



## MINUTES

**Meeting of the Board of Trustees  
State Universities Retirement System  
Thursday, October 15, 2020, 3:30 p.m.  
Phone Dial In: Zoom Meeting Number: 1-312-626-6799  
Via remote access only due to COVID-19 statewide restrictions**

The meeting of the Board of Trustees of the State Universities Retirement System convened on Oct. 15, 2020, at 3:30 p.m. via zoom (video conference) based on the Executive Order allowing the Open Meetings Act to allow public meetings to be conducted via phone or video conference.

The following trustees were present: Mr. John Atkinson, chair, Mr. Richard Figueroa, Dr. Fred Giertz, Mr. Scott Hendrie, Dr. Steven Rock, Mr. Collin Van Meter, Mr. Antonio Vasquez, and Mr. Mitch Vogel.

Others present: Mr. Martin Noven, Executive Director; Ms. Tara Myers, Chief Financial Officer; Ms. Bianca Green, General Counsel; Mr. Albert Lee, Associate General Counsel; Mr. Doug Wesley, Chief Investment Officer (CIO); Ms. Ellen Hung, Deputy CIO; Ms. Suzanne Mayer, Chief Benefits Officer; Ms. Tara Myers, Chief Financial Officer; Ms. Jackie Hohn, Chief Internal Auditor; Ms. Kristen Houch, Head of Legislative Affairs; Ms. Kelly Carson, Ms. Chelsea McCarty and Ms. Annette Ackerman, Executive Assistants; Mr. Michael Calabrese of Foley; Ms. Linda Brookhart of SUAA; Ms. Angela Myers; and Ms. Quinn McCue.

Board of trustees roll call attendance was taken. Trustee Ammons, absent; Trustee Atkinson, present; Trustee Figueroa, present; Trustee Flaherty, absent; Trustee Hendrie, present; Trustee Giertz, present; Trustee Lyons, present; Trustee Rock, present; Trustee Van Meter, present; Trustee Vasquez, present; and Trustee Vogel, present.

## APPROVAL OF MINUTES

Trustee Atkinson presented the minutes from the board of trustee meetings of September 11, 2020.

Trustee Rock made the following motion:

- That the minutes from the September 11, 2020 Board of Trustees meeting be approved as presented.

Trustee Vasquez seconded and was followed by a roll call vote.

Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Hendrie	-	aye
Trustee Giertz	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

**APPROVAL OF CLOSED SESSION MINUTES**

Trustee Atkinson presented the closed session minutes from the board of trustees’ meetings of September 11, 2020.

Trustee Rock made the following motions:

- That the closed session minutes from the September 11, 2020 SURS Board of Trustees meeting be approved and remain closed.

Trustee Vasquez seconded and was followed by a roll call vote.

Trustee Ammons	-	absent
Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

**CHAIRPERSON’S REPORT**

Trustee Atkinson did not have a formal chairperson’s report.

**EXECUTIVE DIRECTOR’S REPORT**

Mr. Martin Noven stated that he did not have a formal report, but mentioned two Covid-19 cases at SURS, and briefly explained how the situations were handled.

**BOARD TRAVEL**

Mr. Noven stated there were no new items to be approved for board travel.

## **BOARD MIGRATION OF OFFICE 365**

Due to time constraints, this agenda item was excluded from the agenda.

A copy of the staff presentation titled “Board Presentation - InTune” is incorporated as part of these minutes as [Exhibit 1](#).

## **REVIEW OF COMMITTEE ACTION**

### **Investment Committee:**

On behalf of the Investment Committee, Trustee Vasquez presented the committee actions.

The Investment Committee recommends to the board:

- That based on the recommendation of SURS staff and Callan, the board approve a commitment of \$100 million to BlackRock Global Renewable Power Fund III, subject to successful contract negotiations.

Trustee Ammons	-	absent
Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	nay
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

- That based on the recommendation of SURS staff and Meketa, the board approve the revisions as discussed to the existing private equity accounts to better align with the portfolio objectives.

Trustee Ammons	-	absent
Trustee Atkinson	-	nay
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	abstain
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye

Trustee Vogel - nay

**Administration Committee:**

On behalf of the Administration Committee, Trustee Van Meter presented the committee actions.

The Administrative Committee recommends to the board:

- That based on the recommendation of Gabriel Roeder Smith & Company, the board approve \$2,102,981,000 to be certified for fiscal year 2022 as the proposed state contribution.

Trustee Ammons	-	absent
Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

- That based on the recommendation of SURS Staff, the board approve the amount of \$4,834,221 to be certified for fiscal year 2022 to the Community College of Health Insurance Security Fund.

Trustee Ammons	-	absent
Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

- That based on the recommendation of Gabriel Roeder Smith & Company, the board approve the Employer Normal Cost Rate of 12.32% for fiscal year 2022.

Trustee Ammons	-	absent
Trustee Atkinson	-	aye
Trustee Figueroa	-	aye

Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

**PLAN ELECTION TOOLS**

Due to time constraints, this agenda item was excluded from the agenda.

A copy of the staff memorandum titled “Plan Choice Memo” is incorporated as part of these minutes as [Exhibit 2](#).

**DRAFT PROPOSED RULEMAKING ON EMPLOYEE STATUS**

Mr. Albert Lee presented the board with an outline of drafted proposed rulemaking changes and a memorandum relating to a new administrative rule that will allow SURS to determine employee status for purposes of SURS eligibility. After staff receives feedback from employers, the revised version will be presented to the board for approval at either the February or March board meeting.

A copy of the staff memorandum titled “Memo to Board Re: Draft Proposed Rulemaking” is incorporated as part of these minutes as [Exhibit 3](#).

**TRUSTEE ELECTION – APPOINTMENTS TO PETITION CHALLENGE COMMITTEE, PROPOSED RULEMAKING AND ELECTRONIC PETITION SIGNING SERVICES**

Ms. Bianca Green reminded the trustees of the upcoming trustee election in May 2021. As outlined in the rules, there is a petition challenge period. The rule specifically states that three trustees (not running for the election) shall serve on the petition challenge committee. Staff recommended that Trustee Atkinson as chair of the board, Trustee Hendrie as chair of the Audit & Risk Committee and Trustee Rock as the chair of the Legal & Legislative committee serve on the committee.

Trustee Van Meter made the following motion:

- That Trustees Atkinson, Hendrie, and Rock be appointed to the SURS Trustee Election Petition Challenge Committee pursuant to Title 80, Section 1600.710(e)(2) of the Illinois Administrative Code.

Trustee Vasquez seconded and was followed by a roll call vote:

Trustee Ammons	-	absent
Trustee Atkinson	-	aye

Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

Ms. Bianca Green also presented staff’s proposal of the emergency and permanent rulemaking changes to SURS administrative rules regarding the trustee election process. These proposed changes would allow SURS members to sign candidate petitions by submitting electronic signatures through a secure portal designed by the independent election services vendor retained by SURS. Ms. Green explained that filing companion rules would make the proposed emergency rulemaking changes permanent.

Trustee Giertz made the following motion:

- That the proposed emergency rulemaking changes and the proposed regular rulemaking changes regarding trustee election petitions as reference in Title 80, section 1600.710(b) of the Illinois Administrative Code be filed in substantially the same format as presented.

Trustee Rock seconded and was followed by a roll call vote:

Trustee Ammons	-	absent
Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

Trustee Giertz made the following motion:

- That the purposed companion rulemaking changes regarding trustee election petition as referenced in Title 80, section 1600.700 and in section 1600.710 be filed in substantially the same format as approved for the emergency rule.

Trustee Rock seconded and was followed by a roll call vote:

Trustee Ammons	-	absent
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Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

Trustee Van Meter made the following motion:

- That staff finalize a contract amendment with the current trustee election services provider to add electronic petition signing services to be made available to all candidates.

Trustee Vasquez seconded and was followed by a roll call vote:

Trustee Ammons	-	absent
Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

Copies of the staff memorandum titled “Proposed Changes to Rule 1600.700 and 1600.710” and the red-line edits are incorporated as part of these minutes as [Exhibit 4](#).

### **SUAA MAILING REQUEST**

Ms. Kristen Houch presented a letter from Ms. Linda Brookhart asking the board to allow the State Universities Annuitant Association (SUAA) to send a blind mailing about SUAA to employees who are within five years of retirement. Ms. Brookhart explained why SUAA is asking for this mailing which would be a one-time waiver of the current SURS blind mailing policy and she thanked the board for its consideration of the request.

Trustee Rock made the following motion:

- To allow a one-time waiver to the SURS policy to allow a blind mailing under the offices of SUAA.

Trustee Vasquez seconded and was followed by a roll call vote:

Trustee Ammons	-	absent
Trustee Atkinson	-	aye
Trustee Figueroa	-	aye
Trustee Flaherty	-	absent
Trustee Giertz	-	aye
Trustee Hendrie	-	aye
Trustee Lyons	-	aye
Trustee Rock	-	aye
Trustee Van Meter	-	aye
Trustee Vasquez	-	aye
Trustee Vogel	-	aye

A copy of the letter from the State Universities Annuitant Association titled “SUAA letter to SURS Regarding Third Party Mailings” is incorporated as part of these minutes as [Exhibit 5](#).

#### **PUBLIC COMMENT**

There was no public comment presented to the board.

#### **TRUSTEE COMMENT**

Trustee Fred Giertz mentioned that CalPERS recently decided to make their investment committee a committee of a whole. Trustee Atkinson thanked staff for the hard work in preparation for this meeting.

There was no further business brought before the committee and Trustee Vogel moved that the meeting be adjourned. The motion was seconded by Trustee Vasquez and carried with all trustees present voting in favor.

Respectfully submitted,



Mr. Martin Noven  
Secretary, SURS Board of Trustees

MMN: kc/cm



# Device Management and Security SURS board rollout



# Why we're switching.

- ✓ Easier for the end user
- ✓ Straightforward and convenient email access
- ✓ Improved remote device management
- ✓ Simplified configuration – no app store or Apple ID
- ✓ Improved tracking of SURS' devices and data
- ✓ Reduced licensing fees (removing AirWatch)
- ✓ Increased data security
- ✓ New Mobile Device policies rolled out

# Here's all you need to do.

- ✓ Make sure your iPad is up to date
  - *Check Settings – General – software update*
  - *Assistance is available if needed*
- ✓ Setup an appointment with Service Desk technician
  - *Kelly will be in touch to get these on your calendar*

# During your appointment, you will...

- ✓ Be assisted with setting up your device, your Office 365 account, and multifactor authentication
- ✓ Be shown [office.com](https://office.com) to see how to check email from Windows or Mac
- ✓ Be shown how to reset or change your password from [office.com](https://office.com)



To: SURS Board of Trustees  
From: Suzanne Mayer & Stacy Smith  
Date: September 29, 2020  
Re: Plan Choice Microsite & Decision Tool

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### **New Plan Choice Microsite**

Alongside the work conducted to implement the Retirement Savings Plan and new Deferred Compensation Plan, SURS has worked with Voya over the past year to create an all-new plan choice microsite. The microsite was developed as part of a long-term initiative to improve plan choice education and represents a large step forward for SURS' educational program.

The microsite is specifically designed to walk new SURS members through an online educational experience that helps guide them through the process of choosing among the Traditional, Portable and Retirement Savings Plan. The site provides educational content, an interactive Plan Choice Decision Tool, and the ability to complete the plan election and beneficiary selection process online. After electing a plan, eligible members also will be given the option of enrolling in the new Deferred Compensation Plan once it becomes available. The microsite was made available to members on Sept. 1.

### **Development**

SURS has spent a considerable amount of time developing content for the new plan choice site. Over the past two years, we have worked closely with Gabriel, Roeder, Smith (GRS) in conducting an actuarial analysis of the Traditional, Portable and Retirement Savings Plan. The analysis compares the estimated value of the retirement benefits provided under all three plans and considers members' Tier, starting salary and years of service worked.

The results of the analysis provided valuable information on which plan is financially more advantageous in various scenarios and was utilized in developing the educational content for the site and decision tool. Because the plan that is the most financially beneficial may not always be the best plan for an individual, the site and tool also consider the non-financial aspects of each plan. All content displayed on the site underwent thorough review both in-house and by outside legal counsel. The site and tool provide educational guidance but do not provide advice.

### **Plan Choice Decision Tool**

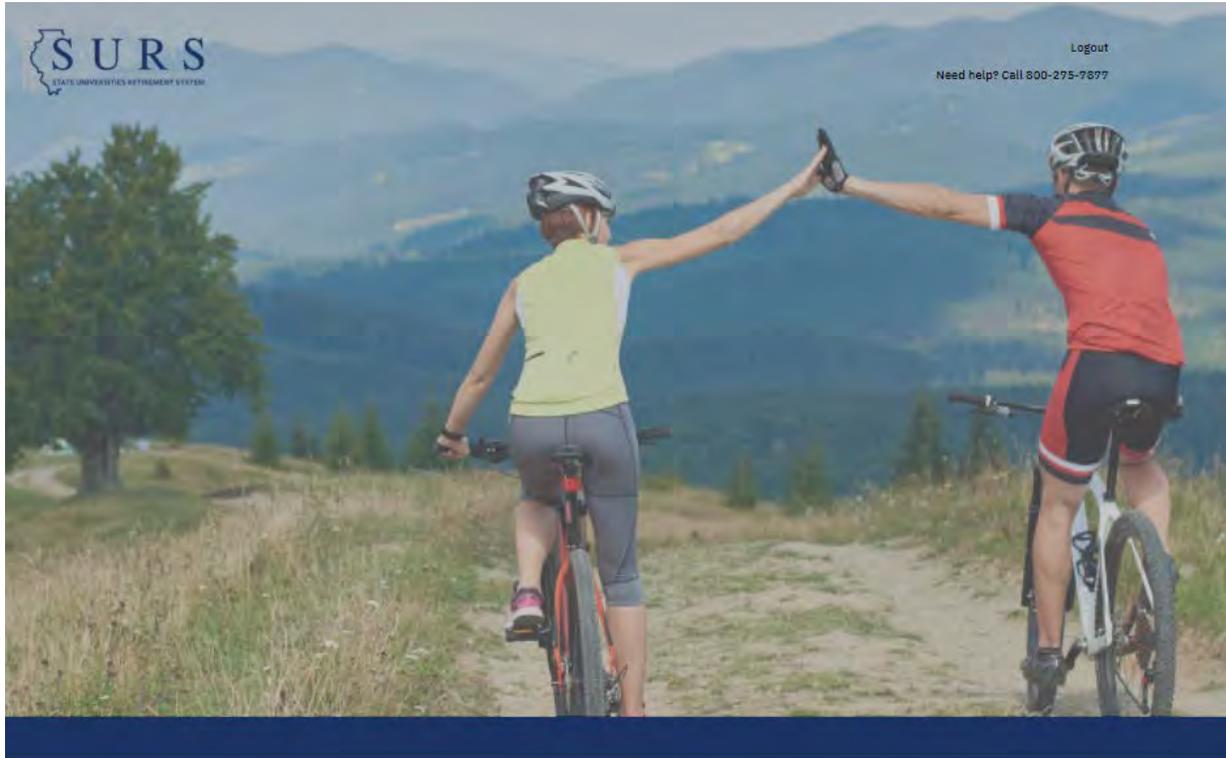
The new, interactive Plan Choice Decision Tool is the highlight of the new site. Members are prompted to answer questions about their salary, anticipated length of service, retirement income needs and confidence level. As they select answers, the tool displays relevant smart tips and personas. The tool is guided by behavioral finance concepts and is designed to help simplify the complicated information members must consider when making a plan choice.

### **New Plan Choice Guides**

In conjunction with development of the website, SURS redesigned the Plan Choice Guides sent to all new hires. The guides are also available on the website and complement the other educational information provided. Separate guides were created for Tier 1 and Tier 2. This is an enhancement as we previously had one guide for both Tiers.

### Plan Choice Microsite Screenshots

Select screenshots of the new plan choice microsite and tool follow. A demo will be shown at the Oct. 15 board meeting.



- Welcome
- Plan Choice Decision Tool
- Select Your Plan
- Review

### Welcome Halle,

As a member of SURS, you have a choice when it comes to your retirement. You must choose among three different retirement plans – the Traditional Pension Plan, the Portable Pension Plan, or the Retirement Savings Plan.

You have six months to choose a plan. If you do not choose a plan, you will be permanently enrolled in the Traditional Pension Plan. Keep in mind that this is a one-time election that can never be changed.

We've created a Plan Choice Decision Tool to help you determine which plan best meets your retirement goals. The tool is interactive and easy to use.

Let's get started!

**⌚ Don't Delay!**

Depending on the plan you choose, delaying your retirement plan election could reduce your retirement benefit.

# Plan Choice Decision Tool

Answer the questions below and see how the Smart Tips and Personas change depending on the variables you provide.

**Step 1**  
**Enter your salary** ⓘ  
Please enter your starting salary below.

Under \$30,000

**Step 2**  
**Enter your estimated years of employment** ⓘ  
How long do you anticipate working for your SURS-covered employer?

10 years

**Step 3**  
**What are your retirement income replacement needs?** ⓘ  
What is your goal for this retirement plan? How do you plan to maintain your standard of living during retirement?

I need to replace pre-retirement income with this plan.

I have other income sources to meet basic needs in retirement.

**Step 4**  
**Select your confidence level in your future plans** ⓘ  
In planning for your future, how confident are you that the answers provided in the previous questions will hold true?

Confident

**Smart Tips** [Browse Smart Tips](#) ✕ ➤

Traditional, Portable

Unless you expect to receive significant pay increases during your career, you will most likely not be affected by the pensionable earnings salary cap of the Traditional and Portable Plans. By choosing the Traditional or Portable Plan, you will most likely receive a higher monthly benefit if you meet vesting requirements.

**Personas** [Browse Personas](#) ✕ ➤

Traditional



[Click here to learn why Mary chose the Traditional Pension Plan](#)



Logout

Need help? Call 800-275-7877

Welcome

Plan Choice Decision Tool

Select Your Plan

Review

## Select your plan

New SURS members must choose a retirement plan within the first six months from the date SURS receives notice of employment from the employer.

You may make your choice below. Please note that this is a one-time choice that cannot be changed. If you have questions, you can speak to a SURS Member Service Representative by calling 800-275-7877 between the hours of 8:00 a.m. and 4:30 p.m. Central Time Monday, Tuesday, Wednesday, and Friday; and between 9:00 a.m. and 4:30 p.m. on Thursday.

I want to enroll in:

- Traditional Pension Plan
- Portable Pension Plan
- Retirement Savings Plan

If the above information is correct, please agree to the statement below to submit your election.

- I have taken advantage of the resources available to help me make an informed decision including the [Plan Choice Guide](#), the Plan Choice Decision Tool, and other resources available at [surs.org](https://surs.org).
- I understand that once I submit this election to SURS, it cannot be changed.

x: *Halle Lannister*

Go back

Submit Elections

**⌚ Don't Delay!**

Depending on the plan you choose, delaying your retirement plan election could reduce your retirement benefit.



## MEMORANDUM

**To: SURS Board of Trustees**

**From: SURS Legal Department**

**Date: October 2, 2020**

**Re: Draft Proposed Rulemaking – Request for Comments**

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The SURS staff wishes to gather comments from SURS employers about a draft proposed rulemaking concerning “employee” status, as defined under Section 15-107 of the Illinois Pension Code. Historically, employers have determined who is an “employee” for SURS purposes. Individuals who are “employees” can participate in the SURS Traditional Plan, Portable Plan, or Retirement Savings Plan. Almost all employees can participate in the SURS Deferred Compensation Plan, as well. In 2017, the General Assembly amended Section 15-107 to grant authority to the SURS Board to make the final determination as to “employee” status. Additionally, the General Assembly mandated that the Board promulgate rules that interpret and apply Section 15-107 of the Illinois Pension Code.

To comply with the mandate, the SURS staff has drafted proposed rulemaking language that provides guidelines for determining employee status. The staff plans to disseminate the enclosed memorandum and draft language to human resource and benefits personnel at the various SURS employers to gather preliminary feedback during the next two months. After having received employer feedback, the staff plans make any necessary revisions within the bounds of a reasonable interpretation of the statutes. The revised version is anticipated to be presented to the Board for approval for First Notice filing with the Secretary of State in early 2021 (tentatively at the February or March board meetings).



## REQUEST FOR COMMENTS

**To: SURS Employers**

**From: SURS Legal Department**

**Date: October 15, 2020**

**Re: Draft Proposed “Employee” Status Rule**

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The purpose of this Request for Comments is to solicit comments from SURS-covered employers about the enclosed draft rulemaking concerning the definition of “employee” as that term is used in the Illinois Pension Code. Comments will be accepted from employers until **5:00 pm CT on Monday, November 30, 2020**. Please email any comments to [rulemaking@surs.org](mailto:rulemaking@surs.org). Please be advised that although employer comments may be taken under advisement, SURS retains full authority to draft the rulemaking in compliance with Section 15-107 of the Illinois Pension Code.

### **Background of Rulemaking**

Section 15-107 of the Illinois Pension Code (40 ILCS 5/15-107) defines who is an “employee”. The term “employee” is used throughout Article 15 of the Illinois Pension Code to refer to individuals who are granted SURS pension and disability rights. Only “employees” are permitted to participate in the SURS Traditional Plan, Portable Plan, Retirement Savings Plan (formerly Self-Managed Plan), and Deferred Compensation Plan.

Since its inception in 1941 until 1982, SURS interpreted Section 15-107 and made determinations regarding “employee” status. In a 1982 decision under *Wargo v. SURS*, the Appellate Court of Illinois of the Fourth District held that the SURS Board of Trustees did not have the authority to decide whether a person was an “employee” under the Illinois Pension Code.<sup>1</sup> After the Fourth District’s decision, SURS assumed an advisory role and employers were tasked with making the ultimate determination as to who is an “employee” for SURS purposes. Over the course of time, employer policies regarding participation in SURS have come to vary substantially, which made uniform application of Section 15-107 difficult across all employers.

To remedy this fractured approach to statutory administration, the General Assembly passed Public Act 99-897, effective January 1, 2017.<sup>2</sup> Public Act 99-897 amended Section 15-107 to direct the SURS Board to promulgate rules regarding whether a person is an employee within the meaning of Section 15-107. In cases of doubt as to whether any person is an employee within the meaning of the statute or rule, the decision of the Board is to be final. This draft rulemaking intends to comply with the statutory mandate and to provide uniformity to the application of Section 15-107.

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<sup>1</sup> *Wargo v. State Universities Retirement System*, 106 Ill. App. 3d 930 (4th Dist. 1982).

<sup>2</sup> Public Act 99-897 § 5, 2016 Ill. Legis. Serv. P.A. 99-897 (S.B. 2156), eff. Jan. 1, 2017.

## **Summary of Draft Rulemaking**

### **1. General Definition of Employee**

Under Section 15-107, an employee must satisfy two criteria regarding (1) the minimum standards of employment and (2) the payment for services. The first criterion regarding minimum standards of employment can be satisfied under one of two tests – the “permanent and continuous standard” or the “minimum continuous duration standard”. The second test is the “payroll standard”. These tests are summarized below.

#### **A. Permanent and Continuous Standard**

Section 15-107(a) provides that an individual is an “employee” if the employment is “permanent and continuous”. The draft rule proposes to define a permanent position as being one that is intended to continue indefinitely in the absence of further action by the employer in the normal course of business, or is anticipated for automatic re-appointment upon expiration of the appointment term.

#### **B. Minimum Continuous Duration Standard**

The alternative minimum standard under Section 15-107(a) is that services are expected to be rendered “on a continuous basis for at least 4 months or one academic term, whichever is less”. The draft rule proposes to measure this duration from the employment commencement date and require a minimum of four months (16 weeks) or one academic term, whichever is less. The draft rule defines the term “academic term” to mean a portion of the academic year during which the employer holds classes that is no shorter than three months (12 weeks). If the employer is not an educational institution, then the “academic term” is to be 4 months (16 weeks).

#### **C. Payroll Standard**

An individual meets the payroll standard if the individual receives payment for personal services on a warrant issued by an employer and drawn by State Comptroller upon the State Treasurer, or by an employer upon trust, federal or other funds. In the alternative, the individual may be on a leave of absence without pay.

### **2. Continuous Employment**

The “permanent and continuous” and “minimum continuous duration” standards require the employment to be continuous. Section 15-107 defines a continuous employment to mean one that is not irregular, intermittent, or temporary. Due to the large differences between faculty and non-faculty positions, the rulemaking proposes to apply the continuous employment standard differently between those two categories of employment.

#### **A. Continuous Faculty Positions**

To qualify as a continuous faculty position, the individual must be in an academic appointment at an educational institution. The services required must be rendered for at least one work day per work week for the duration of the employment. The non-exhaustive list of services in the rule are intended to encompass most teaching and non-teaching duties that faculty customarily are required to perform. A “work day” is a day on which the employer is normally open for business and a “work week” is any week containing at least one work day. Work days include periods on formal leaves of absences, vacation, sick leave, or intervening break periods. The faculty position cannot be temporary, such as appointments to meet a short term demand, including temporary courses or substituting for an employee on leave. Although not the only factor, temporary appointments are generally those of a year or less in duration.

Faculty appointments of a fixed duration that are not expected to permit re-appointment at their termination are generally temporary, except if the appointment continues employee status from the immediately preceding academic term, or if the appointment is longer than one academic year or two academic terms.

## **B. Continuous Non-Faculty Positions**

To qualify as a continuous non-faculty position, the individual must be employed in a non-faculty position and must work for at least 10 work days in each month of employment. Work days include periods on formal leave, vacation, sick leave, or intervening break periods. The non-faculty position cannot be temporary, such as a hiring to meet a short term demand. Although not the only factor, temporary positions generally have a duration of one year or less. The non-faculty position must have expectations of work with a particular pattern or duration. The services cannot be on an “on-call” or “as-needed” basis, and must not fall within the definition of a “seasonal worker” under federal labor laws. Non-faculty employments of a fixed duration that are not expected to permit re-hiring at termination are generally temporary, except if the hiring continues employee status, or if the hiring is longer than one academic year.

### **3. Specific Exclusions**

Section 15-107 excludes certain individuals from attaining employee status, such as temporary student employees, SURS annuitants, individuals on military leave, individuals covered by the Federal Civil Service Retirement System, individuals on an unpaid leave of absence for more than 60 days after the termination of disability benefits, certain federally-paid employees, and certain public employees who are not treated as employed under the Social Security Act. Individuals who are excluded from employee status due to Section 210(a)(19) of the Social Security Act (concerning nonimmigrant visa status under a F, J, M, or Q visa) can attain employee status upon becoming a Lawful Permanent Resident or upon meeting the Substantial Presence Test under federal tax laws.

### **4. Employer Reporting Obligations**

The rulemaking proposes to require employers to certify an individuals' employee status upon initial hire, transfer to a substantially different position, rehire after termination from employment, or upon a significant reduction in hours, class load, credit hours, or percent-time for reasons other than a formal leave of absence, vacation, sick leave, holiday, or intervening break period. The rulemaking also requires employers to report terminations of employee status. An employee is not deemed terminated due to an intervening break period, unless the individual declines an appointment for the succeeding academic term or the employment is terminated and no earnings are received during the break period. An absence without pay, other than a formal leave of absence, is deemed to be a termination of employment on the 31st day if the absence is 30 days or longer within a 12-month period. Employers are required to submit a report of status change within 90 days of the hiring/transfer/reduction in hours or termination event. SURS may assess statutory penalties under Section 15-168(b) of the Illinois Pension Code if timely reports are not submitted.

### **5. Concurrent Employment**

If an individual is concurrently employed in more than one position with an employer, then employee status at one position will also qualify the other position for employee status for SURS purposes.

### **6. Correcting Errors in Participation**

If an employer discovers that it erroneously certified an individual as an “employee”, then the proposed rule requires the employer to notify SURS as soon as administratively practicable.

If SURS determines that the certification was in error, then the employer is required to stop deducting SURS contributions from the individual's wages. Any employee contributions that were made on a pre-tax "picked-up" basis, will not be returned to the employer. Instead they will be used to offset future employee contributions from that employer or to pay other employer contributions. The employer is required to make the employee "whole" by paying the erroneously deducted amounts to the employee as wages with interest at the SURS effective rate. SURS will distribute any after-tax contributions or other employee contributions to the individual with interest at the effective rate (such amounts will not be treated as eligible rollover distributions).

If an employer discovers that an individual was erroneously determined to not be an employee for SURS purposes, the proposed rule requires the employer to retroactively certify the individual for SURS participation effective as of the date of employment. The employer is required to remit to SURS any missed employee contributions and any missed employer contributions with interest at the effective rate. Any corrective contributions must be made according to IRS correction procedures. Any missed plan election opportunities will be granted to the individual beginning from the date SURS receives the corrected certification. Notwithstanding the foregoing, participation errors are required to be corrected in compliance with IRS regulations and guidance.

If a determination as to employee status adversely affects an individual or an employer, the affected employee may file an administrative appeal via the SURS Claims Panel appeals process found in 80 Ill. Adm. Code § 1600.500 and/or the affected employer may file an administrative appeal via 80 Ill. Adm. Code § 1600.510. If an individual employee and employer file separate administrative appeals relating to the same staff determination, SURS may consolidate the appeals for review by the SURS Claims Panel.

### **Anticipated Timelines**

After receiving comments from employers by the November 30th deadline, SURS will determine whether to include any employer suggested changes in the proposed rule. Subject to approval by the SURS Board of Trustees, SURS expects to submit the proposed rulemaking for First Notice publication in the Illinois Register by early to mid-2021 and hopes the rule will be adopted following Second Notice publication in the Illinois Register by early fall of 2021. SURS intends to apply the proposed rulemaking prospectively from the date of final adoption.

**(New) Section 1600.200 Definition of "Employee" for Determination of SURS Participation**

Purpose. As mandated by Section 15-107(k) of the Code, this Section provides rules for determining whether an individual is an "employee," as defined under Section 15-107 of the Code, who is eligible to participate in a SURS retirement program.

a) General Definition. "Employee" means *any member of the educational, administrative, secretarial, clerical, mechanical, labor or other staff of an employer* who satisfies either the "permanent and continuous standard" under paragraph (1) or the "minimum continuous duration standard" under paragraph (2), and meets the "payroll standard" under paragraph (3).

- 1) Permanent and Continuous Standard. An individual satisfies this paragraph (1) if—
  - A) the position is *permanent*, that is, it is intended to continue indefinitely in the absence of further action by the employer in the normal course of business or is anticipated for automatic reappointment upon expiration of the appointment term; and
  - B) the position is *continuous* as described in paragraph (a)(4).
- 2) Minimum Continuous Duration Standard. An individual satisfies this paragraph (2) if—
  - A) the position has a fixed *duration* of at least 4 months (or 16 weeks) or one academic term, whichever is less, measured from the employment commencement date; and
  - B) the position is *continuous* as described in paragraph (a)(4).

For purposes of this paragraph (2), "academic term" means a portion of the academic year during which the employer holds classes that is no shorter than 3 months (or 12 weeks) in duration. If an employer is not an educational institution that holds classes, then the academic term shall be 4 months (or 16 weeks) for purposes of this Section.

- 3) Payroll Standard. An individual satisfies this paragraph (3) if he or she -
  - A) receives payment for personal services on a warrant issued pursuant to a payroll voucher certified by an employer and drawn by the State Comptroller upon the State Treasurer or by an employer upon trust, federal or other funds; or
  - B) is on a leave of absence without pay.

- 4) Continuous Employment. To be continuous, a position must not be *irregular, intermittent or temporary*. SURS reserves the right to determine whether a position is irregular, intermittent, or temporary on a case-by-case basis. A position must meet all the applicable requirements below to be continuous, depending on whether it is a faculty position or a non-faculty staff position:
- A) Continuous Faculty Position. "Faculty" for purposes of this subparagraph (A) means an individual who has an academic appointment at an educational institution (*e.g.*, professor, associate professor, assistant professor, professor of practice, instructor, or lecturer).
- i) The faculty position customarily requires services to be rendered for at least one work day per work week for the duration of the appointment. Services include customary faculty activities including, but not limited to, classroom instruction, conducting research activities, applying for grant funding, holding office hours, grading student coursework, sitting on planning committees, and participating in professional development. A "work day" shall mean a day on which the employer is normally open for business. A "work week" shall mean a calendar week containing at least one day on which the employer is normally open for business. A work day shall include a work day on which the individual is employed by the employer and would have rendered services but for:
- a formal leave of absence (including furlough);
  - a vacation;
  - a sick leave; or
  - an intervening break period between academic terms if the individual is an employee as defined under Section 15-107 of the Code during the academic term preceding the break period and the individual does not decline an appointment for the succeeding academic term or otherwise terminate employment.
- ii) The faculty position is not temporary. A position is temporary if the individual is hired by the employer to help meet a short term demand, such as to complete a project of specified short term duration, to teach a temporary course, or to fill a position temporarily vacated by an employee who is sick or on a leave of absence, or if the funding for the position is temporary. A temporary position has a duration of one year or less.

iii) If the faculty position has a fixed duration under subparagraph (a)(2)(A), the employer does not know of any fact or circumstance at the time of appointment that would preclude the individual from seeking reappointment upon the expiration of the appointment. For example, if an individual is hired for an academic term in a position that meets the requirements of clauses (i) through (ii), but the individual has applied for retirement with an effective date that would prevent him or her from seeking reappointment for the following academic term, then the position is not continuous. This clause shall not apply if:

- the individual was an employee as defined under Section 15-107 of the Code during the academic term immediately preceding the appointment; or
- the appointment is to a position that has a fixed duration of at least one calendar year or two academic terms (as defined under paragraph (a)(2)).

B) Continuous Non-Faculty Staff Positions. "Non-faculty staff" for purposes of this subparagraph (B) means an individual who does not have an academic appointment at an educational institution (*e.g.*, academic professionals, research scientists, technicians, clerical staff, IT staff, or housekeeping/janitorial staff).

i) The non-faculty staff position customarily requires services to be rendered for at least 10 work days in each month of employment. A "work day" shall mean a day on which the employer is normally open for business. A work day shall include a work day on which the individual is employed by the employer and would have rendered services but for:

- a formal leave of absence (including furlough);
- a vacation;
- a sick leave; or
- an intervening break period between academic terms if the individual is an employee as defined under Section 15-107 of the Code during the academic term preceding the break period and the individual does not otherwise terminate employment.

ii) The non-faculty staff position is not temporary. A position is temporary if the individual is hired by the employer to help meet a

short term demand, such as to complete a project of specified short term duration or to fill a position temporarily vacated by an employee who is sick or on a leave of absence, or if the funding for the position is temporary. A temporary position has a duration of one year or less.

- iii) The non-faculty staff position has expectations of work with a particular pattern or duration. The services in the position are not rendered solely on an "on-call" or "as-needed" basis (*e.g.*, on-call shuttle drivers, extra-help employees, tutors, and driving instructors). The position does not fall within the scope of a "seasonal worker" under 26 C.F.R. § 54.4980H-1(a)(39) or 29 C.F.R. § 500.20(s)(1).
- iv) If the non-faculty staff position has a fixed duration under subparagraph (a)(2)(A), the employer does not know of any fact or circumstance at the time of hire that would preclude the individual from seeking reemployment upon the expiration of the employment term. For example, if an individual is hired for 4 months in a position that meets the requirements of clauses (i) through (iii), but the individual has applied for retirement with an effective date that would prevent him or her from seeking reemployment after the 4th month, then the position is not continuous. This clause shall not apply if:
  - the individual was an employee as defined under Section 15-107 of the Code immediately preceding the fixed duration employment; or
  - the employment is to a position that has a fixed duration of at least one calendar year.

b) Specific Exclusions.

- 1) Notwithstanding the foregoing, an individual is not an employee under this Section if any of the exclusions under Sections 15-107(a)(1) through (a)(7) of the Code apply.
- 2) In accordance with Section 15-107(a)(7) of the Code, an individual who is employed on or after July 1, 1991, to perform services that are excluded by subdivision (a)(7)(F) or (a)(19) of Section 210 of the Social Security Act from the definition of employment given in that Section (42 U.S.C. 410) shall not be an employee under Section 15-107 until he or she becomes a Lawful Permanent

Resident, meets the Substantial Presence Test under 26 C.F.R. § 301.7701(b)-1(c), or otherwise becomes a U.S. person for federal income tax purposes.

- c) Certification of Employee Status. An employer shall certify any individual who meets the applicable eligibility conditions set forth under this Section as an employee within the meaning of Section 15-107 by submitting a Report of Status to SURS.
- 1) An employer shall determine whether an individual is an employee under this Section, or remains an employee under this Section, upon the occurrence and re-occurrence of any of the following events:
    - i) initial hire;
    - ii) transfer to a different position that is substantially different in character or duration;
    - iii) rehire after termination from employment; or
    - iv) a significant reduction in hours, class load, credit hours, or percent-time due to reasons other than:
      - a formal leave of absence (including furlough);
      - a vacation;
      - a sick leave;
      - a holiday; or
      - an intervening break period between academic terms if the individual is an employee as defined under Section 15-107 of the Code during the academic term preceding the break period and the individual does not decline an appointment for the succeeding academic term or otherwise terminate employment.
  - 2) Termination of Employee Status.
    - i) An individual's employee status with the employer is terminated upon the effective date of termination or expiration of the appointment or employment term. However, in accordance with Section 15-107(g) of the Code, an individual whose employment contract requires services during an academic term is considered an employee during an intervening break period between academic terms, unless the individual declines an appointment for the succeeding academic term or his or her employment status is otherwise terminated, and he or she receives no earnings during these periods.
    - ii) In accordance with Section 15-107(f) of the Code, in the event that an individual is absent without pay, other than under a formal leave of

absence, for a period of 30 or more consecutive work days within a 12-month period, the individual shall be deemed to have incurred a termination of employment on the 31st work day of the absence.

- 3) **Reporting Deadline and Penalty.** Beginning on the effective date of this Section, this rulemaking shall be deemed to be a standing request for employee status information. An employer shall submit a Report of Status within 90 days of the determination date under paragraph (c)(1) or the date of termination of employment under paragraph (c)(2). The failure to submit timely employee status information may incur penalties assessed under Section 15-168(b) of the Code.
- d) **Concurrent Employment.** If an individual is concurrently employed in more than one position with the same employer, and at least one position qualifies for employee status under Section 15-107 of the Code as interpreted under these rules, then the other position or positions shall also be deemed as qualifying for employee status during the duration of the qualifying employment.
- e) **Correcting Errors in Participation.**
  - 1) **Erroneous Inclusion in SURS Retirement Program.**
    - i) If an employer determines that an individual was erroneously certified as an employee under this Section, the employer shall notify SURS of the erroneous certification as soon as administratively practicable. If SURS determines that an individual was erroneously certified as an employee under this Section, SURS shall notify the employer of the erroneous certification as soon as administratively practicable. In such case, the employer shall immediately cease deducting SURS employee contributions from the individual's wages.
    - ii) If employee contributions were remitted to SURS as picked-up contributions under Section 15-157.1 of the Code, the employer shall pay the erroneously deducted amounts with interest at the effective rate to the individual as wages. Any other erroneous employee contributions shall be distributed from the SURS retirement program to the individual with interest at the effective rate with written notice that the distribution is not eligible for tax-free rollover. Any erroneous employee contributions remitted to SURS as picked-up contributions under Section 15-157.1 of the Code or any other erroneous employer contributions under the Code shall not revert to the employer but shall be used to offset the employer's future picked-up employee contributions or other employer contributions.
  - 2) **Erroneous Exclusion from SURS Retirement Program.**
    - i) If an employer or SURS determines that an individual was erroneously excluded from certification as an employee under this Section, then the

- employer shall retroactively certify the individual for SURS participation effective as of the date of employment as an employee. The employer shall remit to SURS any missed picked-up employee contributions required under Section 15-157.1 of the Code and any other missed employer contributions for periods of service commencing on the certification date with interest at the effective rate. The employer shall remit to SURS any corrective contributions required for any other missed employee contributions in accordance with IRS correction guidance.
- ii) If the individual is certified as a "newly eligible employee" under Section 15-134.5(b) of the Code, then the time period to make a plan election under that section shall begin from the date SURS receives the certification.
- 3) **IRS Guidance.** Notwithstanding paragraphs (1) and (2), participation errors shall be corrected in accordance with regulations and guidance issued by the U.S. Treasury Department from time to time.
- f) **Appeals.** An individual who is adversely affected by a staff determination made under this Section may file an appeal under Section 1600.500, subject to the filing requirements therein. An employer that is adversely affected by a staff determination made under this Section may file an appeal under Section 1600.510, subject to the filing requirements therein. If an individual and an employer both bring appeals concerning the same determination of employee status, then SURS may consolidate the matters under one of the appeals.



## **MEMORANDUM**

TO: SURS Board of Trustees

FROM: Bianca T. Green, General Counsel  
Albert Lee, Associate General Counsel

DATE: October 12, 2020

RE: **October 2020 Proposed Emergency and Permanent Rulemaking Changes**

Staff proposes making emergency and permanent substantive rulemaking changes to the SURS regulations relating to the trustee election process. These proposed rulemaking changes do not appear in the July 2020 Regulatory Agenda, but there is no requirement that they be referenced there. SURS is free to pursue rulemaking changes at any point in time, regardless of whether proposed changes are reflected in the Regulatory Agenda. The regular rulemaking process, beginning with submission to the Joint Commission on Administrative Rules (JCAR) and the Illinois Secretary of State to final adoption takes approximately four months. However, the emergency rulemaking process is designed to move much faster to allow for immediate, temporary changes. The Emergency Rulemaking process and the proposed changes to the trustee election process that will allow candidates to submit electronic signatures through an independent, secure third-party vendor are described below:

### **1. JCAR – Emergency Rulemaking Process**

Emergency rules are temporary JCAR rules that take effect immediately or up to 10 days after they are filed with the Illinois Secretary of State. They will remain in effect for no more than 150 days. Emergency rulemaking will be allowed if an agency determines that a "threat to the public interest, safety or welfare" requires its rules to be adopted in less time than required for the standard rulemaking process. The Secretary of State will issue a blanket "approval" for emergency rules but JCAR performs its own review to make sure they meet these criteria.

After completing its review, JCAR can issue an objection to the rule and the agency can amend, repeal, or refuse the amend/repeal. If the agency refuses to amend/repeal then JCAR can suspend the rule. Thus, JCAR can take the following actions concerning emergency rules:

- 1) JCAR can issue a "Recommendation" indicating that it has concerns regarding the language, the process the agency followed in adopting the rule, or the agency's use of emergency rulemaking. A "Recommendation" does not affect the validity or enforcement of the rule.

- 2) JCAR can issue an “Objection” to an emergency rule indicating that JCAR finds the rule to be inconsistent with statute, finds that it has an adverse economic impact on small businesses, small municipalities, and non-profit organizations, finds that it fails to meet some other standard established by the IAPA, or finds that the rulemaking process failed to meet the requirements of or the agency did not have sufficient reason to use emergency rulemaking. An agency may modify an emergency rule only in response to an Objection (in the case of an emergency rule, the modification lasts for the remainder of the 150 day life of the original rule or until the emergency rule is replaced by a permanent proposed rule with the modification). The agency must respond to the Objection within 90 days or its failure to do so will be deemed to be a refusal to modify the rulemaking.
- 3) JCAR can issue a “Suspension” of an emergency rule in conjunction with an Objection. A “Suspension” stops the rule from being enforced based on JCAR's finding that the rule is contrary to the public interest, safety or welfare and/or that there was no legitimate reason for the agency to have used emergency rulemaking. The rule cannot be enforced until JCAR agrees to withdraw the “Suspension,” which may remain in effect up to 180 days. If not withdrawn by the end of that period, the Suspension becomes permanent.

Under Section 5-125, JCAR can pre-emptively “suspend” a rule for up to 180 days by issuing a certification that the rule does not meet the IAPA’s standards and is a “serious threat to the public interest, safety, or welfare.” This suspension can be overridden by the General Assembly by joint resolution within the 180 day period. If JCAR does not withdraw the certification or if the General Assembly does not override it during the 180 day period, the rule will be automatically repealed.

Finally, if an agency wants to maintain the policy established in the temporary emergency rule after the initial 150 days, a companion proposed rule must also be filed and adopted. The companion proposed rulemaking should be adopted before the emergency rule expires. Agencies cannot file the same emergency rule more than once within a 24-month period, unless the General Assembly makes an exception to this limit and to the 150-day limit in statute. Statutes may also authorize agencies to use emergency rulemaking for specific purposes.

We do not expect to encounter any difficulties with the proposed emergency rules. The proposed rulemaking changes outlined below are designed to reduce a “serious threat to the public interest, safety and welfare” due to the pandemic. Further, JCAR recently confirmed that suspensions are only issued for “particularly egregious” cases. So, although JCAR is allowed to review and respond to emergency rulemaking, the proposed amendments to SURS Administrative Rules Section 1600.700 and 1600.710 would not fall within the class of “egregious” cases that would warrant suspension. In addition, because we fully trust our election services vendor to receive and count ballots and to deliver our certified trustee election results, we are confident that they can handle the petition signature submissions with ease.

We also feel that the time is right to update the overall petition signing process to allow SURS members to “sign” petitions by submitting electronic signatures through the secure portal designed by our election services vendor. Our vendor has already created petition signing portals for other clients and they can have a portal up and running for our election in less than four weeks. (Petitions are not due until 1/31/2021.) We believe making these proposed changes on an emergency and then on a permanent basis will not only reduce personal safety concerns during

this election year, but they will also enhance security and improve efficiency of our overall trustee election process in years to come.

## II. PROPOSED EMERGENCY AND COMPANION RULEMAKING CHANGES

### Section 1600.700 – Nomination of Candidates

### Section 1600.710 - Petitions

Both of the above administrative rules relate to the “Board Created” statute found in the Illinois Pension Code. 40 ILCS 5/15-159. This statute requires candidates running for participating trustee positions to be “nominated by petitions in writing, signed by not less than 400 participants...” and similarly requires candidates running for annuitant trustee petitions to be “nominated by petitions, in writing, signed by not less than 100 annuitants...” 40 ILCS 5/15-159(e) (West 2020). The SURS administrative rules referenced above outline the procedure used to track these statutory requirements and they also include additional restrictions. For example, the administrative rules specify that the signatures be “original” and that the person circulating the petitions is required to verify their collection of the original signatures before a Notary Public.

Given current safety concerns due to the COVID-19 pandemic, SURS staff believes it can amend the JCAR rules to allow SURS to offer the services of a third-party election services vendor who can create a secure portal through which SURS members can submit their “written signatures” electronically. Doing so will reduce close, face-to-face contact between candidates (and family/friends who may be assisting them in the signature collection process) and our members during a time when doing so can be dangerous. The Governor of Illinois continues to issue Emergency Proclamations to reduce the spread of the COVID-19 virus and the proposed emergency rulemaking change will further that effort.

SURS would also like to file companion rules that would make the proposed emergency rulemaking changes permanent. This will provide flexibility moving forward. SURS will not be *required* to offer the services of a third-party election vendor for the submission of electronic signatures every time. But, making the proposed changes permanent will give us the flexibility to do so, which will serve to increase the security of our petition signing process and enhance the efficiency of our overall trustee elections.

**Staff Recommendation: That the SURS Board of Trustees approve the proposed emergency rulemaking changes to Section 1600.700 and 1600.710 for submission to the Illinois Secretary of State and that the SURS Board of Trustees approve companion rulemaking changes to be submitted as permanent changes for First Notice publication by JCAR and the Illinois Secretary of State.**

**TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES**  
**SUBTITLE D: RETIREMENT SYSTEMS**  
**CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEM**  
**PART 1600 UNIVERSITIES RETIREMENT**  
**SECTION 1600.700 NOMINATION OF CANDIDATES**

**Section 1600.700 Nomination of Candidates**

- a) The Board Secretary shall determine the number and type of Board positions to be filled at an election. The Secretary shall announce the election by October 1 preceding the next election.
- b) Any candidate for an open contributing membership position on the System's Board of Trustees:
  - 1) Shall be, on the date voter eligibility is determined pursuant to Section 1600.715, an employee who has been certified as a SURS covered employee by the employee's employer and an employee for whom employee contributions have been received in the previous 31 days;
  - 2) Shall be nominated by a written petition and/or if offered by SURS, by a petition with electronic signatures submitted via an independent, secure third-party vendor selected by SURS, for a single candidate only, signed by no fewer than 400 individuals who, as of the date of signing, were participants. Each candidate must submit their own petition and/or obtain electronic signatures on behalf of their own candidacy. Single petitions listing multiple candidates will not be accepted.
- c) Any candidate for an open annuitant position on the System's Board of Trustees:
  - 1) Must have been an annuitant for at least one full year prior to the Election Date as determined pursuant to Section 1600.705;
  - 2) Shall be nominated by a written petition and/or if offered by SURS, by a petition with electronic signatures submitted via an independent, secure third-party vendor selected by SURS for a single candidate only, signed by no fewer than 100 individuals who, as of the date of signing, were annuitants. Each candidate must submit their own petition and/or obtain electronic signatures on behalf of their own candidacy. Single petitions listing multiple candidates will not be accepted.
- d) For purposes of determining whether a SURS member is a contributing member, participant, or annuitant pursuant to this Subpart G:
  - 1) A SURS member who is a contributing member or participant in the Self-Managed Plan, described in Section 15-158.2 of the Pension Code, is

eligible under the same terms as SURS members who are in the traditional or portable benefit package, described in Sections 15-103.1 and 15-103.2, respectively, of the Pension Code, and a benefit recipient pursuant to an annuity contract purchased under the self-managed plan is an annuitant;

- 2) A SURS member receiving a preliminary estimated payment pursuant to Section 1600.420 is an annuitant;
  - 3) A SURS member receiving a disability pursuant to Section 15-150 of the Illinois Pension Code is not an annuitant, but is considered a contributing member for purposes of Board elections.
- e) All candidates must complete an application in the form adopted by the System. Candidate application forms may be obtained from the Board Secretary, upon written or oral request by the candidate, on or after October 1 immediately preceding the Election Date. The completed candidate application form shall be submitted to the Board Secretary by the December 31 immediately preceding the Election Date.
- f) The Board Secretary shall determine the eligibility of candidates pursuant to the Illinois Pension Code and this Part. If a candidate should become ineligible for the Board position after submission of the candidate application form, but before the election, the Board Secretary shall declare the candidate ineligible and remove that candidate from the ballot. If a candidate should become ineligible for the Board position after the printing of the ballots, the ineligible candidate's votes shall not be counted.

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

**TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES**  
**SUBTITLE D: RETIREMENT SYSTEMS**  
**CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEM**  
**PART 1600 UNIVERSITIES RETIREMENT**  
**SECTION 1600.710 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. If offered by SURS, petition signatures can also be submitted via an independent, secure third-party vendor selected by SURS to accept signatures electronically.
- 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. If using the offered third-party vendor for submitting electronic signatures, the candidates may submit their own signatures electronically as well.
  - 2) 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 unless they are submitted via an offered third-party vendor. Each candidate must submit their own petition and/or obtain electronic signatures on behalf of their own candidacy. Single petitions listing multiple candidates will not be accepted.
  - 3) Each original or electronic 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.
  - 4) Petitions may be circulated for signatures commencing the October 1 immediately preceding the applicable Election Date and ending on January 31.
  - 5) An individual eligible to sign a petition nominating a candidate for an open contributing membership position on the Board may sign original and/or electronic petitions for as many contributing membership position candidates as desired.

- 6) An individual eligible to sign a petition nominating a candidate for an open annuitant position on the Board may sign original and/or electronic petitions for as many annuitant candidates as desired.
  - 7) The Original -hardcopy petitions 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). These requirements do not apply to petition signatures submitted electronically through the third-party vendor offered by SURS.
  - 8) Original petitions and petitions with electronic signatures 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 and/or printouts of electronic signatures filed, with any confidential information redacted;
  - 2) Petitions and electronic signatures 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 and electronic signatures 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)



October 7, 2020

Re: Third-party Mailings to Current Campus Staff and Administration

Dear Martin Noven, Executive Director; John Atkinson, Chairperson; and Members of the Board Richard Figueroa, Fred Giertz, John Lyons, Collin Van Meter, Mitchell Vogel, Aaron Ammons, Jamie-Clare Flaherty, Scott Hendrie, Steven Rock and Antonio Vasquez:

On behalf of the State Universities Annuity Association (SUAA) Board of Directors, I am writing to request your consideration of third-party mailings to a certain segment of active members of the State Universities Retirement System (SURS). The segment SUAA is wanting to focus on are the active members within five years of retirement.

The mission of SUAA has always been and continues to be to protect SURS pensions, both the State Health Insurance Plan and Community College Insurance Plan (CIP), higher education, and the general well-being of the SURS active members and beneficiaries.

We would like to be in a position to bring awareness to those we cannot currently reach. SUAA has been successful in the past with on-site benefit fairs and our chapters' campus activities. However, with the changes due to the pandemic, the organization is not in a position to interact with campus staff or administration at the various community colleges or state universities.

Most recently, SUAA worked with SURS to halt misinformation regarding the changes to the Self-Managed Plan now known as the Retirement Savings Plan. We are actively promoting the SURS newsletter and website in our newsletter, SUAA Mini Briefing, or within emails to our membership.

For the past 12 years we have hosted successful legislative receptions that bring awareness to both SURS and SUAA. Unfortunately, the 13<sup>th</sup> year had to be cancelled. We look forward to the possibility of next year's legislative reception as it will be a very welcomed occasion.

SUAA's potential ability to reach out to those within five years of retirement is a win-win for both SURS and SUAA. We bring to the table another vehicle for promoting awareness and knowledge for active members' pensions, healthcare, and other general information.

2021 will be SUAA's 50<sup>th</sup> Anniversary of serving the participants and beneficiaries of SURS. We appreciate your consideration for third-party mailings.

With much sincerity,

Linda Brookhart, Executive Director