



Commission on Government Forecasting and Accountability

PENSION IMPACT NOTE *103RD General Assembly*

BILL NO: SB 1646, as amended by HA 1

May 11, 2023

SPONSOR (S): Martwick – Anderson (Kifowit – Collins, et al)

SYSTEM: Multiple

FISCAL IMPACT

SB 1646, as amended by HA 1, is a pension omnibus bill that is a compilation of several bills introduced this session pertaining to the Illinois Pension Code. The fiscal impact of each section is detailed below in the Comment Section.

SUBJECT MATTER: SB 1646, as amended by HA 1, compiles multiple bills that add to or amend the Illinois Pension Code. Each section of the bill is detailed below in the Comment Section.

COMMENTS:

Subpoena Powers for the Boards of the Chicago Laborers' and Chicago Park Districts' Funds:

SB 1646, as amended by HA 1, would expand the subpoena powers of the boards of the Chicago Laborers' and Park District Funds by allowing them to compel the attendance of witnesses and to compel the production of documents and records upon any matter concerning the fund in conjunction with the following:

- Disability claims;
- Administrative review hearings;
- Attempts to obtain information to assist in the collection of sums due to the Fund;
- Obtaining any and all personal identifying information necessary for the administration of benefits;
- The determination of the death of an annuitant; or
- A felony forfeiture investigation.

The bill states that the fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of Illinois, and shall be paid by the board when a subpoena is issued.

Under the Circuit Courts Act, witnesses are entitled to receive the sum of \$20 for each day's attendance and \$0.20 per mile each way for necessary travel. The bill would grant the aforementioned reimbursement for subpoenaed parties who are compelled to appear before the pertinent pension board.

This language was originally introduced as SB 0332 and would have a slightly negative but actuarially insignificant fiscal impact due to the slight increase in witness fees.

Disclosure of Member Information to the Municipal Employees Society of Chicago:

Under current law, the following disclosures of pension fund member information are allowed under the General Provisions Article of the Pension Code:

- 1) When disclosures are required under the Freedom of Information Act;
- 2) For the purposes of conducting public operations or business; or
- 3) To a labor organization or other voluntary association affiliated with a labor organization or labor federation.

SB 1646, as amended by HA 1, amends Item #3 above, and allows pension fund member disclosures to be made to the Municipal Employees Society of Chicago. The Municipal Employees Society of Chicago is a labor union in Chicago, whose stated mission is "to educate and make Employees aware of all available benefit programs."

This language was originally introduced as SB 1679 and would have no fiscal impact on pension funds governed under the General Provisions Article.

Administrative Changes to the Firefighters Pension Investment Fund Regarding Board Operations:

SB 1646, as amended by HA 1, amends the Firefighters Pension Investment Article of the Pension Code. The Fund was created pursuant to Public Act 101-0610, which took effect on January 1, 2020 (The Downstate Police and Fire Pension Investment Consolidation Act of 2020). SB 1646, as amended by HA 1, makes a number of technical changes to the operations of the Board of Trustees of the Fund. The changes are outlined below:

- Currently, each trustee of the Fire Pension Investment Fund must take their oath of office before the Secretary of State. SB 1646, as amended by HA 1, gives the option for pension fund trustee members to take the oath before the Board's appointed legal counsel;
- Currently, trustees are reimbursed for travel expenses while conducting board business at the rate granted to members of the Commission on Government Forecasting and Accountability. SB 1646, as amended by HA 1, deletes this reference to CGFA and simply states that trustees shall be reimbursed for board-related travel;

- A technical change is being made that deletes the requirement that ballot envelopes for board elections shall have on the outside of the envelope a form of certificate stating that the person casting the ballot is entitled to vote in the board election;
- SB 1646, as amended by HA 1, streamlines the procedure for filling board vacancies regardless of the length of the unexpired term. Current law calls for special elections within each cohort (management, active, and retiree) for vacancies with a remaining term longer than 6 months. Under this bill, all vacancies that arise from each cohort shall be filled by appointment by members of that cohort (e.g., a vacancy amongst the municipal/management cohort shall be filled by a mayor, president, chief executive officer, etc., and a vacancy from the participating member cohort shall be filled by a participating member). Appointed members will fill the vacancy until the next regular election for an elected trustee from the pertinent cohort;
- Currently, the rules adopted by the Fire Investment Board are filed with the Secretary of State and the Department of Insurance. SB 1646, as amended by HA 1, allows for the digitization of the rules, to be posted on the Fund's website; and
- SB 1646, as amended by HA 1, adds a requirement to the custodian's role with the pension fund assets of the Fund. Current law requires each custodian to furnish a corporate surety bond of an amount designated by the board that indemnifies the Fund, the board, and the officers and employees of the Fund against any loss as a result of any action by the custodian. Under this bill, the bond the custodian furnishes shall provide insurance coverages of such type and limits as the board designates.

This language was originally introduced as SB 2101 and would have no fiscal impact on the Firefighters Pension Investment Fund.

Chicago Municipal Pension Fund Annuitant Exemption for Annuitants Re-Entering Service as Paraprofessionals or Related Positions:

Under current law, when an annuitant member of the Chicago Municipal Pension Fund re-enters service, any annuity previously granted to that annuitant shall be cancelled. Beginning July 1, 2023, SB 1646, as amended by HA 1, would create an exemption to this annuity cancellation provision for employees re-employed as a paraprofessional or related service provider on a temporary and non-annual basis or on an hourly basis, so long as the person does not work for compensation on more than 120 days in a school year or accepts gross compensation for the re-employment in a school year in excess of \$30,000. Re-employment under these circumstances does not require employee contributions into the pension fund, will not result in service credit being earned or granted, and will not constitute active participation in the Fund.

This language was originally introduced as SB 2103. The fiscal impact cannot be determined as the number of annuitants who would re-enter service is not known. Annuitants who do re-enter service as paraprofessionals in related positions would not accrue additional service credit. However, retirement pensions would be payable to these individuals that would, under current law, be cancelled during the period of re-employment. Hence, there would be an indeterminate negative fiscal impact to the Chicago Municipal Pension Fund.

Consolidation of Monthly Deadlines for Deposit of TRS Member Contributions for Salary Paid:

Under current law, the governing body of a TRS-covered school district is responsible for making two deposits with the retirement system each month. One deposit consists of member contributions for salary paid between the first and the fifteenth of the month, due on the 25th of the month. The second deposit consists of member contributions for salary paid between the sixteenth and last day of the month, due by the 10th of the following month. All required contributions earned during a school term are due by the next July 10th, following the close of said term.

SB 1646, as amended by HA 1, replaces the language of the “governing body of a school district” with “employer” and removes the requirement for these payments to be separated into two different deposits. The bill requires that the employer submit all required reports and contributions for salary paid during a month to the system by the 10th of the following month. All required contributions for salary earned during a school term are due by July 10th following the close of such school term.

This language was originally introduced as SB 2255 and would have no fiscal impact on the funds as this provision simply clarifies dates by which employer contributions must be made.

Service Suspension Exception to Cook County Fund Annuitant Members Re-Entering Service as Election Workers:

SB 1646, as amended by HA 1, amends the Cook County article of the Pension Code. Currently, when an employee annuitant re-enters service, that annuitant’s pension shall be suspended during the time he or she is in service, regardless of the number of hours worked. When the annuitant again withdraws from service, the retirement pension shall be resumed.

This bill creates an exception to the rule regarding re-entry into service for election workers. So long as the period of re-entry to active service is less than 60 days within a calendar year, the employee’s annuity is not suspended and the annuitant shall not be considered to be “in service.” Most Cook County election workers are employed by the Cook County Clerk, and that is the agency of Cook County government to which election workers would most likely return for temporary service, although the bill does not specify this. Under the scope of this bill, temporary election work does not entitle the annuitant to additional service credit for that period of service. If the employee annuitant works for a period longer than 60 days, then the annuity is suspended or cancelled retroactive to the initial date of re-entry.

This language was originally introduced as SB 2434 and the fiscal impact would be slightly negative as retirement annuities would be paid out to election workers that would otherwise be prohibited under current law.

Automatic Enrollment of New Employees in State Employees Deferred:

Public Act 101-0277 directs the Department of Central Management Services to automatically enroll any employee in the State Employees Deferred Compensation Plan who, on or 6 months after the effective date of the Act (Jan 1, 2020), becomes a member of a retirement system created under Article 2, 14 or 18 of the Illinois Pension Code (GARS, SERS, and JRS). An employee automatically enrolled shall:

- 1) Have 3% of their pre-tax gross compensation deposited into their deferred compensation account each period;
- 2) Have 30 days from the start of employment to elect to not participate or increase or reduce the amount of pre-tax gross compensation deferred;
- 3) Be enrolled beginning the first day of the pay period following the employee's 30th day of employment; and
- 4) Within 90 days of enrollment, may elect to withdraw from the plan and receive a refund of amounts deferred, forfeiting all employer matching contributions.

Public Act 102-0219 further amplified the auto enrollment provisions by making the following changes:

- 1) The automatic enrollment requirement will apply to any employee who becomes an active member of a pertinent retirement system on or after July 1, 2020;
- 2) Any agency with employees who qualify must systematically provide the employee data necessary to CMS or its designee;
- 3) The Act changed the language pertaining to the refund to an employee who withdraws from the plan within 90 days to reflect the addition or subtraction of applicable earnings, investment fees, and administrative fees; and
- 4) The Act requires the pertinent pension board of trustees to establish annual, automatic increases to contribution rates for employees who are automatically enrolled, as long as the amount of increases in any 12-month period shall not exceed 1% of compensation and employees are given an opportunity, in a manner described by the pertinent board, in which to elect not to receive automatic annual increases.

SB 1646, as amended by HA 1, closes the window opened by PA 102-0219 on January 1, 2024 and establishes a new set of requirements for employees hired on or after January 1, 2024. Such employees shall be:

- 1) Automatically enrolled in the Plan beginning the first day of the pay period following the close of the notice period, unless the employee elects otherwise within said notice period; and
- 2) Within 90 days of automatic enrollment, able to elect to withdraw from the plan and receive a refund of amounts deferred, plus or minus any applicable earnings, investment fees and administrative fees, forfeiting all employer contributions and including any refunded amount in the employee's gross income for the taxable year in which the refund is issued.

The foregoing provision would have no impact upon any of the State Retirement Systems, as the changes contained therein pertain strictly to enrollment in the State's Deferred Compensation Program.

Paid Leave available to Chicago Public School Board Trustees Employed by the System for Board Attendance Purposes:

Current statute allows members employed by a TRS-covered school board who are also elected trustees of TRS at least 20 days of paid leave of absence for the purpose of attending meetings of the System's Board of Trustees, committee meetings of the board, and seminars regarding issues for which the board is responsible. TRS is responsible for the reimbursement of affected school districts for the actual cost of hiring a substitute teacher for such a leave of absence.

Public Act 96-0357 applied the same requirement of 20 days paid leave of absence for Board related actions to elected trustees of the IMRF System. IMRF is also responsible for the reimbursement of affected school districts for the actual cost of hiring a substitute teacher for such a leave of absence.

SB 1646, as amended by HA 1, requires the Chicago Public School Board and employers of the System make available up to 22 days of paid leave of absence per year for the purpose of attending meetings of the Board of Trustees of the Chicago Teachers Pension Fund, committee meetings of the Board, and seminars regarding issues for which the Board is responsible. The allocation of this paid leave is at the discretion of the Board.

The bill states that paid leave shall be “allocated” at the discretion of the Board of Trustees of the Chicago Teachers Pension Fund, but it does not explicitly state which entity must assume the cost of the paid leave, as current law does for TRS and IMRF in the aforementioned examples. An updated note will be issued when this clarification has been provided by the pension fund.

Removal of Duplicative Language Regarding the Ability of the Board of the Chicago Teachers Pension Fund to Set the Interest Rate for Optional Service Credit Purchases:

Under current law, members of the Chicago Teachers Pension Fund may earn service credit for certain types of service rendered outside of the pension fund, such as teaching service in other states, for service as a playground instructor, for service with the Board of Education (if such service required the teacher to resign from a teaching position), among other types of service. To establish optional service credit for such periods of service, the member must pay to the Chicago Teachers Pension Fund the employee and employer contribution that would have been required had such service been rendered as a member of the pension fund, plus interest at the actuarially assumed rate from the date of service to the date of payment, compounded annually.

P.A. 102-0822, which became effective on May 13th, 2022, contained language that required a teacher who wishes to establish optional service to pay interest “at the actuarially assumed rate, compounded annually, from the date of service to the date of payment.” The Act also included the phrase “at a rate determined by the board” in the same paragraph. The inclusion of two methods of calculating interest was duplicative and in need of clarification. SB 1646, as amended by HA 1, removes the latter phrase such that the interest rate for optional service credit is pegged to the system's actuarial rate of return (currently 6.75%).

There would be no fiscal impact associated with this provision, as it purely removes duplicative language in the Chicago Teacher Article of the Pension Code.

Preventing the Use of Member Information for Solicitation:

Public Act 100-0769, which became effective on August 10th, 2018, established an optional deferred compensation benefit for both the SURS and TRS articles of the Pension Code. SURS and TRS are empowered to automatically enroll any employee who first becomes a participating employee of each respective system in the optional deferred comp plan on or after July 1, 2023. SB 1646, as amended by HA 1, prohibits deferred comp plan recordkeepers, which are essentially outside vendors charged with administering the plans for TRS, SURS, and the State of Illinois Deferred Compensation Plan, from using pension fund member information to solicit ancillary investment products or services. SB 1646, as amended by HA 1, states that if links to certain parts of a recordkeeper's website contain information about commercial products and may be encountered by a plan participant via routine use of the recordkeeper's website, this shall not constitute endorsement or solicitation of participants in the deferred compensation plan.

This language was originally introduced as SB 1646, as amended by SA 1, and would have no fiscal impact on the Funds mentioned as the provision simply clarifies the definition of member solicitation.

IMPACT OF HA 1: In the above section titled *Preventing the Use of Member Information for Solicitation*, the engrossed version of SB 1646 prohibited deferred compensation recordkeepers (outside vendors who administer these plans) from using member information for ancillary solicitation. The engrossed bill added a provision ensuring that links to certain parts of a recordkeepers' website that contain information about commercial products that may be encountered by a participant via routine use of the website are not considered solicitation. SB 1646, as amended by HA 1, allows the promotion of limited services on the website of the recordkeeper if the public institution of higher education receives no compensation from that recordkeeper for promoting or providing such services. Limited services may include educational, counseling, debt reduction, student loan repayment or forgiveness, or other services intended to enhance retirement savings opportunities. These limited services may not include credit cards, life insurance, or banking products.

There would be no fiscal impact associated with this amendment, as it further clarifies the definition of member solicitation and explicitly prohibits compensation for the promotion of the limited services discussed in the amendment.

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