



Illinois Municipal Retirement Fund

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Service Representatives 1-800-ASK-IMRF

www.imrf.org

SPECIAL MEMORANDUM

Number: 297

Date: October 18, 2006

To: Authorized Agents of Cities, Fire Protection Districts, Forest Preserve Districts, Health Districts, Library Districts, Mass Transit Districts with Taxing Authority, Miscellaneous Unit of Government Types with Taxing Authority, Park Districts, Sanitary Districts, Soil & Water Conservation Districts, Towns, Townships, Villages, and Water Districts

Subject: Participation of attorneys and other professionals in IMRF

EXECUTIVE SUMMARY

IMRF participation is mandatory for employees holding qualifying positions. Attorneys and other professionals working for small and medium-sized units of government are usually independent contractors. The Illinois Pension Code specifically excludes independent contractors from IMRF coverage.

If you enroll an individual who is not eligible for IMRF, you increase the pension liability and costs for your unit of government and its taxpayers beyond what is allowed under the law.

IMRF audits enrollment forms. If the enrollment form indicates the newly enrolled member is an attorney, you will be contacted so we can verify that the attorney is a common-law employee eligible for IMRF participation.

In addition, if a member is identified as an attorney and he or she applies for omitted service credit, IMRF will confirm that the past service was earned as a common-law employee and not as an independent contractor.

Who is eligible to participate in IMRF?

IMRF participation is mandatory for employees holding qualifying positions with IMRF participating units of government. On the other hand, a person who does not hold a qualifying position or who is not an employee is ineligible to participate in IMRF. The Illinois Pension Code specifically excludes independent contractors from IMRF coverage.

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IMRF participation is not a benefit that can be negotiated or otherwise provided to a person who is not an employee in a qualifying position. Attorneys and other professionals who are independent contractors are ineligible for IMRF participation.

Attorneys and IMRF participation

Attorneys working for small and medium-sized units of government are rarely employees. They are usually independent contractors providing legal services to the unit of government as one of their several clients. As independent contractors, they are ineligible for IMRF participation with that unit of government.

To be considered an employee eligible to participate in IMRF, an attorney or other professional must be a common-law employee of the unit of government. The governing body of the unit or other decision maker of that unit must direct the work of the attorney, set the hours of work, and treat the attorney as an employee under all the usual employer-employee criteria.

If the attorney is a common-law employee, he/she will be eligible for the usual benefits offered to employees, including health insurance; will be covered under that unit's workers' compensation insurance for a work-related injury; and will be eligible to collect unemployment compensation if fired or laid off (and would otherwise meet the unemployment compensation eligibility requirements for terminated employees).

An employer may **NOT** report to IMRF an attorney or other professional who does not meet these criteria.

Confirming eligibility

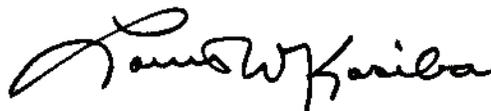
Erroneous reporting of persons who have no statutory right to IMRF participation is a serious problem. By reporting a person in error, you promise pension coverage as well as disability and death benefit protection where none actually exists. You also increase the pension liability and costs for your unit of government and its taxpayers beyond what is allowed under the law.

IMRF audits enrollment forms. When an attorney is enrolled, our Enrollment Auditors will contact the employer to verify that the attorney is a common-law employee eligible for IMRF participation.

In addition, all applications for omitted service credit filed by members identified as attorneys will be audited to make sure the past service was earned as a common-law employee and not as an independent contractor.

If you have questions about the participation of your attorney or other professional, please contact IMRF's Associate General Counsel, Michael Weinstein at (630) 368-5365 or a Member Services Representative at 1-800-ASK-IMRF (1-800-275-4673).

Sincerely,



Louis W. Kosiba
Executive Director