EMPLOYER BULLETIN

REQUIREMENTS FOR PUBLIC ACT 100-0587

(6% salary increase threshold changed to 3%)

OBSOLETE

Dec. 2018

Background

The Illinois Pension Code, 40 ILCS 5/16-158, as amended in June 2005, requires employer contributions for employee salary increases in excess of 6 percent of the previous year's salary. When a member retires, the employer is required to pay TRS contributions equal to the actuarial value of a pension benefit that results from any salary increase over 6 percent that is used in the retiring member's final average salary calculation. On June 4, 2018, Public Act 100-0587 (House Bill 3342) was signed into law. Public Act 100-0587 changes the 6 percent threshold to 3 percent and is applicable to salaries paid after July 1, 2018.

The law provides a grandfathering clause that exempts contracts and collective bargaining agreements (CBAs) that were entered into, amended or renewed prior to June 4, 2018. The threshold will remain at 6 percent for salary increases awarded under contracts or CBAs entered into, amended or renewed prior to June 4, 2018.

To determine if employer contributions are due at the time of a member's retirement, TRS will gather information from employers about TRS members covered under CBAs and individual contracts entered into, renewed or amended prior to June 4, 2018, and those members covered by employment policies. We anticipate contacting districts in January 2019 for this information. To ensure that employer contributions are calculated correctly, please submit the requested information to TRS in a timely manner.

Employer Contributions Cannot be Paid by a TRS Member

The required employer contributions in Public Act 94-0004 and 100-0587 must be paid by the employer and cannot be bargained or negotiated as member contributions. These payments cannot be passed on to or paid by a TRS member.

New Rules in Effect

Our staff is now able to give guidance in complying with the new law because the Joint Committee on Administrative Rules has approved the rules. **The rules outlined in this bulletin are now in effect.**

Understanding Section 1650.481

Employer Contribution Required for Salary Increases in Excess of 6% or 3%

When a member retires, the employer is required to pay TRS a contribution equal to the actuarial value of a pension benefit that results from any salary increase over either 6 percent or 3 percent, whichever is applicable, that is used in the member's final average salary calculation.

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For Tier 1 members, the final average salary is the average of the four highest consecutive annual salary rates within the last 10 years of creditable service. For Tier 2 members, average salary is the average of the eight highest consecutive annual salary rates within the last 10 years of creditable service. When less than one year of service credit is earned in a school year, actual earnings are used to compute average salary. For addition information of average salary and benefit calculations, refer to [Chapter 11 of the TRS Employer Guide.]

Determining the contribution

A calculator is available for your use on the website:
https://www.trsil.org/employers/retirement-issues/salary-increase-calculator

Please use the calculator to estimate upcoming employer contributions that your district will be required to pay TRS in the future when members retire with salary increases in excess of 3 percent.

How it is calculated

Calculate the member's retirement benefit under current law and rules based on the member's exact age, service credit and salaries at retirement.

Calculate the member's retirement benefit based upon the member's age and service credit at retirement, but with the member's salaries with the same employer capped at a 3 percent increase. Next, determine the difference in the two retirements and multiply the difference in the retirement benefits by an actuarial factor based upon the member's exact age at retirement. The actuarial factor is a factor representing the present value of future benefits the member will receive as a result of receiving salaries in excess of 3 percent. The actuarial factors are based upon the actuarial assumptions of TRS for life expectancy and investment returns.

When a contribution is not required

- If the member's retirement benefit is an actuarial benefit, no employer contribution will be required.
- Only salary increases in excess of 3 percent used to calculate a member's final average salary are subject to the employer contribution. Any salary increases that are not used in the member's final average salary are not subject to the employer contribution.
- Employer contributions will not be due in any years in which the member's creditable earnings are less than 50 percent of the preceding year's mean salary for downstate teachers, as determined by the survey of school district salaries provided in Section 2-3.103 of the School Code.

Required contributions

The employer contribution is calculated using year over year salaries paid by the same employer. When there is more than one employer in the member's final average salary period, each employer's contribution is based on salary increases in excess of 3 percent granted by that individual employer.

Only salary increases in excess of 3 percent used in the member's final average salary for years that are not exempt under the grandfathering provision are subject to the employer contribution.

Salary increases that were awarded by the new employer during a year of consolidation or annexation are excluded from the calculation of employer contributions for excess salary increases. This exemption applies only for members whose employer number has changed. When an annexation has occurred, the exemption does not apply to those members who continue to be reported under the same employer number.

For part-time and substitute members, TRS will use full-time equivalent rates to determine if salary increases exceeded 3 percent during the final average salary years. Employers should continue to follow the current guidelines for reporting each member's annual salary rate and creditable earnings to TRS. At the time the retirement benefit is calculated, TRS will contact the employer if additional salary information is needed to determine a full-time equivalent rate. An employer contribution for excess salary increases will only be required if the comparison of full-time equivalent rates reflect an increase over 3 percent.

Understanding Section 1650.483
Employer Contributions Exemption for Salary Increases in Excess of 6% or 3% and Excess Sick Leave

A contract or CBA is exempt from employer contributions if the contract or CBA was in effect (entered into, amended or renewed) prior to June 4, 2018.

If a member retires prior to the expiration of the exempt contract or CBA, the employer contribution will be calculated at the 6 percent threshold rather than the 3 percent threshold.

Provided that a member notifies the employer in writing of his/her intent to retire prior to the expiration of an exempt contract/CBA, receives a salary increases (retirement incentive) under the terms of the exempt contract/CBA, and retires no later than stated in the retirement notification letter, the employer is exempt from the 3 percent threshold.

The exemption from the 3 percent threshold (subject to the 6 percent threshold) beyond the expiration date of the contract/CBA cannot be longer than four consecutive years after the expiration date of the contract/CBA.

For members retiring prior to the expiration of the exempt contract/CBA, the employer contribution will be calculated at the 6 percent threshold.

For members retiring after the expiration of the exempt contract/CBA, the employer will be required to provide TRS with documentation showing the member notified the employer of his/her intent to retire prior to the expiration of the exempt contract/CBA and that the salary paid was in accordance with the exempt contract/CBA. The required documentation will be requested by TRS when the member retires.

Payments to individual members may be subject to both the 6 percent and 3 percent thresholds depending on the individual member's circumstances.

Understanding Section 1650.482
Contracts and Collective Bargaining Agreements Loss of Exemption from Employer Contributions

Contracts and CBAs that were entered into, amended or renewed prior to June 4, 2018 have a period of time in which the employer is exempt from paying contributions for salary increases in excess of 3 percent used in a member's final average salary. The employer would be subject to the 6 percent threshold during the exempt period.

Losing the exemption

A contract or CBA will lose its exemption from the employer contributions required for salary increases in excess of 6 percent if any of the following occur:

1. An increase in an existing salary or sick leave retirement incentive or the addition of a new salary or sick leave retirement incentive during the exemption period.

2. A renegotiated increase in salaries or sick leave provisions, unless the renegotiated increase in salaries or sick leave provisions are specifically provided for in a salary reopener provision included in the CBA or contract.

3. Failure to follow the retirement incentive age, service, notification or payment provision as contained in the CBA, contract or policy.

Once a CBA is amended it loses its grandfathered status and all teachers who retire in that year and future years are subject to the 3 percent threshold. In addition, once an individual contract is amended, it loses its grandfathered status and the member is subject to the 3 percent threshold in that year and future years.

Exceptions

An employer may reduce a retirement incentive within a contract or CBA and not lose the exempt status of the contract or CBA.

Certification required

Annually, TRS will require all employers that have exempt CBAs to complete an affidavit informing TRS whether any of the previously listed conditions occurred and the date of occurrence. If the CBA has been amended, the employer will be required to provide the amendment. When a member under an individual contract retires, the employer will be required to inform TRS whether any of the previous listed conditions occurred and the date of occurance. If any of the conditions have occurred, the employer will lose its exempt status and the 3 percent threshold will apply.

Understanding Section 1650.484
Members Not Covered by CBAs or Contracts

For members not covered by a CBA or individual employment contract, TRS will accept employment policies as a contractual agreement for purposes of exemption from employer contributions for salary increases in excess of 3 percent (subject to the 6 percent threshold).

The employment policies must have been in effect prior to June 4, 2018.

Employees working under employment policies that are governed by the CBA will have an exemption from employer contributions in excess of 3 percent (subject to the 6 percent threshold) for the period of the CBA.

Employees working under employment policies that are not governed by the CBA will be exempt from the 3 percent threshold if notice was provided as required by the employment policy prior to June 4, 2018 and payments are made pursuant to the term of the policy prior to June 30, 2022.

Contact Us

If you have questions regarding employer contributions, email the TRS Employer Services Department at employers@trsil.org.