



MINUTES

**Meeting of the Legal & Legislative Committee
of the Board of Trustees of the
State Universities Retirement System
Thursday, September 15, 2016, 4:45 p.m.
State Universities Retirement System
1901 Fox Drive
Main Conference Room
Champaign, Illinois**

The following trustees were present: Mr. Tom Cross, Chair; Mr. Dennis Cullen, Dr. John Engstrom, Mr. Francis Idehen Jr., Mr. Paul R.T. Johnson Jr., Mr. Craig McCrohon, Ms. Dorinda Miller, Dr. Steven Rock, and Mr. Antonio Vasquez.

Others present: Mr. William Mabe, Interim Executive Director; Mr. Andrew Matthews, Chief Operating Officer; Ms. Bianca Green, General Counsel; Mr. Albert Lee, Associate General Counsel; Mr. Steve Hayward, Director of Internal Audit; Mr. Doug Steele, Director of IT Applications; Mr. Chris Hansen, Director of Operations; Ms. Angie Lieb, Director of Member Services; Ms. Allison Kushner, Compliance and Governance Officer; Ms. Kristen Houch, Legislative Liaison; Ms. Lori Kern, Ms. Diane Bradford and Ms. Whitney Jones, Executive Assistants; Ms. Mary Pat Burns of Burke, Burns & Pinelli; Ms. Linda Brookhart of State Universities Annuitants' Association and Mr. Steve Zahn of Zahn Consulting Solutions (via conference call).

Legal & Legislative Committee roll call attendance was taken. Trustee Cross, present; Trustee Giertz, absent; Trustee Johnson, present; Trustee Rock, present; Trustee Vasquez, present.

Per the motion approved at the Investment Committee meeting on September 15, 2016, trustees may be allowed to participate via conference call for all meetings on September 15, 2016, and September 16, 2016, pursuant to Section 7(c) of the Open Meetings Act.

APPROVAL OF MINUTES

Trustee Tom Cross presented the minutes from the Legal and Legislative Committee meeting of June 10, 2016, and Trustee Steven Rock made the following motion:

- That the minutes from the June 10, 2016 Legal and Legislative Committee meeting be approved, as presented.

Trustee Antonio Vasquez seconded and the motion carried with all trustees present voting in favor.

CHAIRPERSON'S REPORT

Trustee Cross remarked that he did not have a formal Chairperson's Report.

DISCUSSION OF 40 IL CS 5/15-139

General Counsel Ms. Bianca Green addressed issues relating to the Return to Work statute and sought guidance from the Committee on possible changes to the retirement application regarding the same. The Committee directed staff to remove newly added certification language from the retirement application relating to return to work agreements.

A copy of the summaries entitled "SURS Return to Work Statute" and "New Member Signature Certification" are incorporated as a part of these minutes as [Exhibit 1](#) and [Exhibit 2](#).

ADMINISTRATIVE RULEMAKING

Associate General Counsel Albert Lee presented proposed changes relating to the following matters for the Committee's review. These matters were not ready for Committee action but were presented for their consideration for a possible vote in December:

- Bona Fide Retirement and Termination of Employment – [Section 1600.1000](#)
This proposed rule relates to codifying possible changes to the Retirement Application Certification relating to the Return to Work statute. Given the Committee's direction on the Return to Work issue noted above, this rule will not be presented for a vote during the December board meeting.
- Vacation Payments and Disability Benefit Commencement – [Section 1600.550](#)
This proposed rule codifies the longstanding SURS practice to treat a member who opts to use their vacation benefits before going on disability leave the same as a member who opts to take a vacation payout after disability benefits are awarded. Employer policies differ on whether employees are required to exhaust vacation pay before going on disability and this proposed changes allows SURS to treat all employees the same. This rule will likely be presented for a vote during the December board meeting.
- Posthumous QILDROS and Alternatives to QILDRO Consent – [Section 1600.605](#)
This proposed rule allows SURS to accept a QILDRO and/or QILDRO Calculation Order entered within six (6) months of a member's death if the member and alternate payee agreed to share retirement benefits via a QILDRO as evidenced by a signed Marital Settlement Agreement that was incorporated into divorce decree prior to the member's death. This provides equitable protection to the alternate payee in case the member dies before these documents can be completed.

This proposed rule also codifies current case law in Illinois that allows SURS to honor a QILDRO without the member's statutorily required written consent so long as the divorce decree incorporates the terms of a written marital settlement agreement that establishes that the parties intended to share the retirement assets via a QILDRO. This provides equitable protection to the alternate payee in case the member refuses to sign the consent or if the member cannot be found to complete the process.

Both of these rules are expected to be presented for a vote during the December board meeting.

Ms. Bianca Green presented proposed changes to the administrative rules relating to Trustee Elections. These matters were not ready for Committee action but were presented for their consideration for a possible vote in December:

- Election Materials – Section 1600.700
These proposed rule changes would allow election materials and balloting to be conducted electronically and by phone. These proposed changes are intended to improve efficiency and reduce the cost of the election process.
- Petitions – Section 1600.710
This proposed rule change removes the requirement that candidates sign the petition on page one of the nominating signatories. Candidates must complete additional documents that confirm their willingness to serve on the SURS Board of Trustees and so the current rule is redundant. Further, failure to comply with this requirement could result in disqualification of a potential candidate due to a simple technicality.
- Candidate Informational Communication – Section 1600.745
These proposed changes address the issue of how candidate information may be distributed to potential voters and who would bear the responsibility and cost for distributing the same.

Copies of the staff memorandums titled “Proposed Rulemakings for Benefits Administration” and “Proposed Rulemakings Concerning Trustee Elections” are incorporated as a part of these minutes as Exhibit 3 and Exhibit 4.

COMPLIANCE

Ms. Bianca Green reported that Interim Executive Director Mr. William Mabe reassigned compliance duties to the Legal Department given the risk management function of compliance issues. The SURS compliance officer now reports directly to the general counsel. In addition, she reported that SURS is continually updating the SURS compliance website and is now using a “Stop Light Report” to easily track all compliance reporting. SURS staff was experiencing difficulties with BoardVantage in preparation for this meeting and the “Stop Light Report” that was uploaded to the board materials was incorrect. SURS is in compliance with all reporting. The “Stop Light Report” will also be included with monthly board reports moving forward.

A copy of the report titled “Compliance Stop Light Report” is incorporated as a part of these minutes as Exhibit 5.

LEGISLATIVE UPDATE

Legislative Liaison Ms. Kristen Houch and Mr. Steve Zahn of Zahn Governmental Solutions provided the legislative update. Ms. Houch highlighted the status of five bills impacting SURS members: House Bill 4259 (Public Act 99-0830), House Bill 6021 (Public Act 99-0682), House Bill 6030 (Public Act 99-0683), Senate Bill 1059 (Vetoed), and Senate Bill 2156 (Public Act 99-0897). Additionally, she explained the status of appropriations to SURS for Fiscal Year 2016 and Fiscal Year 2017 pursuant to Public Act 99-0523, Public Act 99-0524, and the State Pension Funds Continuing Appropriation Act. Mr. Zahn provided an update on the status of pension

reform and anticipated legislation for 2017.

A complete summary of Ms. Houch's "Legislative Update for Regular Session 2016" is incorporated as a part of these minutes as [Exhibit 6](#).

2016 LEGISLATIVE AGENDA DISCUSSION

Ms. Houch presented the proposed 2017 legislative agenda for approval. She explained that the legislative agenda makes one substantive change and several technical changes. The substantive change expands the System's subpoena authority to provide for the efficient administration of the System. The technical changes codify the System's longstanding practices related to the administration of disability benefits and disability retirement annuities and codify a cross-reference needed as a result of Public Act 99-0897.

Trustee Paul Johnson made the following motion:

- That the 2017 Legislative Agenda be approved as presented.

Trustee Vasquez seconded and the motion carried with all trustees present voting in favor.

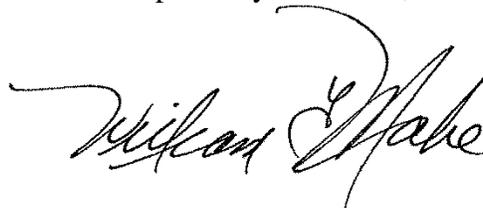
A copy of the staff memorandum titled "Proposed 2017 Spring Legislative Agenda" is incorporated as a part of these minutes as [Exhibit 7](#).

PUBLIC COMMENT

There were no public comments presented to the Legal and Legislative Committee.

Since there was no further business before the Committee, Trustee Antonio Vasquez moved that the meeting be adjourned. The motion was seconded by Trustee John Engstrom and carried with all trustees present voting in favor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William Mabe", written in a cursive style.

Mr. William Mabe
Secretary, Board of Trustees

WEM:bg/kh

SURS Return to Work Statute (“60 Day Rule”)

(40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

Sec. 15-139. Retirement annuities; cancellation; suspended during employment.

(a) If an annuitant returns to employment for an employer within 60 days after the beginning of the retirement annuity payment period, the retirement annuity shall be cancelled, and the annuitant shall refund to the System the total amount of the retirement annuity payments which he or she received. If the retirement annuity is cancelled, the participant shall continue to participate in the System.

(b) If an annuitant retires prior to age 60 and receives or becomes entitled to receive during any month compensation in excess of the monthly retirement annuity (including any automatic annual increases) for services performed after the date of retirement for any employer under this System, that portion of the monthly retirement annuity provided by employer contributions shall not be payable.

If an annuitant retires at age 60 or over and receives or becomes entitled to receive during any academic year compensation in excess of the difference between his or her highest annual earnings prior to retirement and his or her annual retirement annuity computed under Rule 1, Rule 2, Rule 3, or Rule 4 of Section 15-136, or under Section 15-136.4, for services performed after the date of retirement for any employer under this System, that portion of the monthly retirement annuity provided by employer contributions shall be reduced by an amount equal to the compensation that exceeds such difference.

However, any remuneration received for serving as a member of the Illinois Educational Labor Relations Board shall be excluded from "compensation" for the purposes of this subsection (b), and serving as a member of the Illinois Educational Labor Relations Board shall not be deemed to be a return to employment for the purposes of this Section. This provision applies without regard to whether service was terminated prior to the effective date of this amendatory Act of 1991.

"Academic year", as used in this subsection (b), means the 12-month period beginning September 1.

(c) If an employer certifies that an annuitant has been reemployed on a permanent and continuous basis or in a position in which the annuitant is expected to serve for at least 9 months, the annuitant shall resume his or her status as a participating employee and shall be entitled to all rights applicable to participating employees upon filing with the board an election to forgo all annuity payments during the period of reemployment. Upon subsequent retirement, the retirement annuity shall consist of the annuity which was terminated by the reemployment, plus the additional retirement annuity based upon service granted during the period of reemployment, but the combined retirement annuity shall not exceed the maximum annuity applicable on the date of the last retirement.

The total service and earnings credited before and after the initial date of retirement shall be considered in determining eligibility of the employee or the employee's beneficiary to benefits under this Article, and in calculating final rate of earnings.

In determining the death benefit payable to a beneficiary of an annuitant who again becomes a participating employee under this Section, accumulated normal and additional contributions shall be considered as the sum of the accumulated normal and additional contributions at the date of initial retirement and the accumulated normal and additional contributions credited after that date, less the sum of the annuity payments received by the annuitant.

The survivors insurance benefits provided under Section 15-145 shall not be applicable to an annuitant who resumes his or her status as a participating employee, unless the annuitant, at the time of initial retirement, has a survivors insurance beneficiary who could qualify for such benefits.

If the participant's employment is terminated because of circumstances other than death before 9 months from the date of reemployment, the provisions of this Section regarding resumption of status as a participating employee shall not apply. The normal and survivors insurance contributions which are deducted during this period shall be refunded to the annuitant without interest, and subsequent benefits under this Article shall be the same as those which were applicable prior to the date the annuitant resumed employment.

The amendments made to this Section by this amendatory Act of the 91st General Assembly apply without regard to whether the annuitant was in service on or after the effective date of this amendatory Act.

(Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12; 98-92, eff. 7-16-13; 98-596, eff. 11-19-13.)

Below is a screen shot of the new member signature section of the SURS Application for Retirement Benefits. The full SURS application can be found at: <http://www.surs.org/pdfs/forms/RetAppTrad.pdf> .

disabled prior to age 18			
<input type="checkbox"/> Dependent parent age 55 or older			

PART 7 – Member Signature (pg. 7)

<p>I will notify SURS immediately if:</p> <ol style="list-style-type: none"> 1) I accept employment with any employer covered by SURS. By signing this application, I certify that I have no agreement, written or oral, to return to employment in any capacity (paid or unpaid) with my current employer or any other SURS-covered employer after my retirement date. 2) I return to work for an employer covered by SURS within 60 days after my retirement date. I understand my retirement annuity will be cancelled, and all annuity payments made to me would have to be returned to SURS. 3) My citizenship status changes. <p>I understand that when my retirement annuity is calculated my service credit may be reduced if I was employed at 50% time or less for more than 3 years after Sept. 1, 1959.</p> <p>I hereby certify that the statements contained in this application are correct to the best of my knowledge and belief. In witness whereof, this Application for Retirement Annuity is voluntarily executed by me.</p>	
Member Signature	Date

RTAPP/F004/062916

MEMORANDUM

To: Legal & Legislative Committee

From: Albert J. Lee, Associate General Counsel

Date: August 31, 2016

Re: Proposed Rulemakings for Benefits Administration

The proposed rulemakings enclosed with this memorandum make the following changes to Title 80, Part 1600 of the Illinois Administrative Code. The Board approved the subject matter of the proposed rulemakings at the June 2016 Board meetings as part of the July 1, 2016 Regulatory Agenda.

I. Retirement and *Bona Fide* Termination of Employment – Section 1600.100

The proposed change to Section 1600.100 inserts a definition of the terms "retirement" and "retires". The definition for "retirement" and "retires" states that retirement occurs upon the commencement of the annuity payment period and must be preceded by a *bona fide* termination of employment in which neither the participant nor an employer has entered into an oral or written understanding that the participant will return to employment with any SURS-covered employer following retirement.

The Illinois Pension Code and SURS regulations require that SURS be administered as a qualified plan (*e.g.*, Illinois Pension Code Sections 1-106, 1-116, 1-116.1, and 1-117; 80 Ill. Adm. Code §§ 1600.140, 1600.145, and 1600.150). The proposed changes seek to ensure that SURS complies with IRS regulations concerning *bona fide* retirements that require a true separation from service. Section 1.401-1(b) of the IRS regulations provides that a "pension plan within the meaning of section 401(a) [of the Internal Revenue Code of 1986] is a plan established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to his employees over a period of years, usually for life, after retirement." (emphasis added). Accordingly, these regulations generally do not permit in-service distributions whereupon distributions are made to an active participant. If SURS were to provide inadvertent in-service distributions to a participant, the plan risks violating the terms of the plan and/or also must comply with additional regulations concerning the definition of "normal retirement age" applicable to plans that permit in-service distribution prior to age 62.

In a private letter ruling issued to another taxpayer, the IRS has indicated that "if both the employer and employee know at the time of 'retirement' that the employee will, with reasonable certainty, continue to perform services for the employer, a termination of employment has not occurred upon 'retirement' and the employee has not legitimately retired." IRS PLR 201147038 (Nov. 18, 2011). Although private letter rulings are binding only to the parties to which they are issued, they can be instructive as to the legal analysis that the IRS will employ in similar situations.

II. Vacation Payments and Disability Benefit Commencement – Section 1600.550

The proposed change to Section 1600.550 adds a new subsection (h) that provides that if an employee receives payment for unused vacation accrued under the employment from which he or she becomes disabled, then the disability commencement date will be delayed by the number of work days attributable to the payment. Employer policies on whether an employee is required to use up vacation benefits before going on disability leave may differ. This codifies the longstanding SURS practice of treating a member who opts to use vacation benefits before going on disability leave the same as a member who opts to take a cash payout for unused vacation. The proposed change permits SURS to treat all members equally regarding disability benefit commencement, regardless of the differences in the employer's disability leave policy.

III. Posthumous QILDROs and Alternative to QILDRO Consent – Section 1600.605

The proposed change to Section 1600.605(a)(10) permits SURS to deem a posthumous QILDRO or QILDRO Calculation Court Order as if it were validly entered prior to the member's death if (1) the order was entered no later than 6 months after the member's death and (2) either all applicable consent requirements were met before the member's death or the order is accompanied by a certified copy of a divorce decree that incorporates a written marital settlement agreement signed by both parties that directs for the division of SURS benefits under a QILDRO. This proposed change is intended to provide relief to an alternate payee should a member die before a QILDRO could be entered pursuant to a divorce decree that directed that SURS benefits be divided under agreement by both parties. This equitable approach has been upheld in the ERISA context by the United States Courts of Appeals of the Second Circuit in *Yale-New Haven Hospital v. Nicholls*, 788 F.3d 79 (2nd Cir. 2015).

Under Section 1-119(m)(1) of the Illinois Pension Code, a QILDRO cannot divide the benefits of a member who entered SURS prior to July 1, 1999, unless the member signs a QILDRO Consent. The proposed change to Section 1600.605(b)(1) codifies a Third District Appellate Court decision, *Plunkett v. Plunkett*, 392 Ill. App 3d 100 (2009), that required SURS to honor a QILDRO despite not having received a valid QILDRO Consent because the parties had entered into a marital settlement agreement that stipulated the division of retirement benefits under a QILDRO. The court held that the divorce decree's incorporation of the terms of such a marital settlement agreement substantially complied with the QILDRO consent requirement under the Illinois Pension Code. The proposed change provides that in the event that an alternate payee is unable to obtain a signed consent from a member who became a SURS member prior to July 1, 1999, SURS will accept a certified copy of a decree of marital dissolution that incorporates the terms of a written marital settlement agreement signed by both parties that directs the division of SURS benefits under a QILDRO.

PROPOSED RULEMAKINGS
80 Ill. Adm. Code Part 1600

Section 1600.100 Definitions

Certain terms used frequently throughout this Part are defined in this Section. Unless the context requires a different meaning, other terms used in this Part shall be defined and interpreted in accordance with Article 15 of the Illinois Pension Code [40 ILCS 5/Art. 15]. The definition of a term under a specific Section or Subpart shall supercede, for the purposes of that Section or Subpart, this Section.

"Annuitant" – *A person receiving a retirement, reversionary, survivors or beneficiary annuity or disability retirement annuity from the System.* [40 ILCS 5/15-119]

"Annuity Payment Period" – *The period beginning on the date specified by the participant or the recipient of a disability retirement annuity submitting a written application, which shall not be prior to termination of employment or more than one year before the application is received by the Board; however, if the participant is not an employee of an employer participating in SURS or in a participating system as defined in Article 20 of the Code on April 1 of the calendar year next following the calendar year in which the participant attains age 70½, the annuity payment period shall begin on that date regardless of whether an application has been filed.* [40 ILCS 5/15-135(b)]

"Board" – The Board of Trustees of the State Universities Retirement System as constituted under Section 15-159 of the Code.

"Chairperson" – The chairperson of the Board.

"Claims Panel" – The quasi-adjudicative body constituted under the Board's bylaws that hears all administrative contested matters as fiduciaries pursuant to Section 1600.500.

"Code" or "Pension Code" – The Illinois Pension Code [40 ILCS 5].

"Effective Rate of Interest" – *The interest rate for all or any part of a fiscal year that is determined by the Board based on factors including the System's past and expected investment experience; historical and expected fluctuations in the market value of investments; the desirability of minimizing volatility in the effective rate of interest from year to year; and the provision of reserves for anticipated losses upon sales, redemptions, or other disposition of investments and for variations in interest experience.* [40 ILCS 5/15-125(2)] See Section 15-125(2) of the Code for the effective rate of interest set by the State Comptroller for purposes of Rule 2 of Section 15-136(a) of the Code (i.e., the Money Purchase Formula).

"Employee" – A person defined as an "employee" under Section 15-107 of the Code.

"Employer" – An entity defined as an "employer" under Section 15-106 of the Code.

"Executive Director" – The chief administrative officer of SURS, appointed by the Board.

"FOIA" – Freedom of Information Act [5 ILCS 140].

"General Counsel" – In-house legal counsel for SURS.

"IRS" – Internal Revenue Service of the U.S. Department of the Treasury.

"IRC" – Internal Revenue Code of 1986, as amended (26 USC 1 et seq.).

"Member" – A SURS participant or annuitant.

"Participant" – A person participating in SURS under Section 15-134 of the Code.

"Participating Employee" – A participant who at the time is an employee under Section 15-107 of the Code.

"Prescribed Rate of Interest" – *The rate of interest to be used in actuarial valuation and in development of actuarial tables. The prescribed rate of interest is determined by the Board on the basis of the probable average effective rate of interest on a long term basis.* [40 ILCS 5/15-125(1)]

"Principal Office of SURS" – State Universities Retirement System, 1901 Fox Drive, Champaign IL 61820.

"Retirement" or "Retires" – A participant "retires", and his or her "retirement" begins, when his or her annuity payment period begins. [40 ILCS 5/15-132.2]. The retirement shall be preceded by a bona fide termination of employment under which neither the retiree nor an employer has an oral or written understanding that the retiree will return to employment with any SURS-covered employer following retirement in any capacity.

"SURS" or "System" – State Universities Retirement System created by Article 15 of the Code [40 ILCS 5/Art. 15].

"Tier 1 Member" – A SURS participant or annuitant defined under Section 15-108.1 of the Code.

"Tier 2 Member" – A SURS participant or annuitant defined under Section 15-108.2 of the Code.

"USERRA" – Uniformed Services Employment and Reemployment Rights Act of 1994 (38 USC 4301 et seq.).

Section 1600.550 Disability Claims Procedure

- a) Pursuant to Section 15-150 of the Code, a participant may be granted a disability benefit if, while a participating employee, he or she becomes physically or mentally incapacitated and unable to perform the duties of his or her assigned position for any period exceeding 60 consecutive calendar days and the employee had completed 2 years of service at the time of disability, unless the disability is a result of an accident. An employee shall be considered disabled only during the period for which the Board determines, based upon the evidence listed in this Section, that the employee is unable to reasonably perform the duties of his or her assigned position as a result of a physical or mental disability. This determination shall be based upon:
 - 1) a written certificate from one or more licensed and practicing physicians appointed by or acceptable to the Board, stating that the employee is disabled and unable to reasonably perform the duties of his or her assigned position;
 - 2) a written certificate from the employer stating that the employee is unable to perform the duties of his or her assigned position; and
 - 3) any other medical examinations, hospital records, laboratory results, or other information necessary for determining the employment capacity and condition of the employee.
- b) **Application Filing Requirements**
 - 1) An application for disability benefits must include the certifications described in subsections (a)(1) and (a)(2), and supporting documentation described in subsection (a)(3), all as explained in more detail in this Section, for each disabling condition as well as for the entire period of disability.
 - 2) The application must be filed within one calendar year after the date on which the disability occurred. This limitation may be waived upon a showing of good cause, including, but not limited to, circumstances in which the applicant was under some physical, mental or medical infirmity or legal status that prevented the applicant from filing within the time period.
- c) **Certification By Physicians.** For purposes of subsection (a)(1), the following shall apply:
 - 1) Physicians acceptable to the Board are attending physicians, physicians designated by the participant and physicians to whom the participant was referred by the attending or designated physician. Physicians appointed by SURS staff to examine the participant are deemed to be physicians appointed by the Board. The physician must be licensed to practice and be

currently practicing in the field of expertise related to the underlying physical or mental condition for which disability benefits are sought.

- 2) The certification must be signed by a physician described in subsection (c)(1) or an authorized representative of the physician and must state the following:
 - A) the medical diagnosis of the physical or mental condition;
 - B) the prognosis of the physical or mental condition;
 - C) the physical or mental limitations to which the participant should adhere; and
 - D) that the participant is disabled and is unable to reasonably perform the duties of his or her assigned position as a result of the physical or mental disability.
- 3) The certification must be accompanied by a report containing the following:
 - A) the date of examination;
 - B) the medical history of the participant;
 - C) the results of any diagnostic tests used;
 - D) the diagnosis of the physical or mental condition;
 - E) the plan of treatment for the physical or mental condition and prognosis in response to the treatment plan;
 - F) an evaluation of the physical or mental condition as it bears upon the participant's ability to reasonably perform the duties of his or her assigned position; and
 - G) any existing documentation of objective medically demonstrable anatomical, physiological or psychological abnormalities manifested as test results or laboratory findings apart from self-reported symptoms.
- d) Certification by Employers. For purposes of subsection (a)(2), the certification must be signed by an officer authorized by the employer and must state the following:
 - 1) the physical or mental performance requirements for the reasonable performance of the participant's assigned position;

- 2) whether the participant is able to satisfy each physical or mental performance requirement for the reasonable performance of his or her assigned position to the best of the employer's knowledge or belief and the reason for that knowledge or belief; and
 - 3) whether the participant is able to reasonably perform the duties of his or her assigned position based on the provisions of subsections (d)(1) and (d)(2).
- e) **Determination of Disability.** If the participant establishes, by a preponderance of the evidence, that he or she is physically or mentally disabled and unable to perform the duties of his or her assigned position as a result of the disability, the participant shall be determined eligible for disability benefits under Section 15-150 of the Code.
- 1) SURS staff shall determine whether certifications made under subsections (a)(1) and (a)(2) and supporting documentation described in subsection (a)(3) establish eligibility for disability benefits.
 - 2) At the discretion of SURS staff, the participant may be required to submit to additional examinations by staff appointed physicians or specialists to aid in the determination process.
 - 3) Physical or mental conditions resulting from self-inflicted injuries, substance abuse, or any act for which the participant was convicted of a misdemeanor or felony are not the result of an accident for purposes of Section 15-150 of the Code.
- f) **Subsequent Re-examination of Disabled Participants**
- 1) SURS staff shall secure from one or more physicians, periodically, re-evaluation reports concerning the continued disability of the participant. The date of re-evaluation shall be determined by SURS staff on the basis of the medical reports received previously, the nature of the disability, and other relevant information.
 - 2) In the re-evaluation of disability claims, the examining physician shall be the attending physician or the physician designated by the participant, but, if the nature of the disability or other circumstances justifies the appointment of someone other than the participant's attending physician or designated physician as the examining physician, SURS staff shall make the appointment. All other procedures that may be applicable in processing the initial claim for disability benefits shall be followed in re-evaluation of the claim.
- g) **Release of Medical Information.** The participant may be required to authorize the release of all medical or other information related to the disability claim, including but not limited to medical reports, hospital records, Department of

Employment Security earnings statements, income tax records, unemployment records, and any record deemed necessary to the administration of the disability claim. The failure of the participant to submit to a re-evaluation examination or a treatment plan, to produce records, or to approve release of information required may result in the suspension of disability benefit payments.

h) Vacation Payments and Disability Benefit Commencement. If an employee receives payment for unused vacation leave accrued under the employment from which the employee is disabled, the date of the "termination of payment of salary or sick leave benefits" under Section 15-151 of the Code shall be delayed by the number of work days attributable to the vacation payment.

(Source: Section 1600.550 renumbered from Section 1600.320 at 38 Ill. Reg. 16375, effective July 17, 2014)

Section 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order

SURS will accept a court order as a valid QILDRO or QILDRO Calculation Court Order if it meets all of the following requirements:

- a) The following requirements apply to the QILDRO and the QILDRO Calculation Court Order:
 - 1) The order must be accompanied by a \$50 non-refundable processing fee, by check or money order payable to the State Universities Retirement System.
 - 2) The order must be a certified copy of the original.
 - 3) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce the property distribution. A judgment, order or notice of income withholding for support under a support enforcement mechanism under Title IV-D of the Social Security Act (42 USC 666) or any other state law that purports to divide or garnish the member's retirement benefit under any proceeding for the declaration of invalidity of marriage, legal separation or dissolution of marriage will not be honored by SURS unless the judgment, order or notice is accompanied by a QILDRO (and if applicable, a QILDRO Calculation Court Order) issued by an Illinois court.
 - 4) The order must contain the name, residence address and Social Security number of the member.
 - 5) The order must contain the name, residence address and Social Security number of the alternate payee.
 - 6) The order must identify the State Universities Retirement System as the retirement system to which it is directed.
 - 7) The order must identify the court that issued it.
 - 8) The order must apply only to benefits that are statutorily subject to QILDROs, as provided in Section 1-119(b)(1) of the Pension Code.
 - 9) The orders and, if applicable, the Consent to Issuance of QILDRO, must be in the form adopted by SURS as of the date the order is received. Any alterations will invalidate the order.
 - 10) The effective date of the order must be after July 1, 1999, and before the date of death of the member. If the effective date of the order is on or after the member's date of death, SURS shall deem the effective date of

the posthumous order as if it had been entered on the day immediately prior to the member's date of death if the order is dated no later than 6 months after the date of death and—

- i) any applicable consent requirements under subsection (b)(1) were met prior to the member's date of the death; or
- ii) the order is accompanied by a certified copy of a decree of dissolution of marriage that is dated before the date of death of the member and incorporates the terms of a written marital settlement agreement that was signed by both parties before the date of death of the member and provides direction for the division of the member's SURS benefits under a QILDRO.

b) The following additional requirements apply only to the QILDRO:

- 1) If the QILDRO applies to a person who became a SURS member before July 1, 1999, it must be accompanied by the original Consent to Issuance of QILDRO form signed by the member, or a certified copy of the original. The consent cannot be signed by a judge, sheriff or any person other than the member. A QILDRO issued on or after July 1, 2006 that modifies a QILDRO issued prior to July 1, 2006 must be accompanied by an original Consent to Issuance of QILDRO signed by the member on or after July 1, 2006. If the alternate payee is unable to obtain a signed consent from the member, the required consent can be established if the QILDRO is accompanied by a certified copy of a decree of dissolution of marriage that incorporates the terms of a written marital settlement agreement that was signed by both parties and provides direction for the division of the member's SURS benefits under a QILDRO.
- 2) The QILDRO must specify each benefit to which it applies, and it must specify only one method by which the benefit shall be paid to the alternate payee.
- 3) If any benefit is to be paid using the Marital Portion Benefit Calculation, the QILDRO must comply with Section 1-119(n)IX of the Pension Code and the QILDRO must contain language in conformance with Section 1-119(n)IX(1) and (2) properly completed. The "other" option must only be checked for the purpose of using a combination of permissive service and regular service. If the "other" option is checked, a supplemental order stating the details of the combination must accompany the QILDRO. The supplemental order must not purport to establish a formula differing from the ones appearing under Section 1-119(n) of the Pension Code or purport to create new classes of service credit.
- 4) If the member is a participant of the Traditional or Portable Benefit Package, the order must designate whether the alternate payee will receive

automatic annual increases as provided under Section 1-119(n)IV of the Pension Code.

- 5) If the member is a participant of the Self-Managed Plan who has an account balance, then the QILDRO may only provide for the division of the account balance as of a certain date. If the Self-Managed Plan member is receiving benefits under an annuity contract, then the QILDRO may only divide the member's retirement benefit or death benefit, if any, or both.
- c) The following additional requirements apply only to the QILDRO Calculation Court Order:
- 1) The QILDRO Calculation Court Order must allocate benefits consistent with the underlying QILDRO. Benefits that will never become payable on or after the date the QILDRO Calculation Court Order is filed need not be allocated under the QILDRO Calculation Court Order
 - 2) Benefits allocated using a calculation method on the QILDRO Calculation Court Order must contain a clear result of the equation. SURS is not obligated to review or verify the equations or assist in the calculations to determine the benefits.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

To: Legal & Legislative Committee

From: Bianca T. Green, General Counsel

Date: September 2, 2016

Re: Proposed Rulemakings Concerning Trustee Elections

The proposed rulemaking enclosed with this memorandum make the following changes to Title 80, Part 1600 of the Illinois Administrative Code. The Board has not yet approved the subject of the rulemakings relating to Trustee Elections as part of the July 1, 2016 Regulatory Agenda because these proposed changes were not discussed at that time. However, SURS is not limited by the content of the Regulatory Agenda.

I. Background: 40 ILCS 5/15-159(e) – Board Created

Board of Trustee elections are governed by state statute. 40 ILCS 5/15-159(e). The proposed rule changes would allow SURS to reduce costs by sending and receiving Board election ballots via email, via the internet/SURS website and via phone. The SURS election statute provides for electronic balloting if the Board adopts rules allowing it. But, our administrative rules do not specifically indicate that we can do so. Additional proposed changes would allow SURS to reduce costs associated with distributing candidate information by limiting our involvement to posting approved candidate biographies on the SURS website. The proposed rules are also designed to make the petition process easier for candidates and are designed to make voter communications more effective by eliminating email contacts between candidates and voters (which are routinely blocked by spam filters) and by limiting direct voter communication between candidates and voters to direct mailing via third party vendors.

The relevant portions of our trustee election statute that allow for such rule changes is contained in subsection (e) which provides:

(e) The 6 elected trustees shall be elected within 90 days after April 3, 2009 (the effective date of Public Act 96-6) for a term beginning on the 90th day after that effective date. Trustees shall be elected thereafter as terms expire for a 6-year-term beginning July 15 next following their election, and such election shall be held on May 1, or on May 2 when May 1 falls on a Sunday. **The board may establish rules for the election of trustees to implement the provisions of Public Act 96-6 and for future elections.** Candidates for the participating trustee shall be nominated by petitions in writing, signed by not less than 400 participants with their addresses shown opposite their names. Candidates for the annuitant trustee shall be nominated by petitions in writing, signed by not less than 100 annuitants with their addresses shown opposite their names. **If there is more than one qualified nominee for each elected trustee, then the board shall conduct a secret ballot election by mail for that trustee, in accordance with rules as**

established by the board. If there is only one qualified person nominated by petition for each elected trustee, then the election as required by this Section shall not be conducted for that trustee and the board shall declare such nominee duly elected. A vacancy occurring in the elective membership of the board shall be filled for the unexpired term by the elected trustees serving on the board for the remainder of the term. **Nothing in this subsection shall preclude the adoption of rules providing for internet or phone balloting in addition, or as an alternative, to election by mail.**

40 ILCS 5/15-159(e) (West 2016).

II. Proposed Rule Change: Section 1600.700 - Election Materials

Section 1600.720 Election Materials

- a) The Board Secretary may procure a qualified election services vendor and determine the voting methods, specific voting instructions and security measures to be used in the election, subject to the approval of the Board.
- b) At least 30 business days prior to the Election Day, the following election materials ~~the System~~ shall be emailed ~~mail~~ to the eligible voter's latest email address known to the System ~~the following election materials~~:
 - 1) Electronic instructions for accessing an electronic ~~A preprinted paper~~ ballot listing, in order determined by random, blind lottery conducted by the Board Secretary, either the contributing membership candidates or the annuitant candidates, depending on the basis for the individual's eligible voter status as provided in Section 1600.715, using the entire name of each candidate in the System records on the first day nomination petitions can be accepted;
 - 2) Instructions for accessing cCandidate provided biographies in the location, format and length specified and approved by the Board Secretary;
 - 3) Instructions for voting methods as specified by the Board Secretary, including instructions for voting online or by phone. These instructions will also include the voting deadline;
 - 4) ~~A preprinted, return envelope.~~
- c) For voters without a current email address on file with SURS, at least 30 business days prior to the Election Day, the following election materials shall be mailed to the eligible voter's latest mailing address known to the System:
 - 1) A preprinted paper ballot listing, in order determined by random, blind lottery conducted by the Board Secretary, either the contributing membership candidates or the annuitant candidates, depending on the basis for the individual's eligible voter status as provided in Section 1600.715, using the entire name of each candidate in the System records on the first day nomination petitions can be accepted;

- 2) Preprinted paper candidate provided biographies in the format and length specified and approved by the Board Secretary;
- 3) Instructions for voting methods as specified by the Board Secretary, including instructions for voting online , by phone or by regular mail. These instructions shall also include the voting deadline;
- 4) A preprinted, return envelope.
- de) If an eligible voter is unable to access his or her election materials as has not received any or all of the election materials specified in subsection (b) or did not receive the preprinted election materials mailed to them as specified in subsection (c), the eligible voter may request that the election vendor System send replacement election materials to him or her by providing a current mailing address or a current email address. Preprinted paper ballots, candidate biographies and other election information ~~Election materials~~ will not be mailed out within 5 business days prior to the Election Date; however, electronic ballots and instructions for accessing candidate election information ~~election materials~~ will be electronically transmitted if ~~available and~~ authorized by the eligible voter at least one day prior to the Election Date. If an eligible voter incorrectly marks or spoils his or her paper ballot prior to returning it, the eligible voter may request a new set of election materials from the election vendor System at least 5 business days prior to the Election Date. Paper ballots already mailed to the election vendor System, ~~or~~ electronic or phone ballots that have already been cast by the eligible voter shall not be replaced or revoked. The member's identity as an eligible voter shall be authenticated prior to sending out replacement election materials.
- ed) If previously mailed election materials are returned to the election vendor System undelivered at least 5 business days prior to the Election Date and a forwarding address has been provided, the election vendor System shall mail election materials to the forwarding address via first class U.S. mail.
- f) If previously emailed electronic election materials are returned to the election vendor undelivered at least one day prior to the Election Date and an updated email address has been provided, the election vendor shall email election materials to the updated address on file.
- g) In addition to the election materials distributed by the election vendor, SURS will post candidate biographies in the format and length specified and approved by the Board Secretary on its website at least 30 days prior to the election.

(Source: Amended at 38 Ill. Reg. 17457, effective July 30, 2014)

III. Proposed Rule Change: 1600.710(b)(1) - Petitions

Section 1600.710 Petitions

- a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System on or after October 1 immediately preceding the Election Date. The petition forms may be photocopied for use by the candidates.
- b) A valid petition nominating a candidate for an open contributing membership position or an open annuitant position on the System's Board of Trustees shall meet the following requirements:
 - ~~1)~~ ~~On page one of the petition the potential candidate must sign the petition as one of the nominating signatories. The signature shall constitute the potential candidate's confirmation that he or she is willing to be a candidate.~~
 - ~~12)~~ The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate, as established by Section 1600.700(b) or (c). A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures must be original signatures.
 - ~~23)~~ Each signature of an eligible voter must be accompanied by the signing person's name (printed), home address (street and city), and SURS employer (or last SURS employer). Other eligible voter information, including the last four digits of the signer's social security number may be included to assist the Board Secretary in verifying petition signing eligibility. Signatures that are not accompanied by at least a partial address will not be accepted. The partial social security number shall remain confidential.
 - ~~34)~~ Petitions may be circulated for signatures commencing the October 1 immediately preceding the applicable Election Date and ending on January 31.
 - ~~45)~~ An individual eligible to sign a petition nominating a candidate for an open contributing membership position on the Board may sign petitions for as many contributing membership position candidates as desired.
 - ~~56)~~ An individual eligible to sign a petition nominating a candidate for an open annuitant position on the Board may sign petitions for as many annuitant candidates as desired.
 - ~~67)~~ The petition shall bear the notarized signature of the individual who circulated the petition for signatures, verifying that the signatures contained on the petition were signed in that individual's presence and are genuine, and that, to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so under Section 1600.700(b) or (c).

- 78) Original petitions shall be filed with and must be received by the Board Secretary by the January 31 immediately preceding the Election Day. Petitions received after the prescribed petition-filing period are invalid and will not be counted.
- c) The Board Secretary shall determine the validity of petitions pursuant to the Illinois Pension Code and this Part not less than 75 days prior to the Election Day and notify all candidates in accordance with the election calendar whether their petitions met all petition requirements. Candidates filing conforming petitions will be added to the slate of candidates on the respective ballot.
- d) Any individual may, upon reasonable notice to the System, examine the petitions that have been filed with the System with respect to the election to take place; provided, however, that in order to protect the signing participants' and annuitants' privacy and confidentiality, the examination shall be subject to the following limitations:
- 1) Petitions that are examined will be duplicate copies of the original petitions filed, with any confidential information redacted;
 - 2) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board Secretary as provided in subsection (c); and
 - 3) Petitions may not be removed from the System's offices, copied, or duplicated by any means.
- e) Challenge to the Petition Validation Process
- 1) The challenger shall submit a written statement identifying the specific aspects of the petition validation process that is being challenged.
 - 2) All challenges shall be submitted to the Board Secretary no later than 7 days after the petition validation notification required in subsection (c). Any challenge submitted more than 7 days after the date of the notification shall not be considered. The Board Secretary shall transmit any challenges to a 3 member committee of the Board, comprised of members of the Board not running in the contested election.
 - 3) The committee shall consider the written statement and proceed to make a final determination with respect to the challenge.
 - 4) A written notice of the final determination shall be sent to the challenger and all candidates within 7 days after making the determination.
 - 5) The determination of the committee shall constitute a final administrative decision for purposes of the Administrative Review Law [305 ILCS 5/Art. III].

(Source: Amended at 37 Ill. Reg. 15517, effective September 12, 2013)

IV. Proposed Rule Change: Section 1600.745 - Candidate Informational Communication

Section 1600.745 Candidate Informational Communication

- a) During any election period commencing the January 1 immediately preceding the Election Date and ending the day after the Election Date, the System will make available address files ~~or e-mail lists of eligible voters~~ for election candidates or other organizations to send additional informational material about the candidate. Organizations must validly exist pursuant to law and must provide a mailing address and contact information to the System at the same time that a request is made for address files, ~~or e-mail lists.~~
- b) If a candidate wants to send a direct mailing to eligible voters, the voter address files ~~or e-mail lists~~ will be sent by the System to a third-party service firm hired by the candidate, or other organization, for mailing. The third-party service firm must guarantee security and only use the member contact information for communication of candidate informational materials.
- c) The third-party service firm will limit the use of the address files ~~or e-mail lists~~ to ensure there is only one communication per candidate, ~~per organization~~
- d) The System will not incur any of the costs to produce, mail or send the direct mailing to prospective voters. All costs will be borne by the candidate. additional candidate information.
- e) The contents of informational materials to be mailed to prospective voters must be approved by the Board Secretary before the System will send the address files to the third party service firm hired by the candidate to handle the direct mailing. ~~prior to the mailing.~~

(Source: Amended at 37 Ill. Reg. 15517, effective September 12, 2013)

COMPLIANCE STOPLIGHT REPORT

Complete/Next due > 30 days

Due < 30 days

Past Due/Missed

Report Owner: Compliance Officer

* indicates new requirement/change in requirement

EOM= End of Quarter

EOM=End of Month

Available Filters: Due date, frequency, next due, last filed, status and department

Department	Report	Filed With	Frequency	Statute/Rule	Last Filed	Next Due	Status
Administration	Travel Exception Report	IHETCB	Quarterly	80 IL 2900.105	6/30/2016	9/30/2016	
Administration	Drivers License & Insurance Certification	U of I	Annual	625 ILCS 5/7-203 & JCAR 44 Sec 5040.500	6/30/2016	6/30/2017	
Administration	Certification of Board Training Requirement	DFPR-Public Pension/Insurance Div	Annual	40 ILCS 5/1/113.18	6/30/2016	6/30/2017	
Administration	Notice of Regularly Scheduled Board Meetings	State Newspaper & SURS website	Annual	5 ILCS 120.202	Sep-16	Sep-17	
Administration	Oath of Office	Internal	Ad Hoc	40 ILCS 5/15-159(h)	3/15/2016	As needed	
Administration	Disclosure of Appointee Interest in State Contracts	SOS	Ad Hoc	5 ILCS 420/3A.30	4/15/2016	As needed	
Administration	Trustee Indemnification Agreements	Internal & Fiduciary Council	Ad Hoc	40 ILCS 5/1-107 & Board Governance Bylaws 1.1	3/15/2016	As needed	
Administration	iPad User Agreements	Internal	Ad Hoc	Internal Requirement	3/15/2016	As needed	
Audit	Deceased Annuant ID Process*	Internal	Monthly	30 ILCS 805/8.40	N/A	1/31/2017	
Audit	Fiscal Year Audit Completion Report	Internal/ED approval? A& R Committee	Annual	Fiscal Control & Auditing Act	4/28/2016	5/1/2017	
Audit	FCIAA Internal Control Certification	Auditor General	Annual	FCIAA	4/26/2016	5/1/2017	
Audit	Two Year Audit Plan	Internal/ ED approval/A & R Committee	Annual	30 ILCS 10/2003	6/30/2016	6/30/2017	
Audit	Submission of System Audit (due after FY end)	Governor	Annual	State Auditing Act and 30 ILCS 5/3-14	FY2015	FY2016	
Investments	Invest in Illinois	Governor	Annual	PA 96-0753	8/22/2016	9/1/2017	
Investments	Investments Update -Monthly	Online Surs.org	Monthly	30 ILCS 237/10 PA 93-049	8/16/2016	9/5/2016	
Investments	Report to Gov. on MWBE Firms/HR/Vendors	Governor	Annual	40 ILCS 5/1-109	9/13/2015	12/30/2016	
Investments	Quinquennial Rep. US Owned Foreign Securities	Federal Reserve Bank	5 years	22 USC Sec 3101	2012	3/1/2017	
Investments	Restricted Companies Divestiture Reporting*	Illinois Investment Policy Board	Annual	40 ILCS 5/1-110.16	N/A	4/1/2017	
Investments	Illinois Finance Entity/High Risk Home Loan Act Cert.	DFPR-Public Pension/Insurance Div	Annual	40 ILCS 5/1-110.10; PA 95-521	7/25/2016	7/31/2017	
Investments	PRI Annual Assessment	UNPRI.org	Annual	UNPRI Signatory Rules	3/20/2016	04/31/2017	
Investments	Public Disclosure of Investments	SURS.org website	Quarterly	15 ICLS 520	6/31/2016	9/31/2016	
Investments	Written Investment Policies	Illinois Department of Insurance	Ad Hoc	40 ILCS 5/1-113.6	9/11/2015	As needed	
Investments	IS Policy Exemptions, Forms and Contract Summaries	Illinois Procurement Policy Board	Ad Hoc	40 ILCS 5/1-113.14	Ongoing	As needed	
Investments	Qualified FOF Mgmt. Services Contract Summaries	SURS.org website	Ongoing	40 ILCS 5/1-113.15	N/A	As needed	
Finance	GAAP	Comptroller	Annual (by 10/15)	PA 097-1055/ Financial Reporting Standards Board Act	9/29/2015	10/15/2016	
Finance	Public Accountability Report	Comptroller	Annual (by 10/15)	SAMS	10/15/2015	10/15/2016	
Finance	IRS Form 941-Employer Fed Tax Return Form	IRS	Quarterly	IRS CODE	7/21/2016	10/30/2016	
Finance	Cash Receipts and Disbursement Reports	Comptroller	Quarterly	SAMS	8/1/2016	10/30/2016	
Finance	Agency Fixed Asset Report	Comptroller	Quarterly	SAMS	7/22/2016	10/30/2016	
Finance	Accounts Receivable	Comptroller	Quarterly	SAMS	7/21/2016	10/31/2016	
Finance	Report on SMP Participation Rate	COGFA	Annual	40 ILCS 5/15	11/1/2015	11/1/2016	
Finance	Cert. of State Contribution and CIP	Governor, CMS, and Comptroller	Annual (by 11/15)	40 ILCS 5/14A	10/30/2015	11/15/2016	
Finance	Statement of the Financial Condition of the Fund	Pension Division of Illinois Dept. of Ins.	Annual	40 ILCS 5	12/21/2015	12/30/2016	
Finance	Actuarial Statement (part of Annual Fin. Statement)	Pension Division of Illinois Dept. of Ins.	Annual	40 ILCS 5	12/21/2015	12/30/2016	
Finance	Department of Insurance Report (CAFR)	Comptroller	Annual	15 ILCS 405/19.5	12/14/2015	12/31/2016	
Finance	IRS Form 1099R (FIRE)	IRS	Annual	IRS CODE	2/18/2016	2/28/2017	
Finance	IRS 1042: Withholding US income of Foreign Persons	IRS	Annual	IRS CODE	??	3/15/2017	
Finance	Fee Imposition Report	Comptroller	Annual by 9/1	15 ILCS 405/16.2	7/14/2016	7/31/2017	
Finance	5 year review of 90% funding target	COGFA	5 years	40 ICLS 1-103.3	12/31/2015	12/31/2020	
Finance	Certification of Overpayments	Internal and Board of Trustees	Annual	80 Ill Adm. Code Sec.1600.450	6/31/2016	06/31/2017	
Finance	IRS W-3	IRS	Annual	IRS Code	2/22/2016	1/31/17 (adjusted dl)	
Finance	Report on Voluntary Deductions	Comptroller	Annual (by 3/31)	5 ILCS 340/8	1/29/2016	3/31/2017	
Finance	Information to COGFA	COGFA	Ad Hoc/At will	40 ILCS 5/22-803	6/16/2016	As needed	
Finance/Mem Serv	Fin. Strmts to Participants/ Serv. Cred Strmts	Annuants	As requested	40 ILCS 5/15-175	Ongoing	ongoing	
Finance/Mem Serv	Reports to Reciprocity	Recip Systems	As requested	40 ILCS 5/20-126	Ongoing	ongoing	
Legal & Ethics	Ethics Training for Registered Lobbyists	Secretary of State	Annual	25 ILCS 170	2016 Complete	2017	
Legal & Ethics	Lobbying Expenditure Report (5th)	Secretary of State	Monthly	25 ILCS 170/6	7/18/2016	9/5/2016	
Legal & Ethics	Lobbying Expenditure Report (20th)	Secretary of State	Monthly	25 ILCS 170/6	8/1/2016	9/20/2016	
Legal & Ethics	Statement of Economic Interests (Board and Execs)	Secretary of State	Annual	5 ILCS 430/4-101	4/30/2016	4/30/2017	
Legal & Ethics	Annual Ethics Training for Trustees	Internal-Cert of Completion to EO	Annual	5 ILCS 430/5-10	5/31/6-6/13/16	5/3/2017	
Legal & Ethics	Ethics Training Plan/Ethics Training State Employees	Office of the Inspector General	Annual	5 ILCS 430/5-10	4/29/2016	6/30/2017	
Legal & Ethics	ARDC Registration	ARDC	Annual	128 Ill.2d 351, 538 NE 2d 1152	7/31/2016	7/31/2017	
Legal & Ethics	FOIA Officer Training & Annual Certification	IAG	Annual	5 ILCS 140/3.5	9/2/16 & 11/23/15	9/2/17 & 11/23/16	
Legal & Ethics	Ethics Officer Designation Notice	IL Executive Ethics Commission	As Needed/Ad Hoc	2 IL 1620.83	10/19/2015	as needed	
Legal & Ethics	Revolving Door Policy Sign off	Executive Inspector General	As Needed/Ad Hoc	5 ILCS 430/5-5-45	Time of Hire	As needed	
Legal & Ethics	Ex Parte Communications Reports	Executive Ethics Commission	As Needed/Ad Hoc	5 ILCS 430/5-50	At time of occurrence	As needed	
Legal & Ethics	OMA Trustee Training	IAG	One Time	5 ILCS 120/1.05	current various dates	As needed	
Legal & Ethics	QUILDRO Forms Electronic Availability	SURS.org website	Ongoing requirement	40 ILCS 5/1-119	current	as updated	
Human Resources	Separation Report	State Universities Civil Service System	Monthly (w/n 10 days EOM)	Civil Service Rule 250.30	8/12/2016	9/14/2016	
Human Resources	Form UI-3	IDES taxnet Online	Quarterly	IRS	7/20/2016	10/14/2016	
Human Resources	Report of Employee Served	State Universities Civil Service System	Quarterly (w/n 10 days EOO)	Civil Service Rule 250.30	7/11/2016	10/14/2016	
Human Resources	Exempt Employees Report	State Universities Civil Service System	Quarterly	110 ILCS 70/36 E	7/11/2016	10/15/2016	
Human Resources	Occupational Ethnic and Gender Report	State Universities Civil Service System	Quarterly (w/n 10 days EOO)	Civil Service Rule 250.3.1	7/11/2016	10/15/2016	
Human Resources	Agency Workforce Report	Secretary of State; Office of Governor	Annual	5 ILCS 410/20	12/16/2015 (FY 2015)	12/31/2016	
Human Resources	TA-2	Legislative Audit Commission	Bi-Annually	St. Fin. Act 30 ILCS 105/12-3	7/11/2016	1/15/2017	
Human Resources	BLS 790G New Hire Reporting	BLS/IDES website	Ad Hoc w/n 20 days of hire	29 USC 2	Time of Hire	As needed	
Human Resources	I-9 Eligibility	Internal In File	Ad Hoc w/n 20 days of hire	Dept. Homeland Security	Time of Hire	As needed	
Human Resources	SSA 1945	Internal In File	Ad Hoc w/n 20 days of hire	SSA	Time of Hire	As needed	

Regular Session 2016

Bills Passed Both Chambers

House Bill 4259 – SURS Participation Limited to Public Employees

Sponsors – Representative Martin J. Moylan and Senator Jennifer Bertino-Tarrant

HB 4259 excludes individuals who begin employment with the following employers on or after the effective date from participation under SURS: certain associations of community college boards, the Association of Illinois Middle-Grade Schools, the Illinois Association of School Administrators, the Illinois Association for Supervision and Curriculum Development, the Illinois Principals Association, the Illinois Association of School Business Officials, the Illinois Special Olympics, and any entity not defined as an employer.

HB 4259 also gives the SURS Board of Trustees final determination as to whether a person is an employee covered under SURS.

HB 4259 becomes effective on January 1, 2017.

Status: Governor Rauner Signed into Law on 8/19/2016 as Public Act 99-0830 (House Vote: 111-0-0; Senate Vote: 59-0-0).

House Bill 6021 – Election to Restore Survivors Insurance Benefits

Sponsors – Representative Sam Yingling and Senator Daniel Biss

HB 6021 allows eligible SURS retirees to restore their survivors insurance benefits by making a one-time, irrevocable election to repay their survivors refund or additional annuity, along with interest compounded at the actuarially assumed rate of return (7.25%), to SURS. The compounded interest applies from the date of issuance of the refund to the SURS retiree, or the date of issuance of each additional annuity payment to the SURS retiree, until the date of repayment to SURS. Full repayment must be made to SURS by the earlier of: 24 months after the date of the election or the date of the retiree's death. Eligible retirees have one year, beginning five months after the effective date of the legislation, to irrevocably elect to restore their survivors insurance benefits.

Under HB 6021, an eligible SURS retiree must meet the following requirements:

- He or she retired before June 1, 2011 and received a refund or additional annuity equal to the amount of his or her survivors insurance contributions; and
- He or she is a party to a: (1) civil union or legal relationship that is recognized as a civil union or marriage on or after June 1, 2011; (2) marriage on or after February 26, 2014; or (3) marriage, civil union, or other legal relationship that was not recognized in Illinois as a civil union or marriage until June 1, 2011, a marriage until February 26, 2014, or both.

HB 6021 takes effect immediately upon becoming law, with the election period lasting from December 29, 2016 through December 28, 2017.

Status: Governor Rauner Signed into Law on 7/29/2016 as Public Act 99-0682 (House Vote: 102-4-0; Senate Vote: 49-3-0).

House Bill 6030 – Deceased Annuitant Identification Process

Sponsors – Representative Deb Conroy and Senator Thomas Cullerton

HB 6030 requires each pension fund and retirement system under the Illinois Pension Code, except for downstate police and firefighters pension funds, to develop and implement, by June 30, 2017, a process to identify deceased annuitants.

Specifically, HB 6030 requires the pension fund or retirement system to check for deceased annuitants at least once per month and to use common methods to identify deceased persons, including:

- The use of a third party entity that specializes in identifying deceased persons;
- The use of data provided by the Social Security Administration;
- The use of data provided by the Illinois Department of Public Health’s Office of Vital Records; or
- The use of any other method commonly used by other states to identify deceased persons.

HB 6030 also amends the Vital Records Act to require any information contained in the state vital records to be made available, at no cost, to any pension fund or retirement system under the Illinois Pension Code for administrative purposes.

HB 6030 takes effect immediately upon becoming law, with the process to identify deceased annuitants required by June 30, 2017.

Status: Governor Rauner Signed into Law on 7/29/2016 as Public Act 99-0683 (House Vote: 118-0-0; Senate Vote: 54-0-0).

Senate Bill 1059 – SURS Self-Managed Plan Lump Sum Distribution Retirees Receive Health Insurance upon Returning to Work

Sponsors – Senator Chapin Rose and Representative Bill Mitchell

SB 1059 allows SURS members who elect a lump sum distribution of their vested account balances while retirement eligible under the Self-Managed Plan to receive state employee group health insurance benefits upon returning to work with a public employer covered under SURS.

SB 1059 contains an immediate effective date.

Status: Governor Rauner Vetoed on 7/29/2016 (Senate Vote: 53-0-0; House Vote: 97-12-1)

Senate Bill 2156 – SURS Participation, Basic Compensation, and Earnings Limitations

Sponsors – Senator Bill Cunningham and Representative Kelly M. Burke

SB 2156 makes the following changes for employees:

- It excludes individuals who begin employment with the following employers on or after the effective date from participation under SURS: certain associations of community college boards, the Association of Illinois Middle-Grade Schools, the Illinois Association of School Administrators, the Illinois Association for Supervision and Curriculum Development, the Illinois Principals Association, the Illinois Association of School Business Officials, and the Illinois Special Olympics, and any entity not defined as any employer. It also requires the SURS Board of Trustees to promulgate rules to determine whether a person is an employee covered under SURS and gives the Board final determination as to whether a person is an employee covered under SURS.
- It excludes amounts for bonuses, housing allowances, vehicle allowances, social club dues, and athletic club dues from the calculation of pensions for employees who first become participants of SURS on and after the effective date of the legislation.
- It provides that if a participant, beneficiary, or annuitant fails to provide any information necessary for the calculation, payment, or finalization of a retirement, survivors, disability, or death benefit within 90 days of the System's request for such information, then the System may cease processing the benefit and may not pay any additional benefit payment until the requested information is provided.

SB 2156 makes the following changes for employers:

- It requires an employer to respond to a request from SURS for any information necessary for the proper administration of the System (including employment contracts) within 90 calendar days and to respond to a request pursuant to an employer audit conducted by the System within 60 calendar days.

Beginning on the 91st calendar day after the System's request for information necessary for the proper administration of the System, or the 61st calendar day if the request is pursuant to an employer audit, it allows the System to assess a penalty of \$250 per calendar day until the System receives the information, with a maximum penalty of \$25,000. Should the employer fail to make the required payment within the earlier of one calendar year after receipt of the information by the System or one calendar year of the employer reaching the maximum penalty of \$25,000, the legislation allows the System to seek payment from the Comptroller through State funds payable to the employer.

- It requires employers under SURS to certify with each payroll submission that the information is correct and complies with all applicable state and federal laws.

SB 2156 also makes the following changes related to furloughs and voluntary pay reductions experienced by public higher education employees:

- It allows a SURS participant to establish service and earnings credit for periods of furlough, beginning on or after July 1, 2015 and ending on or before June 30, 2017. The participant must pay the required employee and employer contributions, in addition to compounded interest at the actuarially assumed rate of return (7.25%), to establish the service and earnings credit. The compounded interest applies from the date of furlough until the date of payment. Application to the System must be made before December 31, 2018.
- It allows a SURS participant to establish earnings credit for periods of a voluntary pay reduction taken in lieu of furlough, beginning on or after July 1, 2015 and ending on or before June 30, 2017. The participant must pay the required employee and employer contributions, in addition to compounded interest at the actuarially assumed rate of return (7.25%), to establish the earnings. The compounded interest applies from the date of the voluntary pay reduction until the date of payment. Application to the System must be made before December 31, 2018.
- It requires SURS to include earnings that would have been paid to a participant had he or she not taken a period of furlough or a voluntary pay reduction in lieu of furlough beginning on or after July 1, 2015 and ending on or before June 30, 2017 for the purposes of determining whether the employer must pay the present value of earnings increases above 6% during the final rate of earnings period to SURS.

Finally, SB 2156 codifies the default investment fund under the Self-Managed Plan.

SB 2156 becomes effective on January 1, 2017.

Status: Governor Rauner Signed into Law on 8/26/2016 as Public Act 99-0897 (Senate: 57-0-0; House 110-0-1).

Bills on Concurrence

House Bill 6292 – Alternative Investment Fund Transparency

Sponsors – Representative Elaine Nekritz and Senator Daniel Biss

As it passed the Senate, HB 6292 requires the disclosure of specific provisions of contracts and fees for new agreements entered into by a public retirement system, pension fund, or investment board after February 1, 2019 with an alternative investment fund. An alternative investment fund is defined as a private equity fund, hedge fund, or absolute return fund.

It creates the Investment Transparency Task Force to study, identify best available practices, and make recommendations relating to: (1) disclosure of, and best practices related to, the portions of limited partnership agreements addressing indemnification provisions, clawback provisions, and management fee waivers; and (2) disclosure of fees and expenses incurred, including related fee waivers and portfolio holding fees. The Task Force must report its findings and recommendations to the General Assembly and the public retirement systems, pension funds, and investment boards by January 15, 2018.

If a public retirement system, pension fund, or investment board adopts and implements the recommendations of the Task Force, and the General Assembly does not reject the recommendations of the Task Force by joint resolution during the 100th General Assembly, then the public retirement system, pension fund, or investment board is deemed in compliance with the legislation.

However, if the Task Force does not adopt recommendations by January 15, 2018, the General Assembly rejects the recommendations of the Task Force, or the public retirement system, pension fund, or investment board fails to adopt and implement the recommendations of the Task Force, then the following provisions of the legislation take effect:

- Public retirement systems, pension funds, and investment boards must disclose the following information within 90 days after entering into a new agreement to invest in

an alternative investment fund after February 1, 2019: (1) all management fee waiver provisions; (2) all indemnification provisions; (3) all clawback provisions; and (4) the cover page and signature block of the agreement. These disclosures must be filed with the Public Pension Division of the Illinois Department of Insurance, the Illinois Secretary of State, and posted and maintained on the website of the pension fund, retirement system, or investment board. They are also subject to disclosure under the Illinois Freedom of Information Act.

- Public retirement systems, pension funds, and investment boards must require their alternative investment fund external managers and general partners to disclose the following information annually for each alternative investment fund for new agreements entered into after February 1, 2019:

(1) The fees and expenses paid directly by the pension fund, retirement system, or investment board to the alternative investment fund or to the alternative investment fund external manager or general partner;

(2) The pension fund, retirement system, or investment board's share of all other fees and expenses, including carried interest, that are paid or allocated from the alternative investment fund to the external manager or general partners or that are deducted from payments owed from the external manager or general partners to the alternative investment fund;

(3) The amount of all management fee waivers made by the alternative investment fund external managers or general partners; and

(4) The total amount of portfolio holding fees incurred by each portfolio holding of the alternative investment fund as payment to any person who is a member of the external manager group.

These disclosures must be filed with the Public Pension Division of the Illinois Department of Insurance and posted and maintained on the public retirement system, pension fund, or investment board's website. An alternative fund external manager or general partner may comply with these disclosures by providing a public retirement system, pension fund, or investment board with a completed reporting template developed by the Institutional Limited Partners Association for the relevant category of investment for the year covered in the completed template.

As it originally passed the House, HB 6292 makes changes to the Cook County Pension Fund Article of the Illinois Pension Code.

Status: House Re-referred to House Rules Committee on 6/30/2016; Previously, passed the Senate (32-16-1) on 5/27/2016 and House placed on Calendar Order of Concurrence with Senate Amendments #1 and #3 on 5/29/2016.

Appropriations

On June 30, 2016, the FY2016 and FY2017 Stopgap Budget passed both chambers of the General Assembly and became law. The FY2016 and FY2017 Stopgap Budget consists of a budget implementation bill (Senate Bill 1810), which makes substantive changes to the law needed to carry out the actual appropriations contained in the budget bill (Senate Bill 2047).

Under the FY2016 and FY2017 Stopgap Budget, SURS will receive \$190 million from the State Pensions Fund in both FY2016 and FY2017. The remainder of the annual required State contributions to the System for FY2016 and FY2017 will come from the General Revenue Fund under the State Pension Funds Continuing Appropriation Act.

Senate Bill 1810 - FY2017 Stopgap Budget Implementation Act

Sponsors - Senator Donne E. Trotter and Representative Barbara Flynn Currie

SB 1810 creates the FY2017 Stopgap Budget Implementation Act. SB 1810 contains budget implementation language authorizing the use of money in the State Pensions Fund as part of the annual required State contribution to SURS for FY2017. SB 1810 also makes other changes.

Status: Governor Rauner Signed into Law on 6/30/2016 as Public Act 99-0523 (Senate Vote: 54-0-0; House Vote: 104-6-0).

Senate Bill 2047 - FY2016 and FY2017 Stopgap Budget

Sponsors - Senator Donne E. Trotter and Representative Barbara Flynn Currie

As it relates to SURS, SB 2047 appropriates \$190 million from the State Pensions Fund as part of the annual required State contribution to SURS for FY2016 and appropriates \$190 million from the State Pensions Fund as part of the annual required State contribution to SURS for FY2017. SB 2047 also makes other appropriations.

Status: Governor Rauner Signed into Law on 6/30/2016 as Public Act 99-0524 (Senate Vote: 54-0-0; House Vote: 105-4-1).

FY2016

For FY2016, SURS received \$1,411,480,000 from the General Revenue Fund under the State Pension Funds Continuing Appropriation Act and \$190 million from the State Pensions Fund for a total of \$1,601,480,000 (or the full certified State contribution to the System for FY2016).

Additionally, \$4,624,625 was transferred from the General Revenue Fund to the Community College Health Insurance Security Fund under the State Pension Funds Continuing Appropriation Act for the full certified State contribution to the College Insurance Program (“CIP”) for FY2016.

FY2017

The State Pension Funds Continuing Appropriation Act gives SURS the ability to submit vouchers for an amount up to the full certified State contribution to the System (\$1,671,426,000 for FY2017) for payment from the General Revenue Fund. SB 2047 appropriates \$190 million of the annual required State contribution for FY2017 from the State Pensions Fund (instead of the General Revenue Fund). This means that SURS will receive the remaining \$1,481,426,000 for FY2017 from the General Revenue Fund under the State Pension Funds Continuing Appropriation Act.

The State Pension Funds Continuing Appropriation Act also annually appropriates an amount equal to the full certified State contribution for CIP (\$4,309,111 for FY2017) from the General Revenue Fund to the Community College Health Insurance Security Fund.

MEMORANDUM

To: The Board of Trustees
From: Kristen Houch, Legislative Liaison
Subject: Proposed 2017 Spring Legislative Agenda

SURS staff proposes one substantive change and four technical changes for the 2017 Spring Legislative Agenda as follows:

Substantive Change:

1. Authorize the System to issue subpoenas in conjunction with: an attempt to obtain information to assist in the collections of sums due to the System; all personal identifying information necessary for the administration of benefits; and the determination of the death of a member:

(40 ILCS 5/15-168.1)

Sec. 15-168.1. Testimony and the production of records. The secretary of the Board shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents and records, including law enforcement records maintained by law enforcement agencies, in conjunction with:

(1) the determination of employer payments required under subsection (g) of Section 15-155;

(2) a disability claim;

(3) an administrative review proceeding;

(4) an attempt to obtain information to assist in the collection of sums due to the System, including, but not limited to, bank and other financial records;

(5) all personal identifying information necessary for the administration of benefits;

(6) the determination of the death of a member, named beneficiary, or annuitant; or

(7) a felony forfeiture investigation.

The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of this State and shall be paid by the party seeking the subpoena. The Board may apply to any circuit court in the State for an order requiring compliance with a subpoena issued under this Section. Subpoenas issued under this Section shall be subject to applicable provisions of the Code of Civil Procedure.

(Source: P.A. 94-1057, eff. 7-31-06.)

Technical Changes:

1. Correct the definition of "service" to reflect the enactment of Public Act 99-0897 (Senate Bill 2156):

(40 ILCS 5/15-113) (from Ch. 108 1/2, par. 15-113)

Sec. 15-113. Service. "Service": The periods defined in Sections 15-113.1 through 15-113.9 and Sections 15-113.11 through 15-113.12.

(Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12.)

2. Clarify statute to reflect the current and historical practice of the System whereby a disability retirement annuity recipient is prevented from back-dating his or her retirement annuity prior to termination of the disability retirement annuity:

(Text of Section WITHOUT the changes made by P.A. 98-599, which has been held unconstitutional)

Sec. 15-135. Retirement annuities - Conditions.

(a) This subsection (a) applies only to a Tier 1 member. A participant who retires in one of the following specified years with the specified amount of service is entitled to a retirement annuity at any age under the retirement program applicable to the participant:

35 years if retirement is in 1997 or before;

34 years if retirement is in 1998;

33 years if retirement is in 1999;

32 years if retirement is in 2000;

31 years if retirement is in 2001;

30 years if retirement is in 2002 or later.

A participant with 8 or more years of service after September 1, 1941, is entitled to a retirement annuity on or after attainment of age 55.

A participant with at least 5 but less than 8 years of service after September 1, 1941, is entitled to a retirement annuity on or after attainment of age 62.

A participant who has at least 25 years of service in this system as a police officer or firefighter is entitled to a retirement annuity on or after the attainment of age 50, if Rule 4 of Section 15-136 is applicable to the participant.

(a-5) A Tier 2 member is entitled to a retirement annuity upon written application if he or she has attained age 67 and has at least 10 years of service credit and is otherwise eligible under the requirements of this Article. A Tier 2 member who has attained age 62 and has at least 10 years of service credit and is otherwise eligible under the requirements of this Article may elect to receive the lower retirement annuity provided in subsection (b-5) of Section 15-136 of this Article.

(b) The annuity payment period shall begin on the date specified by the participant or the recipient of a disability retirement annuity submitting a written application, ~~which~~. For a participant, the date on which the annuity payment period begins—date shall not be prior to termination of employment or

more than one year before the application is received by the board; however, if the participant is not an employee of an employer participating in this System or in a participating system as defined in Article 20 of this Code on April 1 of the calendar year next following the calendar year in which the participant attains age 70 1/2, the annuity payment period shall begin on that date regardless of whether an application has been filed. For a recipient of a disability retirement annuity, the date on which the annuity payment period begins shall not be prior to the discontinuation of the disability retirement annuity under Section 15-153.2.

(c) An annuity is not payable if the amount provided under Section 15-136 is less than \$10 per month.

(Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12; 98-92, eff. 7-16-13.)

3. Clarify statute to reflect the current and historical practice of the System whereby a participant's disability benefits are discontinued upon his or her failure to provide an earnings verification necessary to determine the continuance of disability benefits:

(40 ILCS 5/15-152) (from Ch. 108 1/2, par. 15-152)

Sec. 15-152. Disability benefits - Duration. Disability benefits shall be discontinued when the earliest of the following occurs: (1) when disability ceases, (2) upon refusal of the participant to submit to a reasonable physical examination by a physician approved by the board, (3) upon refusal of the participant to accept any position, assigned in good faith by an employer, the duties of which could reasonably be performed by the participant and the earnings of which would be at least equal to the disability benefit payable under this Article, (4) upon September 1, following the participant's 70th birthday, if the disability benefit commenced prior to attainment of age 65, (5) the end of the month following the fifth anniversary of the date disability benefits commenced, if such benefits began after the attainment of age 65, ~~or~~ (6) when the total disability benefits paid equal 50% of the participant's total earnings for the entire period of employment for which service has been granted prior to the date disability benefits began to accrue, or (7) upon failure of the participant to provide an earnings verification necessary to determine continuance of benefits. If the disability was caused by an on-the-job accident, and the participant is granted workers' compensation or occupational disease payments from the employer or the State of Illinois, the limitation in clause (6) shall not be applicable.

Service and earnings credits under the State Employees' Retirement System of Illinois and the Teachers' Retirement System of the State of Illinois shall be considered in determining the employee's eligibility for, and the duration of disability benefits.

If, by law, a function of a governmental unit, as defined by Section 20-107 is transferred in whole or in part to an employer and an employee transfers employment from the governmental unit to such employer within 6 months after the transfer of this function, the pension credits in the governmental unit's retirement system which have been validated under Section

20-109, shall be treated the same as pension credits in this Section in determining an employee's eligibility for, and the duration of disability benefits.

(Source: P.A. 86-273.)

4. Clarify statute to reflect the current and historical practices of the System whereby: (A) a disability retirement annuity is discontinued upon a recipient's refusal to submit to a reasonable physical examination or failure to provide an earnings verification necessary to determine continuance of the disability retirement annuity; and (B) the costs incurred in completing a disability retirement annuity claim are allocated between the System and the claimant:

(40 ILCS 5/15-153.2) (from Ch. 108 1/2, par. 15-153.2)

Sec. 15-153.2. Disability retirement annuity. A participant whose disability benefits are discontinued under the provisions of clause (6) of Section 15-152 and who is not a participant in the optional retirement plan established under Section 15-158.2 is entitled to a disability retirement annuity of 35% of the basic compensation which was payable to the participant at the time that disability began, provided that the board determines that the participant has a medically determinable physical or mental impairment that prevents him or her from engaging in any substantial gainful activity, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

The board's determination of whether a participant is disabled shall be based upon:

(i) a written certificate from one or more licensed and practicing physicians appointed by or acceptable to the board, stating that the participant is unable to engage in any substantial gainful activity; and

(ii) any other medical examinations, hospital records, laboratory results, or other information necessary for determining the employment capacity and condition of the participant.

The terms "medically determinable physical or mental impairment" and "substantial gainful activity" shall have the meanings ascribed to them in the federal Social Security Act, as now or hereafter amended, and the regulations issued thereunder.

The disability retirement annuity payment period shall begin immediately following the expiration of the disability benefit payments under clause (6) of Section 15-152 and shall be discontinued for a recipient of a disability retirement annuity when (1) the physical or mental impairment no longer prevents the ~~participant~~ recipient from engaging in any substantial gainful activity, (2) the ~~participant~~ recipient dies, ~~or~~ (3) the ~~participant~~ recipient elects to receive a retirement annuity under Sections 15-135 and 15-136, (4) upon refusal of the recipient to submit to a reasonable physical examination by a physician approved by the board, or (5) upon failure of the recipient to provide an earnings verification necessary to determine continuance of benefits. If a person's disability retirement annuity is discontinued under clause (1), all rights and credits accrued in the system on the date that the disability retirement annuity began shall be restored,

and the disability retirement annuity paid shall be considered as disability payments under clause (6) of Section 15-152.

The board shall prescribe rules governing the filing, investigation, control, and supervision of disability retirement annuity claims. Costs incurred by a claimant in connection with completing a claim for a disability retirement annuity shall be paid (A) by the claimant, in the case of the one required medical examination, medical certificate, and any other requirements generally imposed by the board on all disability retirement annuity claimants; and (B) by the System, in the case of any additional medical examination or other additional requirement imposed on a particular claimant that is not imposed generally on all disability retirement annuity claimants.
(Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12.)