Retirement Security for Illinois Educators

07-04

EMPLOYER BULLETIN

Public Act 94-0004 Contribution Clarifications for Excess Sick Leave and Salary Increases Over 6 Percent

July 2006

Introduction

TRS has received many inquiries regarding employer contributions due on salary increases over 6 percent and on sick leave days granted in excess of the normal annual allotment. The purpose of this bulletin is to emphasize and clarify some of the issues regarding these Public Act 94-0004 employer contributions.

Employer contributions

Employer contributions will be required for retiring members who receive service credit for sick leave days granted in excess of the normal annual allotment in their last four years prior to retirement. The employer is also 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 a retiring member's final average salary calculation. Please note that a retiree's final average salary is based upon the four highest consecutive annual salaries within the member's last 10 years of creditable service.

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

Initial contribution exemptions

A contract or collective bargaining agreement (CBA) is exempt from employer contributions due on excess sick leave days and/or salary increases over 6 percent if the contract or CBA was in effect prior to June 1, 2005. Contracts or CBAs that were entered into, amended, or renewed on or after June 1, 2005 are not exempt from employer contributions for excess sick leave days and/or salary increases over 6 percent.

If a member retires prior to the expiration of an exempt contract or CBA, the employer will be exempt from contributions for excess sick leave days and salary increases over 6 percent that were given in accordance with the exempt contract or CBA.

For the purpose of calculating the employer contribution, if a contract or CBA terminates on any day other than June 30, the expiration date of the contract or CBA will be determined as follows:

- If the contract or CBA expires between July 1 and December 31, TRS will consider the expiration date to be June 30 of the prior fiscal year.
- If the contract or CBA expires between January 1 and June 29, TRS will consider the expiration date to be June 30 of the current fiscal year.

Extended exemptions for CBAs

An employer may be eligible for an extended exemption for up to three years beyond the CBA expiration date. If the member provides retirement notification **in writing** to the employer prior to the expiration of an exempt CBA and that notification obligates the employer to grant sick leave days or salary increases under the terms of the exempt CBA, an employer will be eligible for an extended exemption. The extended exemption may not go beyond June 30, 2011.

The following example describes extended exemptions and illustrates that for an employer to be eligible for an extended exemption, sick leave days in excess of the normal annual allotment and/or salary increases over 6 percent must be granted to the teacher under the terms of the exempt CBA.

An employer has a CBA that was entered into in August 2003 and expires August 18, 2006. The exempt CBA provided $10,000 retirement

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bonuses in each of the teacher's final two years provided they do not have an Early Retirement Option cost. The salary schedule in the new CBA for 2006-07 through 2008-09 provides increases greater than 6 percent.

- Teacher A notified the district in March 2006 that she planned to retire at the end of the 2008-09 school year. Teacher A does not have an ERO cost. Teacher A received base salaries in accordance with the new CBA and also received the $10,000 bonuses in her final two years, 2007-08 and 2008-09, as specified in the exempt CBA.

  The initial exemption ends with the 2005-06 school year. However, the employer qualifies for an extended exemption from employer contributions for the 2006-07 through 2008-09 school years because Teacher A notified the district of her intent to retire prior to the expiration of the exempt CBA and received retirement incentives under the terms of the exempt CBA.

- Teacher B notified the district in January 2006 that he planned to retire at the end of the 2007-08 school year. Teacher B has an ERO cost. Teacher B received base salaries in accordance with the new CBA in 2006-07 and 2007-08, but did not receive any retirement bonuses. Teacher B's creditable earnings increased more than 6 percent in each of his last two years.

  The initial exemption ends with the 2005-06 school year. The employer does not qualify for an extended exemption from employer contributions because Teacher B did not receive salary increases and/or excess sick leave days under the terms of the exempt CBA in either 2006-07 or 2007-08.

Local retirement incentives typically contain eligibility provisions such as age and years of service requirements and notification deadlines. The employer must determine who is eligible for retirement incentives and whether or not the district is obligated to provide retirement incentives to a specific member under an exempt contract or CBA. TRS will not arbitrate disputes or interpret eligibility provisions contained in an employer's retirement incentive program. For this reason, and to maintain confidentiality, inquiries to TRS concerning Public Act 94-0004 employer contributions should originate from authorized school district officials, rather than retiring members.

Extended exemptions for contracts

Administrators covered by single-year exempt contracts are also eligible for the three-year extended exemption, as previously discussed, because they are on contractual continued service and are tenured. Administrators with multi-year (performance-based) contracts are not eligible for the extended exemption because they have given up tenure in exchange for multi-year contacts, requiring any incentives for which they are eligible to be paid within the contract period.

Loss of exemption

A contract or CBA will lose its exemption from employer contributions required for excess sick leave and for salary increases over 6 percent if any of the following occur:

- Existing salary or sick leave retirement incentives are increased.
- A new retirement incentive is added during the exemption period.
- Sick leave provisions or salaries are increased during a renegotiation (excluding the employer payment of the additional 0.4 percent member retirement contribution), unless the renegotiated increase in salaries or sick leave provisions are provided for in a salary re-opener provision included in a contract or CBA.

If an event occurs that causes an employer to lose its exemption, the loss of exemption becomes effective at the beginning of the fiscal year in which the event that caused the loss of exemption occurred. The exemption is lost for both excess sick leave days and for salary increases over 6 percent.

The following example illustrates an employer's loss of exemption from employer contributions.

An employer has a CBA that was entered into August 2004 and expires August 2008. The

CBA offers a 10 percent retirement incentive in the final year of teaching. In January 2007, the employer grants sick leave in excess of the normal annual allotment to a teacher. The exempt CBA does not provide for the granting of sick leave days. This change causes the exemption to be lost on all members covered by the CBA effective July 1, 2006.

- Teacher A receives a 10 percent increase in 2005-06 and retires in June 2006 under the exempt CBA.

  The employer is exempt from employer contribution through the 2005-06 school year. The loss of exemption does not apply to years prior to 2006-07.

- Teacher B retires in November 2006 and receives a 10 percent bonus with the last regular paycheck on November 30, 2006.

  The exemption end date is June 30, 2006, because the event that caused the loss of exemption occurred during the 2006-07 fiscal year. Effective July 1, 2006, employer contributions are due on salary increases over 6 percent and/or sick leave days granted in excess of the normal annual allotment. The 10 percent bonus is creditable earnings for 2006-07. The employer is not exempt from employer contributions for Teacher B in the 2006-07 school year.

- In August 2006, Teacher C notifies the employer of her intent to retire in June 2007. Teacher C receives the 10 percent retirement incentive throughout the 2006-07 school year.

  The exemption end date is June 30, 2006. Effective July 1, 2006, employer contributions are due on salary increases over 6 percent and/or sick leave days granted in excess of the normal annual allotment, because the event that caused the loss of exemption occurred during the 2006-07 fiscal year. The 10 percent bonus is creditable earnings for 2006-07. The 2006-07 increase is subject to the employer contribution if the 2006-07 salary is used in Teacher C's final average salary calculation.

- In August 2006, Teacher D notifies the district of his intent to retire in June 2009. Teacher D receives the 10 percent retirement incentive throughout the 2008-09 school year.

  The exemption end date is June 30, 2006. Effective July 1, 2006, employer contributions are due on salary increases over 6 percent and/or sick leave days granted in excess of the normal annual allotment, because the event that caused the loss of exemption occurred during the 2006-07 fiscal year. The 10 percent bonus is creditable earnings for 2008-09. The employer is not exempt from employer contributions for salary increases over 6 percent and/or sick leave days granted in excess of the normal annual allotment in the 2006-07, 2007-08, and 2008-09 school years.

Employer billing

During the processing of a member's retirement benefit, employers will be notified in writing of any employer contribution due for excess sick leave and/or salary increases over 6 percent used in a member's final average salary calculation. The employer will receive a separate notification for each member with an employer cost. After the initial notification, the amounts due will be reflected on the monthly Employer Bill.

To administer the employer contribution exemption period, TRS required employers to complete a Collective Bargaining Agreement and Contract Certification for Public Act 94-0004 and a Collective Bargaining Agreement and Contract Certification Member Listing. The information contained on these forms will be used to determine the initial exemption period from Public Act 94-0004 employer contributions. For members retiring prior to the expiration of their exempt contract or CBA, no employer contributions for salary increases over 6 percent or excess sick leave will be due. Therefore, no employer notification or billing will be issued for these members.

However, for members retiring after the expiration of their exempt contract or CBA, the employer will receive notification of any calculated employer contributions due for salary increases over 6 percent or excess sick leave. The notification letter will discuss the requirements to qualify for an extended exemption and will include an Extended Exemption Affidavit form.

After receiving this notification, employers who believe they qualify for an extended exemption will be required to provide TRS the member's written notification of retirement dated on or before the expiration of the contract or CBA along with the completed and signed affidavit. Upon receipt and review of satisfactory documentation, TRS will waive the employer contributions related to the applicable member.

Other reminders

Creditable earnings

The definition of TRS creditable earnings has not changed. Salary for work performed that meets the definition of TRS creditable earnings must be reported to TRS regardless of whether the reported salary exceeds 6 percent. TRS requires salary for work performed to be reported on an accrual basis. Accrual accounting requires earnings to be reported in the fiscal year the work was performed, which may not coincide with the year paid. Salary for work performed cannot be deferred and reported in a later fiscal year or never reported.

Severance/lump-sum payments that are paid or due and payable prior to or with the receipt of the member's final paycheck for regular earnings or last day of work are reportable to TRS as creditable earnings. Lump-sum payments that are paid and due and payable after receipt of the member's final regular paycheck and last day of work are not reportable to TRS. Examples of typical severance/lump-sum payments are payments for unused sick leave days or vacation days, employer payment of a member's 2.2 upgrade cost or optional service balance, bonus payments, and lump-sum retirement incentives. For more information on creditable earnings please refer to Chapter 3 of the TRS *Employer Guide*.

Sick leave reporting

The reporting requirements for unused, uncompensated sick leave days have not changed. To be creditable for retirement purposes, sick leave days must be granted or reinstated far enough in advance of termination that the sick leave days will be available for use by the member in the event of illness. For more information on sick leave service credit and the application of the 3-step formula to sick leave days granted in excess of the normal annual allotment, please refer to Chapter 6 of the TRS *Employer Guide*.

ERO status

A member's ERO status (*e.g.* Pipeline, Modified or no ERO) and the initial or extended exemption from employer contributions for salary increases over 6 percent or excess sick leave has no direct relationship.

Calculating contributions

In January 2006, each employer received Employer Bulletin 06-03, which discusses in detail the employer contributions required by Public Act 94-0004 for excess sick leave and salary increases over 6 percent. An insert to the bulletin, provides a calculation example of the employer contribution for salary increases exceeding 6 percent if used in the member's final average salary calculation. The insert also includes a table of multipliers to assist districts with calculating an estimate of the employer contribution. An excess salary increase calculator is also available under the Employer Services area of our Web site at **trs.illinois.gov.** Please use the example, table of multipliers and the Web calculator to estimate future employer contributions required for members retiring with final average salary increases over 6 percent in nonexempt years. An excess sick leave calculator is available on the Web site to estimate employer contributions for sick leave days granted in excess of the normal annual allotment in nonexempt years.

Questions

For questions about employer contributions for salary increases over 6 percent or excess sick leave, please contact the TRS Employer Services Department at (888) 877-0890, option 1.

For additional information regarding Public Act 94-0004, please see Employer Bulletins 06-03 and 05-09. These bulletins are available on the TRS Web site. From the home page, click on "Employer Services," then "Publications," and "Employer Bulletins."

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