

**Illinois Pension Legislative Overview<sup>1</sup>**  
**Spring 2007 Session**

**HB 49**

Passed House: 116-0-0

Passed Senate: 52-0-0

HB 0049 amends the General Provisions Article of the Illinois Pension Code to stipulate that legally adopted children shall be entitled to the same benefits as other children and that no child's or survivor's benefit shall be disallowed because the child is an adopted child. The current eligibility requirements for children's and survivor's benefits for adopted children are summarized below for each respective pension fund. HB 49 deletes all of the following provisions:

General Assembly Retirement System – Adopted children have the same status as children of a participant or annuitant, but only if proceedings for adoption commence at least one year prior to the date of the participant's or annuitant's death.

Downstate Police – Adopted children are eligible for benefits only if judicial proceedings for adoption commence at least one year prior to the death or disability of the police officer. Adoption proceedings must have begun prior to the police officer attaining age 50.

Downstate Fire – Adopted children are eligible for survivor's benefits if the child was adopted before the firefighter attained age 50.

Chicago Police – The child must have been adopted before the policeman withdraws from service. The policeman must be married and living with his wife at the time of the adoption, and must have initiated adoption proceedings at least 6 months prior to the policeman's death, unless the policeman's death occurs as a result of an act of duty.

Chicago Fire – The child must have been legally adopted by the firefighter at least one year prior to the firefighter's death or withdrawal, unless the firefighter's death occurs as a result of an act of duty.

Illinois Municipal Retirement Fund – The legal proceedings for adoption must have commenced at least one year before the death of the participating employee, county official, or annuitant.

Chicago Municipal – The child must have been legally adopted at least one year prior to the date any benefit for the child or children accrues.

Cook County Employees and Officers – The child must have been legally adopted by the employee at least one year prior to the date any benefit for a child or children accrues. Legal adoption must have occurred before the employee attains age 55. For county officers, proceedings for legal adoption must have commenced at least one year prior to the date of the elected county officer's death.

Chicago Laborers – The child must have been legally adopted by the employee at least one year prior to the death of the employee.

Chicago Park District – Proceedings for legal adoption must have commenced at least one year prior to the death of the employee and the attainment of age 55 by the employee.

Metropolitan Water Reclamation District – The proceedings for adoption must have been instituted at least one year prior to the employee's or commissioner's death.

SERS – The proceedings for adoption must have commenced at least one year prior to the member's death.

SURS – Proceedings for adoption must have been initiated at least one year before the death or retirement of the participant or annuitant.

Judges' Retirement System – Proceedings for adoption must commence at least six months prior to the death of the annuitant or participant.

### **HB 804**

Passed House: 116-0-0

Passed Senate: 51-2-3

House Concurrence: 99-1-0

#### IMRF Military Service Credit

Currently, Illinois Municipal Retirement Fund members can receive service credit for up to 24 months of military service under the following conditions: the member must apply to IMRF in writing and provide evidence of the military service that is satisfactory to the IMRF Board. He or she must also obtain the written approval of the current employer and make the employee and employer contributions (normal cost), plus regular interest from the date of first membership to the date of payment. HB 0804 allows active members of IMRF to purchase up to 48 months of service credit for military service if the foregoing conditions are met.

#### SERS Military Service Credit

Currently, if an SERS member enters military service while working in an SERS-covered position, and returns to State service in the same or related position, he or she may receive service credit for up to 5 years of military service without making contributions. In addition to any such creditable service established, an employee may establish service credit for a period of up to 2 years spent in active military service that does not interrupt employment provided that 1) no dishonorable discharge took place from military service; and 2) the amount of service credit established by a member when added to the amount of other military service credit granted does not exceed 5 years.

HB 0804 allows a member employed in positions covered under the alternative formula to establish creditable service for an additional 2 years spent in active military service that does not interrupt state employment. The bill provides that employee contributions must be based upon the employee's compensation and contribution rate on the date he or she last became a member of the System or November 19, 1991 (whichever is later), plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest. HB 804 also provides that this new benefit increase will be funded through the employee contributions required to establish this optional service credit.

### Downstate Police Service Credit (Shiloh, IL)

Currently, the Pension Code stipulates that membership in a Downstate Police (Article 3) pension fund is contingent upon becoming a sworn police officer in a municipality that has established such a fund. The police officer must, within 3 months of his or her first appointment or reappointment, make a written application to the board of trustees of the pension fund in order to establish membership in the police pension fund.

HB 804 allows a police officer who was excluded from participation in the Shiloh police pension fund by reason of his or her failure to make written application to the board within 3 months of his or her first appointment or reappointment to elect to participate in the fund. The police officer must make a written application to the board no later than July 1, 2008, and shall begin participation on the first day of the month following the month in which the application is received by the board.

### **HB 857**

Passed House: 109-0-2

Passed Senate: 58-0-0

### Elimination of SURS Self-Managed Plan Reporting Requirement

The Board of Trustees of the State Universities' Retirement System is currently required to have the System's actuary prepare an annual report showing the actual rate of participation in the Self-Managed Plan and the extent to which employee optional retirement plan participation has reduced the State's required contribution to the system. HB 0857 modifies this report by deleting the requirement for analysis of the extent the State's required contribution has been reduced by participation in the self-managed plan. It also provides that, in addition to warrants and checks, the State Comptroller and payroll officers may use electronic funds transfers to pay employees. In provisions concerning service for employment in public schools and other public employment, HB 0857 replaces references to service in the military forces with references to service in a capacity essentially similar or equivalent to teaching.

### **HB 1960**

Passed House: 115-1-0

Passed Senate: 56-0-0

House Concurrence: 101-1-0

The State Employees' Article of the Illinois Pension Code lists specific conditions and periods of service for which an employee may purchase optional service credit. HB 1960 amends the State Employees' Article of the Pension Code to add participation in the University of Illinois Government Public Service Internship (GPSI) Program to this list. Participants may purchase up to 2 years of service credit and must pay the employee contribution plus interest from the date of service to the date of payment.

### **HB 3578**

Passed House: 116-0-0

Passed Senate: 54-1-0

Currently, elected Cook County officers may elect to establish alternative credits by contributing an additional 3% of salary towards their pensions (in addition to the standard 9% contribution rate for members enrolled in the regular formula). In exchange for the additional employee contributions, elected county officers are entitled to have their retirement annuities calculated at the following rate: 3% of final salary for each of the first 8 years of service credit, plus 4% of final salary for each of the next 4 years of

service credit, plus 5% of final salary for each year in excess of 12 years, subject to a limitation of 80% of final salary. "Final salary" means the member's salary on his or her last day of service. Under the alternative formula, elected county officers may retire at age 60 with at least 10 years of service credit, or at age 65 with at least 8 years of service credit.

HB 3578 specifies that the foregoing plan of optional alternative benefits for elected Cook County officers applies only to those county officers who were elected by vote of the people on or before the effective date of this amendatory Act.

### **SB.65**

Passed Senate: 58-0-0

Passed House: 117-0-0

Senate Concurrence: 59-0-0

#### Transfer of Tax Levy Proceeds to Downstate Police Funds

P.A. 94-0859, which became effective on June 15, 2006, amended the Downstate Firefighters' Article of the Illinois Pension Code to provide for the transfer of property tax proceeds to the treasurer of Downstate Fire pension funds within 30 days of receipt by the county in which the pension fund is located. SB 0065 mirrors the requirement in P.A. 94-0859 that proceeds from the pension tax levy be forwarded to the treasurer of the Downstate Police pension fund within 30 days after receipt by the county.

#### Transfer of Service Credits from Downstate Police Funds to SERS

Currently, any member of the State Employees' Retirement System who is an investigator for the Office of the State's Attorneys Appellate Prosecutor or a controlled substance inspector may transfer all of his or her creditable service in a Downstate Police pension fund to SERS upon payment by the Downstate Police fund to SERS in an amount equal to (1) employee contributions, (2) employer contributions, and (3) any interest paid by the applicant in order to reinstate service credit.

SB 0065 expands eligibility for such transfers to State policemen, investigators for the Secretary of State, and Conservation police officers. The bill stipulates that any person applying for a transfer of service credit may reinstate service that was terminated in a Downstate Police fund by receipt of a refund by paying to the Downstate Police fund the amount of the refund, with interest at 6% compounded annually, from the date of the refund to the date of payment.

#### Transfer of Service Credit from Downstate Police Funds to IMRF

P.A. 94-0356, which became effective on July 29, 2005, allowed active participants in IMRF with less than 8 years of creditable service in a Downstate Police Pension Fund to transfer that service credit to IMRF. The member must have applied in writing by January 1, 2006. Along with the service credit, employee and employer contributions were to be transferred from the Downstate Police pension fund to IMRF, including any interest on those contributions.

SB 0065 allows for a similar window for the transfer of service credit from a Downstate Police fund to IMRF until January 1, 2008. The bill also stipulates that, until January 1, 2008, an IMRF member who wishes to transfer service credit from a Downstate Police Fund may reinstate service credit that was terminated by receipt of a refund by paying to the Downstate Fund the amount of the refund with interest at 6%, compounded annually, from the date of the refund to the date of payment.

The bill also amends the IMRF article to stipulate that the person transferring service credit must pay to IMRF an amount equal to the difference between the amount of employee and employer contributions transferred to IMRF from the Downstate Police fund and the amounts that would have been contributed

had the service credit been earned as a member of IMRF, plus interest at the effective rate (6%) each year, compounded annually, from the date of service to the date of payment.

#### Transfer of Service Credit from Chicago Police Fund to SERS

P.A. 87-1265, which became effective on January 25, 1993, implemented a one-year window for any active member of SERS who was a State policeman or investigator for the Secretary of State to transfer his or her creditable service from the Chicago Police Pension Fund to SERS.

SB 0065 allows State policemen, conservation police officers, and investigators for the Secretary of State to transfer an unlimited amount of service credit from the Chicago Police Pension Fund to SERS. The bill stipulates that the Chicago Police Pension Fund shall pay to SERS an amount equal to (1) the amounts accumulated to the credit of the applicant for the service to be transferred to SERS; (2) the corresponding Chicago Police credits, including interest, on the books of the Chicago Police fund on the date of the transfer, and (3) any interest paid by the applicant in order to reinstate service to be transferred.

#### Transfer of SLEP Service Credit from IMRF to SERS

Currently, any active member of SERS who is an investigator for the Office of the State's Attorneys Appellate Prosecutor or a controlled substance inspector may transfer all of his or her Sheriff's Law Enforcement Personnel (SLEP) service credit to SERS. SB 0065 adds State Policemen, investigators for the Secretary of State, and conservation police officers to the list of those eligible to transfer SLEP service credit from IMRF to SERS. The bill stipulates that creditable service shall be transferred only upon payment by IMRF to SERS in an amount equal to (1) the amounts accumulated to the credit of the applicant; (2) municipality credits based on SLEP service, including interest, and (3) any interest paid by the applicant to reinstate SLEP service that was terminated by acceptance of a refund.

#### Transfer of Service Credit from IMRF to Downstate Police Pension Funds

P.A. 94-0356, which became effective on July 29, 2005, allowed active participants in a Downstate Police pension fund with less than 8 years of creditable service in IMRF to transfer all of their IMRF service credit to a Downstate Police pension fund by January 1, 2006. At the time of the transfer, IMRF must have paid to the Downstate Fund an amount equal to (1) the amounts accumulated to the credit of the applicant under IMRF; (2) the municipality credits based on that service, including interest, and (3) any interest paid by the applicant in order to reinstate IMRF service that was terminated due to payment of a refund. SB 0065 re-opens this window for Downstate Police members to transfer all of their IMRF service credit to a Downstate Police fund until January 1, 2008.

#### Transfer of Service Credit from Cook County Pension fund to SERS

P.A. 87-1265, which became effective on January 25, 1993, implemented a one-year window for any active member of SERS who was a State policeman to transfer all or some of his or her creditable service from the Cook County Pension Fund to SERS. SB 0065 allows State policemen, conservation police officers, and investigators for the Secretary of State to transfer some or all of their service credit from the Cook County Pension Fund to SERS. The bill stipulates that the Cook County Fund shall pay to SERS an amount equal to (1) the amounts accumulated to the credit of the applicant for the service to be transferred to SERS; (2) the corresponding Cook County credits, including interest, on the books of the Cook County fund on the date of the transfer, and (3) any interest paid by the applicant in order to reinstate service to be transferred.

#### Transfer of Service Credit from SURS to SERS

SB 0065 allows members of SERS who are employed as State Policemen, investigators for the Secretary of State, or conservation police officers to transfer some or all of their creditable service accumulated in the State Universities' Retirement System as a police officer to SERS. The bill stipulates that SURS shall pay to SERS an amount equal to (1) the amounts accumulated to the credit of the applicant for the service

to be transferred to SERS, including interest, as of the date of transfer; (2) employer contributions equal in amount to the accumulated employee contributions, and (3) any interest paid by the applicant in order to reinstate service.

### **SB.377**

Passed Senate: 56-0-0

Passed House: 86-30-0

Senate Concurrence: 57-0-0

#### Elimination of Cook County Reserve Accounts

Currently, the Cook County pension funds have a number of obsolete “reserve” accounts on their books that were created by statute for the purpose of tracking liabilities in excess of the money purchase annuities. Due to changes in the benefit structure of the pension plans over the years, the reserve accounts no longer serve their original purpose since all benefits are currently paid from one account (and have been for many years). Hence, the need for tracking payments through reserve accounts has long since been eliminated. However, because the reserve accounts are enshrined in the Pension Code, the Cook County pension funds are required to make numerous time-consuming and essentially meaningless accounting entries into and out of the reserve accounts. SB 0377 would delete all statutory references to the reserve accounts and eliminate this burden from the pension funds.

#### Cook County Alternative Retirement Cancellation Payment

SB 0377 provides an alternative retirement cancellation payment for specified employees applying for such payment within 45 days of the effective date. All job titles in the Cook County Employees’ Pension Fund and the Cook County Forest Preserve Employees’ Pension Fund will have access to the enhanced refund offering. Employees in eligible job titles are required to be in active payroll status on the effective date and in an eligible position continuously since December 31, 2006.

Participating employees must terminate service within 60 days of the effective date. There is no maximum limit on the number of employees who would be allowed to participate. The ARCP payment shall be equal to all of the employee’s contributions to the pension fund, with regular interest, multiplied by 1.5. The regular refund provision only allows for a refund of employee contributions, without interest. SB 0377 specifies that the ARCP could be given to the member in a lump sum, rolled into another qualified plan, or both. Upon accepting the ARCP, the member would waive all rights to any type of retirement benefit, including survivor’s benefits and death benefits.

Employees who accept the ARCP and return to employment with Cook County will be required to repay to the pension fund the amount of that payment, less the amount of employee contributions (or regular refund amount), within 60 days of the return to service, unless returning as a temporary employee. The normal refund amount (employee contributions only) could then be repaid, with interest, in order to re-establish the service credit that was forfeited by the acceptance of the refund.

SB 0377 specifies that no individual who receives an alternative retirement cancellation payment may return to active payroll status within 365 days after separation of service.

#### Illinois Century Network

The Illinois Century Network is now part of the Department of Central Management Services Bureau of Communication and Computer Services. SB 0377 expands the State Universities’ Article of the Pension Code to add the Bureau of Communication and Computer Services to the list of employing departments under Central Management Services. In addition, SB 0377 expands the definition of an employee under this Article to include those now employed by the Bureau of Communication and Computer Services.

There is no increase in total employment as these individuals were previously listed under the Illinois Century Network.

### **SB 0647**

Passed Senate: 57-0-0  
Passed House: 115-0-0

Currently, IMRF members who served in the United States Armed forces are entitled to purchase creditable service for up to 2 years of military service that does not interrupt IMRF employment. SB 0647 allows members of IMRF to purchase up to 4 years of military service credit that does not interrupt employment. The member is required to: apply to IMRF in writing and provide evidence of the military service that is satisfactory to the Board; obtain the written approval of the current employer; and make the employer and employer contributions (normal cost), plus interest from the date of first membership to the date of payment. The required interest shall be calculated at the regular interest rate. SB 0647 specifies that the expanded eligibility for the purchase of military service credit applies only to participating employees on or after the effective date.

### **SB 1169**

Passed Senate: 54-2-0  
Passed House: 98-15-1  
Senate Concurrence: 58-0-0

#### Definition of “Retirement Systems”

SB 1169 defines “retirement systems” to mean only the State Employees’ Retirement System, the Judges Retirement Systems, the General Assembly Retirement System, the State Universities Retirement System, and the Teachers’ Retirement System.

#### Forbidden Entities

Currently, the General Provisions Article of the Pension Code contains a list of prohibited transactions for the Boards of Trustees of each public pension fund and retirement system. Most of these prohibited transactions are aimed at preventing Board members from misusing the assets of the fund or system.

SB 1169 adds a section to the General Provisions Article to add certain prohibited transactions. Effectively, the bill provides that Illinois public pension funds or retirement systems may not invest funds with a company or investment firm unless that company or firm certifies that it has not invested in a “forbidden entity,” defined as:

- (1) A political unit, agency and subdivision of the Republic of Sudan;
- (2) Any company that is wholly or partially managed or controlled by the government of the Republic of the Sudan and any of its political units and subdivisions;
- (3) Any company that is established or organized under the laws of the Sudan or whose principal place of business is in the Republic of Sudan;
- (4) Any company identified by the Office of Foreign Assets Control in the United States Department of the Treasury as sponsoring terrorist activities, or sanctioned for any violation of any United States rules and restrictions relating to the Republic of the Sudan;
- (5) Any publicly traded company identified by an independent researching firm that specializes in global security risk that owns or controls property or assets located in, provides goods or services in the Republic of Sudan or any company domiciled in the Republic of the Sudan.

- (6) Any private market fund that fails to satisfy certain requirements (See “Private Market Funds as Forbidden Entities” below).

#### Definition of “Certifying Company”

SB 1169 defines “certifying company” as:

- (1) A company that directly provides asset management services or advice to a retirement system or;
- (2) As directly authorized or requested by a retirement system (a) identifies particular investment options for consideration or approval; (b) chooses particular investment options; or (c) allocates particular amounts to be invested.

If no company meets the listed criteria, then a “certifying company” shall mean the retirement system officer who, as designated by the board, executes the investment decisions made by the board, or, in the alternative, the company that the board authorizes to complete the certification as the agent of that officer.

#### Forbidden Entity Divestiture Timeframe

SB 1169 provides that retirement funds shall not transfer or disburse funds to, acquire any bonds, loan, or invest in any entity unless a certifying company certifies to the retirement system that, (1) the certifying company has relied on information provided by an independent researching firm that specializes in global security and (2) 100% of the retirement system’s assets for which the certifying company provides services or advice have not been invested or reinvested in any forbidden entity at any time 4 months after the effective date. The certifying company shall also make the certification required to a retirement system 6 months after the effective date of this Act and annually thereafter.

#### Private Market Funds as Forbidden Entities

SB 1169 adds “private market funds” to the list of forbidden entities. Private market funds are defined as private equity funds, venture capital funds, real estate or other investment vehicles not publicly traded. SB 1169 requires that private market funds must provide a retirement system with an affidavit sworn under oath in which an expressly authorized officer of the company avers that the fund does not own or control any property or asset located in the Republic of Sudan and not transact commercial business in the Republic of Sudan; or a certificate by an authorized officer of the private market fund must certify that the private market fund has no direct or indirect investment with any company, except with regard to Non-Government Organizations sanctioned by the United Nations.

#### Divestment from Private Market Funds

SB 1169 stipulates that if a private market fund fails to provide the affidavit or certification as stipulated above, the retirement system shall divest or attempt in good faith to divest its interest in the fund within 90 days, provided that the Board of the retirement system confirms, through resolution, that the divestment does not have a material and adverse impact on the retirement system. The retirement system shall immediately notify the Public Pension Division of the Department of Financial and Professional Regulation, which shall immediately notify all retirement systems established under the Pension Code, whereupon those pension funds shall not enter into any agreement under which the pension funds directly or indirectly invest in that private market fund unless that private market fund provides the required affidavit or certification.

#### Compliance With High Risk Home Loan Act

SB 1169 provides that in order for an Illinois finance entity (essentially, an entity chartered under the Illinois Banking Act) to be eligible for investment or deposit of retirement system or pension fund assets, the Illinois finance entity must, within 6 months of the effective date and annually thereafter, certify that it complies with the requirements of the High Risk Home Loan Act. The Act generally protects borrowers who enter into high risk home loans from abuse that occurs when creditors and brokers are not

sufficiently regulated. SB 1169 stipulates that if an Illinois finance entity fails to provide the required certification, the retirement system shall divest or attempt in good faith to divest the pension fund's assets with the finance entity within 90 days of the finance entity's failure to comply with the requirements of the High Risk Home Loan Act.

### **SB 1380**

Passed Senate: 55-0-1

Passed House: 95-21-1

Senate Concurrence: 33-16-3

#### Transfer of Service Credit from Downstate Police Fund to Cook County Pension Fund

SB 1380 allows any active member of a Downstate Police pension fund to apply for a transfer of up to 6 years of creditable service in a Downstate fund to the Article 9 (Cook County) Pension Fund. This creditable service shall be transferred only upon payment of an amount equal to: (1) the amounts accumulated to the credit of the applicant on the books of the fund on the date of transfer; (2) employer contributions; and (3) any interest paid by the applicant to reinstate service. This bill also provides that participation in the police pension fund shall terminate on the date of transfer.

#### Annuities for Widows of Chicago Police Officers who Die in the Line of Duty

Currently, wives and widows of Chicago police officers who die in the line of duty are not entitled to annuities if the marriage occurred less than one year before the police officer's death. SB 1380 allows a wife or a widow of a policeman, who dies in service, if the marriage was less than one year, to be considered for an annuity if the policeman dies in the performance of an act of duty. This consideration will be determined by an evidentiary hearing. If the Board determines special circumstances exist regarding a widow's annuity, the Board may grant the award.

#### Resumption of Chicago Police Annuities for Remarried Widows

Currently, any annuity granted to a widow of a Chicago police officer shall be suspended when she remarries unless her husband's death was from an injury in the performance of an act of duty or she remarries after reaching age 60. SB 1380 allows any widow's annuity that was previously terminated or suspended as a result of remarriage to be resumed as of the date of application. The resumption shall not be retroactive and applies regardless of whether or not the deceased policeman was in the service on or after the effective date of this Act. SB 1380 also stipulates that the foregoing provision does not apply on or after the effective date.

#### Age Limitations Eliminated for Chicago Police Disabled Dependents

Currently, a child's annuity paid from the Chicago Police Pension Fund shall not be reduced or terminated by reason of reaching 18 years of age if he or she is then dependant due to a physical or mental disability. Under current law, "disability" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. For purposes of determining eligibility for children's annuities, SB 1380 eliminates age limitations placed on children who are so physically or mentally handicapped that they are unable to support themselves.

#### Transfer of Service Credit from Chicago Municipal to IMRF

SB 1380 allows any eligible member who is a sheriff's law enforcement employee under IMRF (Article 7) to transfer an unlimited amount of service credit from the Chicago Municipal Fund to the Illinois Municipal Retirement Fund. Upon application, the credits and creditable service shall be transferred to IMRF and include payments by the Chicago Municipal Fund to IMRF, consisting of: (1) the amounts

accumulated to the credit of the applicant of the fund, including interest, on the books of the fund on the date of transfer; (2) corresponding employer credits computed and credit for that service.

### **SB 1481**

Passed Senate: 52-4-2

Passed House: 114-2-0

Senate Concurrence: 33-16-3

#### **Service Credit for Public Aid Contractual Nurses**

The Illinois Pension Code lists specific conditions and periods of service for which an employee may purchase service credit. SB 1481 amends the State Employees' Article of the Pension Code to add: (1) members who worked as a nurse under a contractual agreement for the Department of Public Aid or its successor agency, the Department of Human Services, in the Client Assessment Unit and were subsequently determined to be State employees by the United States Internal Revenue Service and Illinois Labor Relations Board, and (2) members taking a leave of absence to work for a statewide labor organization that represents members of this system. Members are required to apply by July 1, 2008 and pay all required contributions as of the date specified.

#### **Service Credit for Leaves of Absence While Working for a Statewide Labor Organization**

SB 1481 provides that a member of SERS who represented or was employed as an officer or employee of a statewide labor organization that represents members of SERS may purchase up to 2 years spent on an authorized leave of absence from state service while employed by the labor organization as an officer representing members of SERS. The member must pay to the system the employee contributions that would have been required had the member remained in SERS, plus an amount determined by the SERS board to be equal to the employer's normal cost of the benefit plus interest.

### **SB 1553**

Passed Senate: 39-14-2

Passed House: 84-32-0

The Downstate Firefighter Article of the Pension Code currently stipulates that a disability pension shall not be paid to a firefighter until the firefighter has been examined by 3 physicians selected by the board. SB 1553 amends the Code to specify that the 3 physicians need not agree as to the existence of any disability or the nature and extent of a disability. The bill, as amended, also prohibits a municipality from using a physical or mental disability as a means of discharging a firefighter. In addition, SB 1553 stipulates that if the firefighter must file a civil action against the municipality to enforce his or her mandated return to payroll, the firefighter shall then be entitled to recover reasonable court costs and attorney's fees.

### **SB 1621**

Passed Senate: 57-0-0

Passed House: 90-20-4

Senate Concurrence: 51-0-0

#### **Definition of "Retirement Systems"**

SB 1621 amends the definition of "retirement systems" so that the provisions of this bill apply only to the State Employees' Retirement System of Illinois, the Judges Retirement System of Illinois, the General

Assembly Retirement System, the State Universities Retirement System, and the Teachers' Retirement System of the State of Illinois.

#### Prohibited Transactions with Scrutinized Companies

Currently, the General Provisions Article of the Pension Code contains a list of prohibited transactions for the Boards of Trustees of each public pension fund and retirement system. Most of these prohibited transactions are aimed at preventing Board members from misusing the assets of the fund or system.

SB 1621 defines "scrutinized company" as a business operation that involves contracts with or provision of supplies or services to the Government of Iran, companies in which the Government of Iran has any direct or indirect equity share, consortiums or projects commissioned by the Government of Iran and:

- (1) more than 10% of the company's revenues produced in or assets located in Iran involve oil-related activities or mineral-extraction activities;
- (2) less than 75% of the company's revenues produced in or assets located in Iran involve contracts with or provision of oil-related or mineral extraction products or services to the Government of Iran; and the company has failed to take substantial action; or
- (3) the company has, on or after August 5, 1996, made an investment of \$20 million or more, or investments of at least \$10 million each in the aggregate that equals or exceeds \$20 million in any 12-month period that directly or significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran.

#### Substantial Action to Cease Scrutinized Business Operations

SB 1621 defines "substantial action" as adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations. This bill provides that within 90 days of the effective date of this Act, a retirement system shall make its best efforts to identify all scrutinized companies in which the retirement system has direct or indirect holdings or could possibly have such holdings in the future. These efforts shall include the following, as appropriate in the retirement system's judgment:

- (1) reviewing and relying on publicly available information regarding companies having business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations, and government entities;
- (2) contacting asset managers contracted by the retirement systems that invest in companies having business operations in Iran;
- (3) contacting other institutional investors that have divested from or engaged with companies that have business operations in Iran.

By the first meeting of the retirement system's board of trustees following the 90-day period after the effective date of this Act, the retirement system shall assemble all scrutinized companies identified into a scrutinized companies list.

#### Procedures for Companies on the Scrutinized Companies List

In the context of the foregoing section on scrutinized companies, retirement systems are required to update and adhere to the following procedures for companies on the scrutinized companies list:

- (1) the retirement system shall determine the companies on the scrutinized companies list in which the retirement system owns direct or indirect holdings.
- (2) for each company identified that has only inactive business operations, the retirement system shall send a written notice informing the company and encouraging it to continue to refrain from

initiating active business operations in Iran until it is able to avoid scrutinized business operations. The retirement system shall continue such correspondence semiannually.

- (3) for each company newly identified that has active business operations, the retirement system shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the retirement system.
- (4) if, within 90 days after the retirement system's first engagement with a company, that company ceases scrutinized business operations, the company shall be removed from the scrutinized companies list and the provisions shall cease to apply to it unless it resumes scrutinized business operations.

If, after 90 days following the retirement system's first engagement with a company and the company continues to have scrutinized active business operations, the retirement system shall sell, redeem, divest, or withdraw all publicly traded securities of the company from the retirement system's assets under management within 12 months after the company's most recent appearance on the scrutinized companies list. SB 1621 stipulates that the retirement system may not acquire securities of companies on the scrutinized companies list, unless the United States Government declares the company to be excluded from federal sanctions against Iran.

#### Divestiture Reporting Requirements

SB 1621 requires the retirement system to file a report with the Public Pension Division of the Department of Financial and Professional Regulation Division within 30 days of the creation of the scrutinized companies list, which shall include the following:

- (1) a summary of correspondence with companies engaged by the retirement system that have active and inactive business operations;
- (2) all investments sold, redeemed, divested, or withdrawn in compliance with this Act;
- (3) all prohibited investments on the scrutinized companies list that have active business operations; and
- (4) a summary of correspondence with private market funds that have scrutinized active business operations with scrutinized companies.

#### Requirements for Private Market Funds

SB 1621 defines "private market fund" as any private equity fund, private equity fund of funds, venture capital fund, hedge fund, hedge fund of funds, real estate fund, or other investment vehicles that are not publicly traded. SB 1621 exempts private market funds in which the retirement systems have indirect holdings from the divestiture requirements outlined above. However, the bill requires the retirement systems to submit letters to the managers of those investment funds containing companies that have scrutinized active business operations requesting that they consider removing the companies from the fund or create a similar actively managed fund having indirect holdings devoid of the companies. If the manager creates a similar fund, the retirement system shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards.

#### Conditions for Cessation of Divestiture

SB 1621 provides that the retirement system may cease divesting or reinvesting from certain scrutinized companies if clear and convincing evidence shows that the value of all assets under management by the retirement system becomes equal to or less than 99.50%, or 50 basis points, of the hypothetical value of all assets assuming no divestment for any company had occurred. This bill provides that the retirement system shall provide a written report to the Public Pension Division in advance of initial reinvestment, updated semiannually, supported by clear and convincing evidence, for its decisions to cease divestment, reinvest, or remain invested in companies having scrutinized active business operations. This does not

apply to reinvestment in companies on the grounds that they have ceased to have scrutinized active business operations.

*For more information please contact, Jourlande Gabriel,  
Director of the Illinois Retirement Security Initiative,  
at (312) 332-1103 or [jgabriel@ctbaonline.org](mailto:jgabriel@ctbaonline.org).*

---

<sup>1</sup> Commission on Government Forecasting and Accountability, Monthly Briefing July 2007