

December 6, 2011

Sraga
SHauser, LLC

Priority Briefing

NEW IMRF RESTRICTIONS AND POSTING REQUIREMENTS

Several changes have been made to employer obligations regarding IMRF employees. These changes include a penalty for certain increases in IMRF earnings in excess of 6% similar to that imposed on employers for TRS earnings. In addition, certain reporting obligations are imposed upon employers for annual IMRF compensation packages in excess of \$75,000 and \$125,000. Finally, the method by which pension benefits are calculated for employees commencing IMRF participation after January 1, 2012, has been revised.

EMPLOYER PENALTY FOR CERTAIN EARNINGS INCREASES

Subject to certain exceptions, if a participating employee's IMRF earnings for any of the 12-month periods used to determine the final rate of earnings for purposes of calculating a pension (*i.e.*, highest consecutive 96 months within last 10 years) exceeds the employee's previous year earnings from the same employer by 6% or 1.5 times the annual increase in the CPI, the employer must pay IMRF the present value of the actuarial increase in the pension resulting from the excess earnings. IMRF will bill the employer which must make payment in lump sum within 90 days of receipt of the IMRF bill or interest at 7½% will be assessed on unpaid sums. Payment must be concluded within 3 years after receipt of the bill from IMRF.

The following increases are excluded from the calculation of excess earnings:

- increases resulting from overload or overtime earnings;
- increases resulting from promotions resulting in increased responsibility and workload;

- increases resulting from an increase in the number of hours required to be worked;
- increases to employees who are 10 years or more from retirement eligibility;
- increases paid under contracts or collective bargaining agreements entered into prior to January 1, 2012; and
- increases attributable to a personnel policy adopted prior to January 1, 2012, as long as the policy does not apply to employees who begin service on or after January 1, 2012.

* * *

EXEMPT PERSONNEL POLICIES
(IMMEDIATE ACTION REQUIRED)

If you intend to create or retain an exempt personnel policy, it must be in writing, adopted prior to January 1, 2012, and it must expressly exclude employees who begin service after January 1, 2012. If you need assistance in drafting, revising or reviewing an exempt personnel policy, please contact one of our attorneys in our Flossmoor office – (708) 799-6766 or in our Oak Brook office - (630) 928-1200.

* * *

PENSION IMPACT STATEMENTS
(ACTION REQUIRED AFTER JANUARY 1, 2012)

Before increasing the IMRF earnings of an officer, executive or manager by 12% or more on or after January 1, 2012, the employer must contact the Illinois Municipal Retirement Fund as to the effect of the increase on the pension benefits of the officer, executive or manager. IMRF will respond with a written “Pension Impact Statement” stating the effect on the pension benefits of that increase, including the required payment for an increase in excess of 6%. The employer must sign the statement acknowledging the receipt and understanding, and must pay a fee of \$100 for preparation of the statement. The following increases are exempt:

- increases attributable to promotions resulting in increased responsibility and workload;
- increases paid under contracts or collective bargaining agreements entered into prior to January 1, 2012;
- increases to employees who are 10 years or more from retirement eligibility; and
- increases resulting from an increase in the number of hours required to be worked.

* * *

POSTING COMPENSATION PACKAGES
(ACTION REQUIRED AFTER JANUARY 1, 2012)

Effective January 1, 2012, within 6 business days **after** an IMRF employer approving a budget, the employer must post on its website the total compensation package for each IMRF employee whose package exceeds \$75,000 per year. Similarly, at least 6 business days **before** an IMRF employer approves a total compensation package equal to or in excess of \$150,000 per year for an IMRF employee, the employer must post the total compensation package for the employee on its website. "Total compensation package" is defined as the cost of salary, health insurance, housing allowance, vehicle allowance, clothing allowance, bonuses, loans, vacation days, and sick days.

* * *

FINAL RATE OF EARNINGS; APPLICATION OF 125% CAP
(ACTION REQUIRED AFTER JANUARY 1, 2012)

In computing the final rate of earnings for a retiring IMRF employee:

- for employees first beginning IMRF participation **before** January 1, 2012, earnings in the final three months shall not exceed 125% of the highest earnings of any other month during the highest consecutive 96 months within the last 10 years;
- for employees first beginning IMRF participation **after** January 1, 2012, earnings in the final 24 months shall not exceed 125% of the highest earnings of any other month during the highest consecutive 96 months within the last 10 years.

If we can be of further assistance, please contact one of our attorneys in our Flossmoor office – (708) 799-6766 or in our Oak Brook office - (630) 928-1200.