

# EMPLOYER BULLETIN

## PUBLIC ACT 102-0016 SIGNED INTO LAW

July 2021

### Background

Public Act 94-0004 requires employers to pay contributions equal to the actuarial value of the pension benefit resulting from a salary increase over 6 percent that is used to calculate a retiring member's final average salary. These contributions are referred to as "employer contributions for excess salary increases."

Public Act 94-0004 is revised by Public Act 102-0016 which was signed into law June 17, 2021 by Governor Pritzker. For a limited time, Public Act 102-0016 allows employers to request an exemption from employer contributions for excess salary increases on certain types of compensation. An employer may be exempt from employer contributions on only the portion of a member's salary increase that is due to any of the reasons detailed in this bulletin.

### Class Overload

Employers may be eligible for an exemption for salary increases due to an overload performed in a school year subsequent to a school year in which the employer was unable to offer or allow overload work due to an emergency declaration limiting such activities. The overload exemption may be applicable if the 2020-21 and/or 2021-22 school years are used in the calculation of a retiree's final average salary.

Overload work (class overload) is defined as classroom instruction in excess of the standard number of teaching class periods per day. Qualifying overload work will typically be performed by a classroom teacher for a complete semester or school term.

The overload exemption **does not apply to payments for:**

- intermittent substitution/class coverage,
- tutoring,
- homebound teaching,
- hourly work,
- extra-duty assignments,
- increased work hours for administrators,
- increased number of students in the classroom, and/or
- extending the length of the school day.

(more)

## Examples:

- During the 2020-21 school year, District A did not provide any overload assignments to teachers since so many of the classes were taught remotely. During the 2021-22 school year, teachers at District A are required to teach six class periods per day and have one daily preparation period. Due to an increase in students, an additional class is added. Teacher B gives up his preparation period and teaches seven classes per day. He receives an additional 1/6 of his base annual salary rate for teaching the additional class for the entire school term.

If the resulting salary increase is used in Teacher B's final average salary calculation, Public Act 102-0016 allows District A to request that TRS recalculate the employer contribution for excess salary increases, excluding the portion of Teacher B's salary increase attributable to the class overload.

- During 2019-20 school year, Teacher D taught a zero period class for the first semester. During the second semester of the 2019-20 school year, District C stopped offering zero hour classes due to the pandemic. During the 2020-21 school year, Teacher D taught a zero hour class for the full school year.

If the resulting salary increase is used in Teacher D's final average salary calculation, Public Act 102-0016 allows District C to request that TRS recalculate the employer contribution for excess salary increases, excluding the portion of Teacher D's salary increase attributable to the class overload.

## Stipend Work

Employers may be eligible for an exemption for salary increases due to stipend work performed in a school year subsequent to a school year in which the employer was unable to offer or allow stipend work due to an emergency declaration limiting such activities. The stipend work exemption would be applicable if the 2020-21 and/or 2021-22 school years are used in the calculation of a retiree's final average salary calculation.

Stipend work includes contractual extra duties, such as coaching, class sponsorships, etc., and timesheet extra duties, such as internal substitution, hallway supervision, lunchroom supervision, tutoring, etc.

## Examples:

- District E canceled all spring sports and clubs during the 2019-20 school year. Teacher F has been a coach for several years and was not able to complete all his coaching assignments during the 2019-20 school year. During the 2020-21 school year, District E offered all sports and clubs and Teacher F was assigned the same coaching assignment he had conducted prior to the 2019-20 school year.

If the 2020-21 salary increase is used in Teacher F's final average salary calculation, Public Act 102-0016 allows District E to request that TRS recalculate the employer contribution for excess salary increases, excluding the portion of Teacher F's salary increase attributable to the spring coaching assignments.

- Teacher G is in the retirement track. To be eligible for the retirement incentive, she must perform the same level of extra duties that she did prior to entering the retirement track. During the 2019-20 school year, she was unable to fulfill her obligations of performing a certain number of timesheet hours of extra duties (internal substitution, supervision, etc.). Her 2020-21 salary increased by more than 6 percent because she was able to perform all the timesheet extra duties that she was expected to perform as part of her retirement incentive.

If the resulting salary increase is used in Teacher G's final average salary calculation, Public Act 102-0016 allows her district to request that TRS recalculate the employer contribution for excess salary increases, excluding the portion of Teacher G's salary increase attributable to the extra duties.

- District H canceled all after school clubs during the 2020-21 school year. During 2021-22, Teacher J who has never been a club sponsor accepts two club sponsorship activities.

If the 2021-22 salary increase is used in Teacher J's final average salary calculation, Public Act 102-0016 allows District H to request that TRS recalculate the employer contribution for excess salary increases, excluding the portion of Teacher J's salary increase attributable to the club sponsorship stipends.

## Increased Instructional Time

Increased hours or days worked during the **2020-21 school year only**.

### Examples:

- During the 2020-21 school year, District K required all driver's education teachers to only have two students in the car as opposed to three as in the prior year. Therefore, the number of hours of behind the wheel instruction increased during the 2020-21 school year.
- In June 2021, District L offers additional summer school classes due to the increased number of students attending summer school classes.
- During the 2020-21 school year, District M had an increase in home-bound students. Therefore, the number of hours of home-bound teaching increased during the 2020-21 school year.

If the resulting 2020-21 salary increases are used in the retiring teachers' final average salary calculations, Public Act 102-0016 allows the above districts to request that TRS recalculate the employer contribution for excess salary increases, excluding the portion of the retiring teacher's salary increase attributable to the increased instructional time.

## Full-time Equivalency – Permanent Salary Exemption Provided Under Public Act 94-1057

For teachers that work less than 1.0 full-time equivalency (FTE) and who have a change in their FTE or substitute/part-time noncontractual teachers who have an increase in the number of days or hours worked, TRS will use full-time equivalent rates to determine if salary increases exceeded 6 percent during the final average salary years. An employer contribution for excess salary increases will only be required if the comparison of full-time equivalent rates reflects an increase over 6 percent.

### Examples:

- Teacher N works part-time (three days per week) during the 2020-21 school year and earns \$36,000. Teacher N works full-time during the 2021-22 school year and earns \$62,000. To determine if an employer contribution is required, TRS compares a full-time equivalent salary of \$60,000 for the 2020-21 school year to the actual 2021-22 full-time salary of \$62,000. In this example, the increase from the full-time equivalent salary of \$60,000 to \$62,000 is less than 6 percent.

If the 2021-22 school year is used in Teacher N's final average salary calculation, the district should request that TRS recalculate the employer contribution for salary increases excluding the portion of Teacher N's salary attributable to the increased FTE.

- Administrator O is hired to be the new superintendent of District P beginning July 1, 2021. During May and June 2021, she works as needed with the prior superintendent for 20 days at a daily rate of \$577.00. During the 2021-22 school year, she has a contract for \$150,500 for 260 days. The increase in the daily rate from 2020-21 to 2021-22 is less than 6 percent.
- Teacher Q is a long-term substitute teacher during the 2020-21 school year working 150 days at a daily rate of \$250 for total earnings of \$37,500. During the 2021-22 school year, she works another long-term assignment for 165 days at \$255 for total earnings of \$42,075. The increase in the daily rates from 2020-21 to 2021-22 is less than 6 percent.

If the 2021-22 school year is used in Administrator O's or Teacher Q's final average salary calculation, the district should request that TRS recalculate the employer contribution for salary increases since the daily rates did not increase by more than 6 percent between 2020-21 and 2021-22.

For retiring members prior to this bulletin, TRS attempted to apply the full-time equivalency exemption prior to calculating the member's benefit and contacted the employer if additional salary information was needed to determine a full-time equivalent rate. To expedite the calculation of benefits and ensure TRS receives the necessary information to apply the full-time equivalency exemptions, TRS will no longer attempt to apply the exemption prior to the member's retirement. If the district believes they are eligible for a full-time equivalency exemption for a member, they must complete the Salary Exemption Affidavit.

## Requesting Exemptions

During the processing of a member's retirement benefit, TRS will provide employers a separate notification for each member with an employer contribution due for salary increases in excess of 6 percent. After the initial employer contribution notification, the amounts due will be reflected on the monthly Employer Bill (emailed notification of the bill sent around the 25th of each month).

The employer should review the nature of the member's salary increases to determine eligibility for an exemption under Public Act 102-0016 or Public Act 94-1057. To claim exemptions, the employer must:

- complete and sign the Salary Exemption Affidavit included with this Employer Bulletin, and
- return it to TRS no later than 30 days after receipt of the applicable monthly Employer Bill.

TRS assumes the Employer Bill is received by the employer on the first of the month following the date of the email notification for the Employer Bill. If the Salary Exemption Affidavit is not received within 30 days of receipt of the Employer Bill, the employer contributions for salary increases in excess of 6 percent cannot be recalculated. Contributions owed may be paid as a lump sum within 90 days of receipt of the Employer Bill. Contributions not paid within 90 days will accrue interest until paid. The bill must be paid within three years of receipt.

Please note that the salary increase for which an exemption is claimed by the employer on the Salary Exemption Affidavit must be new to the member or have increased by at least 6 percent in the year(s) the employer is seeking exemption. Only then will the recalculated employer contribution be lower than the amount provided in the original employer notification. When excess salary increases are due partially to circumstances that qualify for exemption and partially to circumstances that do not qualify for exemption, the employer may be eligible for a partial waiver of the employer contribution.

For anyone who has already retired during the 2020-21 school year and you have received a notification of employer contributions due for salary increases in excess of 6 percent, you must return the Salary Exemption Affidavit by September 1, 2021 for the employer to be eligible for a recalculation of the employer contribution for excess salary increase.

TRS is working on providing the Salary Exemption Affidavit with the employer's notification for each member with an employer contribution due for salary increases in excess of 6 percent. If you receive the affidavit with the notification letter, **do not complete the affidavit included with this bulletin.**

## Questions

For questions about employer contributions for excess salary increases, please contact the TRS Employer Services Department at (888) 678-3675, option 1, or employers@trsil.org.