 6% or more* in the final earnings period. The cost will be determined when the pension is calculated and IMRF will bill the employer. The cost must be paid within 90 days interest free, or within three years with a 7.5% interest charge.

2. How is it determined if an AP is required?

Each group of 12 months in the 48-month FRE period (or 96-month FRE period for Tier 2 members) will be compared to the immediately preceding 12 months to determine if there is an increase of 6% or more.

3. How is the AP calculated?

The pension is computed two ways: with all the compensation (which will be used to calculate the pension the member will actually be paid) and without the compensation that exceeds the limit. The present value of the two pensions is then calculated, and the AP is the difference between the two.

4. Are there exceptions to the AP?

Yes. There are six exceptions to the AP:

1. Overtime earnings;
2. Compensation increases because of promotions resulting in increased responsibility and workload;
3. Compensation increases paid pursuant to collective bargaining agreements or contracts entered into, amended, or renewed before January 1, 2012;
4. Increases paid to members who are 10 years or more from retirement eligibility;
5. Increases resulting from increases in hours required to be worked;
6. Increases paid under personnel policies:
 - a. which are not applicable to employees who began service on or after January 1, 2012; and
 - b. which were adopted before January 1, 2012.

* The statute provides for an AP when the compensation increase is the greater of 6% (or more) or 1.5 times the increase in the Consumer Price Index-Urban (CPI-U).

5. How does an employer claim an exemption from the AP?

Employers will be sent a statement when a pension with an increase triggering the AP is calculated. An Exemption Form will be included with the statement. If the employer believes there is an applicable exemption, the employer will complete the Exemption Form and return it to IMRF with evidence of the claimed exemption.

6. What will be accepted as evidence of the claimed exemption?

Acceptable evidence of the exemption will include (this list is not exhaustive):

1. Copies of collective bargaining agreements
2. Copies of personal services contracts
3. Copies of Board minutes adopting personnel policies
4. Copies of check stubs or other statements related to employee wages (documenting compensation for overtime or increased hours of work)
5. Copies of Board minutes or other official announcements of promotions

7. How is retirement eligibility determined for purposes of increases paid to members who are “10 years or more from retirement eligibility”?

Members are eligible for a pension at age 55 (Tier 1 regular and Elected County Official plan), age 50 (SLEP plan), and age 62 (Tier 2 regular and ECO plans). Thus, increases paid to members 10 or more years younger than those ages will be exempt, even if the increases are in the member’s final earnings period and used to compute the pension.

8. What happens if a portion of the increase is attributable to an exemption?

If a partial exemption is claimed and proved, the pension cost due to the increase will be recalculated to consider only the non-exempt compensation. The employer will receive a revised AP Statement.

9. What if an employee has more than one employer during the final earnings period?

The employer that paid the triggering increase (an increase over compensation previously paid by the same employer) will be responsible for the pension cost of that increase. If both employers paid increases, the cost of those increases will be split in the same proportion as the increased wages that each employer contributed to the additional pension cost. Examples can be found at the end of this FAQ on pages 11 and 12.

10. Are increases paid before January 1, 2012, but within an employee’s final earnings period, exempt from the AP?

Yes. Only increases paid on or after January 1, 2012 (the effective date of this provision of P.A. 97-0609) will be considered in the calculation for an AP.

11. Is an increase exempt from the AP if it is paid after the expiration of a collective bargaining agreement (CBA), but pursuant to a provision of the expired CBA, which was in effect before January 1, 2012? (For example, a retirement bonus given pursuant to the CBA for a retirement that occurs after the CBA expires.)

Yes, if the prerequisite for that increase occurs during the period covered by the collective bargaining agreement. For example, if the CBA allows a particular salary increase in the year prior to retirement

if the employee gives at least 12 months notice of intent to retire, and the employee gives that notice during the period covered by the CBA, it will be exempt even if paid after the expiration of the CBA

12. Are increases paid pursuant to a personal services contract executed, amended or renewed before January 1, 2012, exempt from the AP?

Increases paid pursuant to a personal services contract executed, amended or renewed before January 1, 2012, will be exempt from the AP, if the term of the contract conforms to all applicable statutory limitations. However, if there are no statutory limits on the contract term, and the term of the contract exceeds that of the appointing authority and is an attempt to bind successors in matters incident to their own administration and responsibilities, that contract will not be allowed for purposes of the exemption.

13. How is overtime compensation defined?

The IMRF Board of Trustees has defined overtime compensation as “compensation paid for hours worked in excess of a standard workday or workweek.” Cash-outs of accumulated time credited in lieu of overtime (commonly called ‘comp time’) are not exempt.

14. What “personnel policies” will be considered as allowing an exemption?

The exemption will be allowed for compensation increases paid under written personnel policies that were formally adopted by the employer’s governing body (or under the auspices of the governing body) before January 1, 2012, and which contain an explicit exemption of employees hired on or after a specific date (but no later than January 1, 2012).

15. Is there an exemption for long-standing policies that provide for a cash-out of accrued leave at retirement?

No. The only exemptions are for payments pursuant to formal, written personnel policies in effect before January 1, 2012, and which specifically exempt new hires from eligibility for the AP-triggering payments, or payments pursuant to an exempt CBA. If cash outs of sick and vacation time are not paid pursuant to exempt personnel policies, or an exempt contract or CBA, and the cash out causes an increase of 6% or more in one of the FRE 12-month periods, the AP will be required.

16. How does 1.5 times the increase in the CPI-U, which is greater than 6%, affect the calculation of the AP?

If 1.5 times the increase in the CPI-U (as of September) is more than 6%, that greater amount will be used to determine whether there is an AP-triggering increase for each of the 12-month periods that begin between October and the following September. Each September’s CPI-U will be considered only for those 12-month periods that begin during the following October through September.

17. Is the 125% rule still in effect?

Yes. The 125% rule, which limits the earnings to be included in the pension calculation in the final three months of the FRE period to no more than 125% of the earnings in any of the other months of the FRE period, is still applicable to the calculation of the pension. Please note: P.A. 97-0609 also contains a provision that increases the 125% rule period to the final 24 months of the FRE period for employees who first become participants on or after January 1, 2012.

Example - Allocating AP Cost - One Employer Exceeding Wage Increase Limit

| | | | |
|---------------|------------|---------|--------|
| DOB | 11/15/1950 | Age | 61.126 |
| Retirement Dt | 1/1/2012 | Service | 20 |

Actual Wages (reported by employer)

| | Employer A | | Employer B | | Total | |
|---------------------------|---|------------|------------|------------|------------|---------------|
| | Wages | % Increase | Wages | % Increase | Wages | % Increase |
| Year 0 | 100,000.00 | | - | | 100,000.00 | |
| Year 1 | 100,000.00 | 0.0% | - | #DIV/0! | 100,000.00 | 0.0% |
| Year 2 | 100,000.00 | 0.0% | - | #DIV/0! | 100,000.00 | 0.0% |
| Year 3 | 100,000.00 | 0.0% | - | #DIV/0! | 100,000.00 | 0.0% |
| Year 4 | 110,000.00 | 10.0% | - | #DIV/0! | 110,000.00 | 10.0% |
| Total | 410,000.00 | | - | | 410,000.00 | (a) |
| Monthly FRE | | | | | 8,541.67 | |
| Pension | | | | | 2,990.01 | |
| Factor | | | | | 174.5646 | |
| PV (pension times factor) | | | | | 521,949.90 | (c) |
| Limit | <u>Wages Adjusted for Annual Increase Limits</u> | | | | | |
| Year 0 | 100,000.00 | | - | | 100,000.00 | |
| 6.00% Year 1 | 100,000.00 | | - | | 100,000.00 | 0.0% |
| 6.00% Year 2 | 100,000.00 | | - | | 100,000.00 | 0.0% |
| 6.00% Year 3 | 100,000.00 | | - | | 100,000.00 | 0.0% |
| 6.00% Year 4 | 106,000.00 | | - | | 106,000.00 | 6.0% |
| Total | 406,000.00 | | - | | 406,000.00 | (b) |
| Monthly FRE | | | | | 8,458.33 | |
| Pension | | | | | 2,960.84 | |
| Factor | | | | | 174.5646 | |
| PV (pension times factor) | | | | | 516,857.85 | (d) |
| | <u>Allocate AP Between Employers</u> | | | | | |
| Excess in FRE | 4,000.00 | | - | | 4,000.00 | (a - b) |
| % of Total Excess | 100.00% | | 0.00% | | | (e) |
| AP Amount | | | | | 5,092.05 | (f) = (c - d) |
| Allocate AP | 5,092.05 | | - | | 5,092.05 | (f * e) |

Example - Allocating AP Cost - Multiple Employers Exceeding Wage Increase Limit

| | | | |
|---------------|------------|---------|--------|
| DOB | 11/15/1950 | Age | 61.126 |
| Retirement Dt | 1/1/2012 | Service | 20 |

Actual Wages (reported by employer)

| | Employer A | | Employer B | | Total | |
|--------------|-------------------|------------|------------------|------------|-----------------------|------------|
| | Wages | % Increase | Wages | % Increase | Wages | % Increase |
| Year 0 | 100,000.00 | | 5,000.00 | | 105,000.00 | |
| Year 1 | 100,000.00 | 0.0% | 5,000.00 | 0.0% | 105,000.00 | 0.0% |
| Year 2 | 100,000.00 | 0.0% | 5,000.00 | 0.0% | 105,000.00 | 0.0% |
| Year 3 | 100,000.00 | 0.0% | 5,000.00 | 0.0% | 105,000.00 | 0.0% |
| Year 4 | 110,000.00 | 10.0% | 7,500.00 | 50.0% | 117,500.00 | 11.9% |
| Total | 410,000.00 | | 22,500.00 | | 432,500.00 (a) | |
| Monthly FRE | | | | | 9,010.42 | |
| Pension | | | | | 3,154.10 | |
| Factor | | | | | 174.5646 | |
| PV | | | | | 550,594.20 (c) | |

Limit Wages Adjusted for Annual Increase Limits

| | | | | | | |
|--------------------|-------------------|--|------------------|--|-----------------------|------|
| Year 0 | 100,000.00 | | 5,000.00 | | 105,000.00 | |
| 6.00% Year 1 | 100,000.00 | | 5,000.00 | | 105,000.00 | 0.0% |
| 6.00% Year 2 | 100,000.00 | | 5,000.00 | | 105,000.00 | 0.0% |
| 6.00% Year 3 | 100,000.00 | | 5,000.00 | | 105,000.00 | 0.0% |
| 6.00% Year 4 | 106,000.00 | | 5,300.00 | | 111,300.00 | 6.0% |
| Total | 406,000.00 | | 20,300.00 | | 426,300.00 (b) | |
| Monthly FRE | | | | | 8,881.25 | |
| Pension | | | | | 3,108.88 | |
| Factor | | | | | 174.5646 | |
| PV | | | | | 542,700.39 (d) | |
| Excess in FRE | 4,000.00 | | 2,200.00 | | 6,200.00 (a - b) | |
| % of Total Excess | 64.52% | | 35.48% | | | |
| AP Amount | | | | | 7,893.81 (c - d) | |
| Allocate AP | 5,092.78 | | 2,801.03 | | 7,893.81 | |