<u>**Public Act 97-0968 Questions and Answers**</u>

<u>What is it?</u>

A new funding mechanism targeted at SURS-covered employers that employ SURS annuitants under certain criteria.

<u>What does it do?</u>

This legislation operates independently of the SURS return to work restrictions under ***40 ILCS 5/15-139*** and only applies to a SURS-covered employer that employs a SURS annuitant. The bill charges employers a penalty for employing annuitants under certain criteria

<u>What does it not do?</u>

This legislation does not eliminate the ability of a university or community college to re-hire an annuitant. It only provides that if an employer does re-hire an annuitant and pays the annuitant a salary over 40% of their previous highest annual rate of earnings, they have to pay a fee equal to that person's annual annuity to the retirement system. This legislation does not penalize an annuitant who becomes an "affected annuitant", only provides a financial penalty to a SURS-covered employer that employs the affected annuitant.

<u>What are the conditions?</u>

An employed annuitant would become an "affected annuitant" on the first day of an academic year <u>following the academic year in which the annuitant **initially meets both of the following conditions:**</u>

- works more than 18 paid weeks that occur after August 1, 2013. This condition is cumulative and not particular to any single academic year; <u>**and**</u>
- receives compensation during an academic year beginning after August 1, 2013, that is greater than 40 percent of the highest annual rate of earnings earned prior to retirement.

<u>What are the consequences?</u>

If a SURS-covered employer employs an "affected annuitant", the employer's contribution to SURS will be equal to the affected annuitant's annualized retirement annuity payable on the day in which the employer has employed the "affected annuitant", *i.e.*, the monthly annuity payable for the first month of employment is multiplied by twelve.

If a SURS-covered employer employs an "affected annuitant" for multiple academic years, that employer is required to make the contribution for each academic year of employment. If SURS determines that an employer has failed to identify an "affected annuitant", or has failed to notify SURS of any required information, the employer will make a payment to

SURS in an amount equal to double the required contribution for employing an "affected annuitant".

What are the employers' responsibilities?

Employers will provide a notice to SURS within 60 days of employing an annuitant that returns to employment. That notice will include the following information:

- a copy of the annuitant's employment contract, or if no contract exists, the anticipated length of employment and rate of pay;
- whether or not the annuitant will be paid from federal, foundation, trust, or corporate funds, or state grants in which the principal investigator is named; and
- the employer's determination as to whether the annuitant is already an "affected annuitant".

In addition to the notice, the employer must certify to SURS the following information:

- the number of paid days and paid weeks worked by the annuitant in the current academic year;
- the amount of compensation paid to the annuitant in the academic year; and
- the amount of such compensation paid to the annuitant from federal, foundation, trust, or corporate funds, or state grants in which in which the principal investigator is named

What are the annuitant responsibilities?

Provide an accurate history of employment while receiving a retirement annuity, if the annuitant provides false or misleading information, then that annuitant has committed fraud and is guilty of a Class A misdemeanor.

When must payment be made?

Within 1 year of receiving the bill from SURS. Failure to pay within 1 year results in the employer paying interest. Failure to pay within 2 years results in the Comptroller "intercepting" funds and diverting the funds intercepted to SURS.

What is considered timely?

Used in the context, within 60 days.

How long does an annuitant remain affected?

Once the annuitant becomes affected, the annuitant shall remain affected, unless that annuitant suspends his or her pension and returns to active service.

How will SURS/employers know when an annuitant becomes affected?

SURS employers are required to document and record this information. SURS employers should be the first to know, who will then notify SURS when an annuitant becomes an affected annuitant. SURS will make rules to help aid in this process.

How will employers know if an annuitant works for multiple SURS agencies?

Employers have ability to inquire about an employee's prior relevant work history. If the employee provides false or misleading information, then the employee has committed fraud. SURS will also have a role as employers are to be reporting information in a timely manner to SURS.

Who has to pay if annuitant becomes affected through employment with multiple agencies?

Each employer that employs the affected annuitant will have to make a payment. If multiple employers concurrently employ an "affected annuitant" in the same academic year, then the required contribution will be split by each employer in proportion to the compensation paid by each employer. For example, if an "affected annuitant" is employed by two employers and receives a total of $100,000 for that academic year, with "Employer A" paying $60,000 and "Employer B" paying $40,000, then "Employer A" will pay 60% of the required contribution, and "Employer B" will pay 40% of the required contribution.

Does the employer always have to pay once the annuitant becomes affected?

If a SURS-covered employer employs an "affected annuitant" for multiple academic years, that employer is required to make the contribution for each academic year of employment. However, there are situations in which the employer may avoid payment if it employs an affected annuitant. If the employer compensates the affected annuitant solely from federal, foundation, trust, or corporate funds, or state grants in which the principle investigator is named, payment is not required. Also, employers may hire an affected annuitant for no more than one year without triggering the reimbursement so long as it was in order to continue "critical operations in the event of an employee's unforeseen illness, accident, death, or catastrophic incident or disaster"