



Senate Bill 1831 Signed Into Law; IMRF Releases Initial Guidance

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By Andrew Malahowski

As discussed in a [prior alert](#), Senate Bill 1831 was set to impose a penalty on employers that contribute to the Illinois Municipal Retirement Fund (IMRF) for certain end-of-career salary increases for IMRF-covered employees. On August 26, 2011, the Governor signed Senate Bill 1831 into law (now [Public Act 97-0609](#)), and IMRF released its initial guidance on the Act on August 31. The initial guidance from IMRF ([General Memorandum 620](#), and an accompanying [FAQ](#)) provides answers to a number of frequently asked questions concerning the Act, but a number of questions remain. Franczek Radelet is working with staff from IMRF to understand the impact of the Act on public employers, but several important points arise from the initial IMRF guidance including the following.

- The “penalty” is simply an acceleration of a portion of the employer contribution to IMRF that would have to be paid by the employer to IMRF anyways (to fund member pensions). Therefore, the penalty is referred to by IMRF as an “accelerated payment” because the present value of excess earnings (over 6%) must be paid within 3 years, rather than the typical amortization period established by IMRF.
- Earnings increases paid before January 1, 2012 are not subject to accelerated payments under the Act.
- Earnings increases paid pursuant to collective bargaining agreements (CBA) entered into, amended, or renewed before January 1, 2012 are not subject to accelerated payments under the Act. However, to gain the benefit of this particular grandfathering rule, the employee must provide his or her notice of intent to retire prior to the expiration of the CBA. It remains unclear how long this exemption will extend past the expiration of the CBA.
- Earnings increases paid pursuant to personnel policies established before January 1, 2012 are not subject to accelerated payments under the Act. However, only **written** policies formally adopted by the employer’s governing body gain the benefit of this “grandfathering rule.” Further, the written policy must **specifically** exclude individuals who are hired on or after a specific date (not later than January 1, 2012).

*Given these requirements, it is likely that very few, if any, existing personnel policies in Illinois are actually “grandfathered,” and payments of salary increases over 6% to individuals who are within four years of retirement **will** be subject to the accelerated payment rule if further action is not taken by the employer. Therefore, if an employer wishes to secure grandfathered treatment for a particular policy, it is critical to have their governing body approve a written policy that meets all of these requirements prior to January 1, 2012.*

- Other earnings increases exempt from the accelerated payment rules are overload or overtime, increases in the number of hours required to be worked, or standard employment promotions resulting in increased responsibility and workload.



Importantly, all determinations of grandfathered status or exemptions from the accelerated payment rule are made on a case-by-case basis by IMRF, based on all the relevant facts and circumstances, and must be documented. Franczek Radelet attorneys are available to assist in analyzing individual retirement incentive policies or other personnel policies to determine whether and to what extent they will be subject to the Act.

More Information

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