

# EMPLOYER BULLETIN

## Public Act 94-0004 Employer Contributions for Salary Increases and Sick Leave

January 2006

### Background

Public Act 94-0004 requires new employer contributions. When a member retires, the employer is required to pay TRS a contribution equal to the actuarial value of a pension benefit that results from any salary increase over 6 percent that is used in the final average salary calculation. Also, employers are required to pay a contribution for any sick leave granted to a member in excess of the normal annual allotment that is used to secure TRS service credit. Contracts and collective bargaining agreements entered into, amended or renewed prior to June 1, 2005 are exempt from the provisions of the act.

### About employer contributions

The required employer contributions in Public Act 94-0004 must be paid by the employer and **cannot** be bargained or negotiated as member contributions. These payments cannot be passed on to or paid by a TRS member.

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*Additional insert also enclosed.*

### Summary

This bulletin should be used as a reference to follow the rules for Public Act 94-0004. Here is an overview of the rules:

**Contributions for excess sick leave.** Defines what excess sick leave is for teachers and administrators. Explains when contributions are due from an employer and shows how the contribution is calculated.

**Contribution required for salary increases in excess of 6 percent.** Explains how the employer contribution is calculated (example also provided on insert). Provides additional information regarding when contributions are not required and required.

**Exemption from contributions required for salary increases in excess of 6 percent and excess sick leave.** This has been called the “grandfathering” rule. The section details when the exemption or “grandfathering” will end for an employer. Requires a member to notify his/her employer prior to the expiration of an exempt or “grandfathered” contract. The notification must be in writing and dated on or before the expiration of the exempt contract. Scenarios explain retirements that are exempt from contributions and ones that are not exempt.

**Contracts and collective bargaining agreements loss of exemption from employer contributions.** Explains how the exemption from making contributions may be lost, exceptions to the rule, and that an annual affidavit will be required to keep exempt status.

**Members not covered by collective bargaining agreements or contracts.** Clarifies that TRS will accept employment policies as a contractual agreement in determining contributions due from an employer. If the member is not covered under a collective bargaining agreement, contract or employment policy, a contribution is required.

### Rules in effect

Our staff is now able to give guidance in complying with the new law because the Joint Committee on Administrative Rules (JCAR) approved the rules. The rules outlined in this bulletin are now in effect.

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## Understanding Section 1650.351 Employer Contribution for Excess Sick Leave

### Normal annual sick leave allotment

Definition of **normal annual sick leave allotment for teachers:**

- The amount of annual sick leave granted to teachers employed by a district under the collective bargaining agreement or employment policies including personal days that can be used as sick days.

Definition of **normal annual sick leave allotment for administrators:**

- The amount of annual sick leave granted to teachers under the collective bargaining agreement or employment policies including personal days that can be used as sick days. For employer contribution purposes, the normal annual allotment for administrators *will be the same amount* that is granted to teachers.

To further explain, if administrators receive 20 days for normal annual sick leave allotment and the collective bargaining agreement grants 15 days to teachers, the administrators normal annual allotment will also be 15 days.

### Employer contributions at retirement

If an employer grants sick leave days in excess of the normal annual sick leave allotment (as defined above) **in the last four school years prior to a member's retirement**, the employer will be subject to an employer contribution.

- TRS will request sick leave information at the time a member retires to determine whether sick leave days were granted in the member's last four years prior to retirement.
- If a member has been inactive for more than four years, no sick leave information will be requested.
- If sick leave days are granted prior to the member's last four years, no employer contribution will be required.
- If sick leave days were granted prior to June 1, 2005, no employer contribution will be required.
- To be reportable to TRS, sick leave must be granted far enough in advance to be available for use. Any sick leave granted must still meet the 3-step formula to be reportable to TRS. (See Chapter 6, pages 1-3, of the *Employer Guide*.)

### Calculating the contribution

The employer contribution required for sick leave granted in excess of the normal annual sick leave allotment will be computed as follows:

- The member's highest salary rate in the member's last four years prior to retirement multiplied by the total normal cost rate in the member's last year of service (17.6% in FY05-06, subject to change every year) multiplied by the portion of sick leave service credit the member received as a result of sick days granted in excess of the normal annual sick leave allotment.

A calculator is available for your use under the Employer Services area of our Web site. Please use the calculator to estimate upcoming employer contributions that your district will make in the future when members retire with sick leave days granted in excess of the normal annual allotment.

### Example

A member was granted 85 days of sick leave in excess of the normal annual sick leave allotment.

\$50,000	Highest salary in last four years
x 17.6%	Member's last year is 2005-2006
\$8,800	
x 0.5	85 days granted/divided by 170
\$4,400	Employer contribution due

### Other sick leave considerations

If the member does not receive service credit for the granted days, no employer contribution is required.

If more than one employer grants sick leave in excess of the normal annual sick leave allotment in the member's last four years prior to retirement, the employer contribution will be allocated to each employer based upon the earliest (or first) employer to grant sick leave, through the latest (or last) employer to grant sick leave. (Remember, if no service credit is received for the granted sick leave, no employer contribution is required.)

Any sick leave days granted as part of a retirement incentive **cannot** be considered as part of the normal annual sick leave allotment. However, any sick leave days that were lost as a result of a sick leave cap that are reinstated in the member's last four years will **not** be subject to the employer contribution, provided the reinstatement takes place by January 1, 2007.

Reinstated sick leave days must be added to the member's record far enough in advance to be available for use applying the 3-step formula. (See Chapter 6, pages 1-3, of the *Employer Guide*.)

## **Understanding Section 1650.481**

### **Employer Contribution Required for Salary Increases in Excess of 6 Percent**

When a member retires, the employer is required to pay TRS a contribution equal to the actuarial value of a pension benefit that results from any salary increase over 6 percent that is used in the final average salary calculation.

#### **Determining the contribution**

A calculator is available for your use under the Employer Services area of our Web site. Please use the calculator to estimate upcoming employer contributions that your district will make in the future when members retire with salary increases in excess of 6 percent.

#### **How it is calculated**

Calculate the member's retirement benefit under current law and rules based upon the member's exact age at retirement, service credit, and salaries.

Calculate the member's retirement benefit based upon the member's exact age at retirement and service credit, but with the member's salaries, with the same employer, capped at a 6 percent increase.

Next, determine the difference in the two retirement benefits.

Then, multiply the difference in the retirement benefits by an Actuarial Factor based upon the member's exact age at retirement.

- The Actuarial Factor is a factor representing the present value of future benefits the member will receive as a result of receiving salaries in excess of 6 percent.
- The Actuarial Factors are based upon the actuarial assumptions of TRS for life expectancy and investment return (currently 8.5 percent).

#### **When a contribution is not required**

If the member's retirement benefit is an actuarial benefit, no employer contribution will be required.

Only salary increases in excess of 6 percent in the member's final average salary are subject to the employer contribution. Any salary increases that are not used in the member's final average salary are **not** subject to an employer contribution. For example, a member who is 40 years old and receives a salary increase in excess of 6 percent is not likely to require an employer contribution.

#### **Required contributions**

If there is more than one employer in the member's final average salary period, each employer will pay an employer contribution based upon the salary increases in excess of 6 percent granted by each respective employer.

Only salary increases in excess of 6 percent used in the member's final average salary for years that are not exempt under the grandfathering provision (see Section 1650.483) are subject to the employer contribution.

The employer contribution is based upon the total year over year salary increase paid by the same employer (if used in the final average salary). Changes in position at the same district, earnings for extra duties and movement on the salary schedule are not excluded and are possibly subject to the employer contribution if the total salary exceeds 6 percent and the salary is used in the calculation of the final average salary for a formula retirement benefit.

For more information, see the example on the insert included in this mailing.

## **Understanding Section 1650.483**

### **Exemption From Contributions for Salary Increases in Excess of 6% and Excess Sick Leave (Grandfathering)**

A contract or collective bargaining agreement (CBA) is exempt from employer contributions if the contract or CBA was in effect (entered into, amended or renewed) prior to June 1, 2005.

Provided a member retires prior to the expiration of the exempt CBA or contract, the employer is exempt from contributions for salaries in excess of 6 percent and sick leave granted in excess of the normal annual allotment.

Provided a member notifies the employer in writing of his/her intent to retire **prior to the expiration** of

an exempt contract and receives granted sick leave days and/or salary increases **under the terms of the exempt contract/CBA after the contract/CBA expired**, the employer is exempt from contributions.

The exemption from employer contributions beyond the expiration date of the contract/CBA cannot be longer than three years after the expiration date of the contract or after June 30, 2011, whichever occurs first.

## Examples describing exemptions and required employer contributions

**Scenario 1.** An employer has a CBA that was entered into in August 2004 and expires August 2007. The CBA has a two-year retirement incentive.

- Member A retires in June 2006 and Member B retires in June 2007 under the terms of the exempt CBA.

*Exempt from employer contributions for both members because they retired **prior to** the expiration of the CBA.*

- In June 2006, Member C notifies district of intent to retire. Member C retires at the end of the 2007-08 school year and receives retirement incentives in 2006-07 and 2007-08 under the terms of the exempt CBA.

*Exempt from employer contributions because member notified district of intent to retire **prior to** the expiration of the exempt CBA.*

- In June 2007, Member D notifies district of intent to retire. Member D retires at the end of the 2008-09 school year and receives retirement incentives in 2007-08 and 2008-09 under the terms of the exempt CBA.

*Exempt from employer contributions because member notified district of intent to retire **prior to** the expiration of the exempt CBA.*

- In September 2007, Member E notifies district of intent to retire. Member E retires at the end of the 2008-09 school year and receives retirement incentives in 2007-2008 and 2008-09.

*Exempt from employer contributions through the 2006-07 school year. However, not exempt from employer contributions for the 2007-08 and 2008-09 school years because the member notified the district of intent to retire **after** the expiration of the exempt CBA.*

- In February 2008, Member F notifies district of intent to retire. The new CBA that is effective for the 2007-08 and 2008-09 school years does not have any retirement incentives. Member F retires at the end of the 2008-09 school year and receives over 6 percent increase in creditable earnings in both the 2007-08 and 2008-09 school years due to summer school and extra duties performed.

*Exempt from employer contributions through the 2006-07 school year. However, not exempt from employer contributions for the 2007-08 and 2008-09 school years because member notified district of intent to retire **after** the expiration of the exempt CBA.*

**Scenario 2.** An employer has a contract that was in effect prior to June 2005 and expires June 2008. The contract provides for a four-year retirement incentive that includes salary increases in each of the last four years prior to retirement.

- In June 2007, Member G notifies district of intent to retire. Member G retires at the end of the 2010-11 school year and receives retirement incentives in 2007-08, 2008-09, 2009-10, and 2010-11 under the terms of the exempt contract.

*Exempt from employer contributions because member notified district of intent to retire **prior to** the expiration of the exempt contract and the retirement incentive was received within three years of the expiration of the contract.*

- In June 2008 (prior to the expiration of the contract), Member H notifies district of intent to retire. Member H retires at the end of the 2011-12 school year and receives retirement incentives in 2008-09, 2009-10, 2010-11, and 2011-12.

*Exempt from employer contributions through the 2010-11 school year because member notified district of intent to retire prior to the expiration of the exempt contract. However, not exempt for the 2011-12 school year because all exemptions from employer contributions expire June 30, 2011 (the end of the 2010-2011 school year).*

**Scenario 3.** An employer has a contract that was in effect prior to June 2005 and expires June 2006. The contract provides for a four-year retirement incentive that includes salary increases in each of the last four years prior to retirement.

- In June 2006 (prior to the expiration of the contract), Member I notifies district of intent to retire. Member I retires at the end of the 2009-10 school year and receives retirement incentives in 2006-07, 2007-08, 2008-09, and 2009-10.

*Exempt from employer contributions through the 2008-09 school year because member notified district of intent to retire prior to the expiration of the exempt contract. However, not exempt for the 2009-10 school year because exemptions from employer contributions end three years after the expiration of the contract. (Contract expires June 2006; therefore exemption from employer contribution ends at the end of the 2008-09 school year.)*

*Note: Although the exempt (and not exempt) periods shown in these examples highlight exemptions from employer contributions for salary increases in excess of 6 percent, the same exemption periods would apply to sick leave granted in excess of the normal annual allotment.*

### Employer billing

Districts will be notified in writing of any employer contribution due for sick leave days granted in excess of the normal annual allotment and/or the contribution required for salary increases in excess of 6 percent. The employer will receive a separate notification for each member with an employer cost. Subsequent to the notification, the amounts due will be reflected on the monthly Employer Bill.

For members retiring after the expiration of an exempt contract, the employer will be required to provide TRS with documentation showing the member notified the employer of his/her intent to retire prior to the expiration of the exempt contract and that the salary paid and/or sick leave granted was in accordance with the exempt contract.

For members retiring prior to the expiration of an exempt contract, no employer contribution will be calculated and due. Therefore, no employer notification or billing will be issued.

### Documentation required

The member's written notification of retirement dated on or before the expiration of the contract is the documentation required to prove that the member notified the employer of his/her intent to retire prior to the expiration of the exempt contract. Written notification to the employer must be sent through the postal system, faxed, hand delivered, or e-mailed. The notification date must be clearly shown. If written documentation is not received, the employer contribution due for sick leave days granted in excess of the normal annual allotment and/or the contribution required for salary increases in excess of 6 percent will be due and reflected on the employer's monthly Employer Bill.

## Understanding Section 1650.482 Contracts and Collective Bargaining Agreements Loss of Exemption from Employer Contributions

Contracts and collectively bargained agreements (CBA) that were entered into, amended or renewed prior to June 1, 2005, have a period of time in which the employer is exempt from paying a contribution for sick leave granted in excess of the normal annual sick leave allotment and for salary increases in excess of 6 percent used in a member's final average salary.

### Losing the exemption

A contract or collective bargaining agreement (and the member(s) covered under the contract or CBA) will lose its exemption from the employer contributions required for sick leave granted in excess of the normal annual sick leave allotment and for salary increases in excess of 6 percent if either of the following occur:

- 1) There is an increase in an existing salary or sick leave retirement incentive or the addition of a new salary or sick leave retirement incentive during the exemption period.
- 2) There is a renegotiated increase in salaries (excluding the employer payment of the additional 0.4 percent member contribution) or sick leave provisions unless the renegotiated increase in salaries or sick leave provisions are specially provided for in a salary re-opener provision included in a contract or CBA.

### Exceptions

An employer may pick up and pay the member's additional 0.4 percent retirement contribution and not lose the contract or CBA exempt status.

An employer may also reduce a retirement incentive within a contract or CBA and not lose the exempt status of the contract or CBA.

### Affidavit requirement

Annually, TRS will require all employers that are exempt from the employer contributions to complete an affidavit informing TRS whether any of the previously listed conditions occurred and the date of occurrence. If any of the conditions have occurred, the employer will lose its exempt status and will be required to begin paying employer contributions.



## Understanding Section 1650.484 Members Not Covered by CBAs or Contracts

For members not covered by a collective bargaining agreement (CBA) or employment contracts, TRS will accept employment policies as a contractual agreement for purposes of exemption from employer contributions for salary increases in excess of 6 percent and sick leave granted in excess of the normal annual allotment.

The employment policies must have been in effect prior to June 1, 2005.

Employees working under employment policies that are governed by the CBA will have an exemption

from employer contributions for the same period as the CBA.

Employees working under employment policies that are not governed by the CBA will receive an exemption from employer contributions for the 2005-2006 school year.

Any employees not under CBAs, contracts or employment policies have no exemption period and the employer is subject to employer contributions on retirements on or after June 1, 2005.

## Common misconceptions about Public Act 94-0004

**Q: Is the employer contribution on salary increases in excess of 6 percent a cap on salaries?**

A: No. The employer contribution on salaries in excess of 6 percent is not a cap on salaries. Public Act 94-0004 did not put a cap on reportable creditable earnings either. The definition of salary and reportable creditable earnings did not change under PA 94-0004.

**Q: Does the employer contribution on salary increases in excess of 6 percent apply to all salary increases throughout a member's career?**

A: No. The employer contribution for salary increases in excess of 6 percent only applies to salaries that are used in the calculation of a member's final average salary for formula retirement benefits.

**Q: Does the employer contribution on salary increases in excess of 6 percent apply to total reportable earnings regardless of component (base, extra duty, flexible benefit plans, reportable lump sums)?**

A: Yes. The employer contribution will be based upon the total year-over-year salary increase paid by the same employer if used in a retiree's final average salary. Changes in position at the same district, earnings for extra duties, and movement on the salary schedule are not excluded and are possibly subject to the employer contribution if the total salary exceeds 6 percent and the salary is used in the calculation of a retiree's final average salary for a formula retirement benefit.

**Q: If a member is retiring under the Pipeline ERO, is the employer automatically exempt from employer contributions for salary increases in excess of 6 percent and granting of sick leave in excess of the normal annual allotment?**

A: No. Although many employers will be exempt from employer contributions on salary increases in excess of 6 percent and sick leave granted in

excess of the normal annual allotment, there is no direct relationship between a member's Pipeline ERO status and exemption from employer contributions.

**Q: If a member verbally notifies the employer of his/her intent to retire prior to the expiration of the exempt contract or collective bargaining agreement, does that qualify as notification?**

A: No. A member must have notified his/her employer **in writing**. Written notification to the employer must be sent through the postal system, faxed, hand delivered, or e-mailed. The notification date must be clearly shown.

**Q: If a member earns a salary in excess of a 6 percent increase, is the entire salary reportable as creditable earnings?**

A: Yes. Salary for work performed must be reported as creditable earnings, regardless of whether the reported earnings exceeded 6 percent. TRS requires earnings to be reported on an accrual basis. Accrual reporting requires earnings to be reported in the fiscal year the work was performed. Salary for work performed cannot be deferred and reported in a later fiscal year or never reported.

**Q: If a member receives a 6 percent salary increase and also works as a coach, can his/her salary for coaching be deferred or not reported to TRS as creditable earnings?**

A: No. If a member performs reportable extra duties such as coaching, lunchroom supervision, class sponsorship, internal substitution, etc., the earnings must be reported as creditable earnings regardless of whether the member's earnings exceed 6 percent. As stated above, earnings must be reported on an accrual basis. Accrual reporting requires earnings to be reported in the fiscal



year the work was performed. Salary for work performed cannot be deferred and reported in a later fiscal year or never reported.

**Q: Can the member pay the employer's contribution for sick leave days granted in excess of the normal annual allotment and/or the contribution required for salary increases in excess of 6 percent?**

**A:** No. The required employer contributions must be paid by the employer and cannot be bargained or negotiated as member contributions.

## Contact us

If you have questions about employer contributions for salary increases or sick leave, please call our Employer Services Department at (888) 877-0890, option 1 or e-mail us at [employers@trs.illinois.gov](mailto:employers@trs.illinois.gov).

For more information about calculating the employer contribution, please see the enclosed insert for calculation examples and the table of multipliers.

