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RSNLT**LAW ALERT**

TRS TIGHTENS RULES FOR RE-EMPLOYING RETIREES

September 8, 2010

Due to financial constraints, many school districts are considering re-hiring their newly retired teachers to work as temporary teachers. When reviewing this option, districts should be aware that the Illinois Teachers' Retirement System has established a new test to ensure that members are officially separated from teaching service before re-entering service. These new rules affect when school districts can discuss re-hiring and how the district must fill the position after the retired teacher works the maximum time period permitted by TRS rules.

The Illinois Pension Code's 120 paid days or 600 paid hours limitation has not changed. (Section 5/16-118 of the Pension Code restricts TRS annuitants to working a maximum of 120 paid days or 600 paid hours in a school year. Note that after June 30, 2011, these maximum amounts are scheduled to revert to 100 paid days or 500 paid hours.) The Pension Code's prohibition of TRS annuitants returning to a position within the same year during which service was terminated remains.

TRS, however, has added additional rules which affect how school districts communicate teaching offers to TRS annuitants and how districts may treat employment positions once the TRS annuitants have reached their employment time limit. Specifically, Section 1650.511 of the Illinois Administrative Code now requires:

- That school districts not discuss or arrange employment for a TRS annuitant until 30 days after the annuitant's retirement date;
- That school districts not employ TRS annuitants prior to 30 days after the annuitant's retirement and until the next school year following retirement;
- That school districts comply with the TRS employment restrictions of 120 paid days or 600 paid hours; and
- That school districts fill the TRS annuitant's former position with a new employee after the 120 paid day or 600 paid hour period has elapsed.

TRS' new rules apply regardless of whether the TRS annuitant needs certification to fill the position. In addition, the rules state that a mere change in job title is insufficient to demonstrate that the TRS annuitant had a "separation from service." Note that these additional rules only apply to TRS annuitants who are returning to the same position with their last school district.

Finally, the new rules specifically exempt TRS annuitants returning to a part-time non-tenured or substitute teaching position with the annuitant's last employer. Such postings are not considered to be a "return to the same position."

If you have any questions regarding TRS' new rules, please feel free to contact any RSNLT attorney.

Amanda G. Tiebert, an associate in the firm's Chicago office prepared this *Law Alert*.

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