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LAW ALERT

Further Guidance for Compliance with New Posting Obligations for IMRF Employers

October 31, 2011

In September we issued a *Law Alert* regarding Public Act 97-609 (the "Act"), which requires IMRF-covered employers to post the total compensation package ("TCP")[1] for: (1) every IMRF-covered employee earning a TCP in excess of \$75,000, within 6 business days *after* approval of the budget; and (2) each IMRF-covered employee earning a minimum of \$150,000 in TCP, at least 6 days *prior* to approving such employee's TCP.

In response to questions from IMRF employers regarding compliance with this new law, including when/what/how to post this information, we provide the following guidance:

IMRF Employees Earning More than \$75,000

1. Given the effective date of this section of the Act (1/1/2012), employers may wait to pass their 2012 budgets before posting the TCP for every IMRF-covered employee earning a TCP in excess of \$75,000.
2. We suggest that each employer create a spreadsheet to report the TCP for each IMRF-covered employee earning a TCP in excess of \$75,000.
 - a. The report must identify each employee by position and title.
 - b. The report must set out the TCP to be paid per the budget approved by the governing board.
 - c. The report should separately list the amounts (if any) paid by the employer for salary, health insurance, housing allowance, vehicle allowance, clothing allowance, bonuses, loans, vacation days and sick days.
 - i. If the employer does not pay an employee for the per diem value of unused vacation and/or sick days, then we recommend reporting the number of days allotted for each such days and indicating that no payouts are made.
 - ii. If the employer allows employees to sell back unused vacation days, we recommend reporting the number of days allotted and the number of days an employee may sell back.
3. The report does not need to be separately approved by the governing board since the board will be approving the budget from which this compensation will be paid.

IMRF Employees Earning \$150,000 or More

4. Again, given the Act's effective date, we believe that after January 1, 2012, governing boards will need to separately approve the TCP for any employee earning a minimum of \$150,000. This posting obligation will be triggered by a new, extended, or amended contract for an existing employee, a new hire, or presentation of the annual budget.

- a. At least 6 days before the consideration and approval by the governing board, the employer must post the employee's *proposed* salary and *proposed* amounts (if any) to be paid by the employer for health insurance, housing allowance, vehicle allowance, clothing allowance, bonuses, loans, vacation days and sick days. See 2(c)(i) and (ii) for further information about vacation and sick days.
- b. Once the TCP is approved by the governing board, the proposed TCP posting can be removed. However, these employees will need to be included in the report discussed under 2 above.

RSNLT will keep you posted on any developments and further clarifications of this legislation. If you have any questions regarding Public Act 97-609, please contact any RSNLT Labor and Employment attorney.

Catherine R. Locallo, an associate in the firm's Chicago office prepared this *Law Alert*.

[1] Employers need only consider payment by the employer for salary, health insurance, housing, vehicle and/or clothing allowances, bonuses, loans, and vacation and sick days granted in determining an employee's TCP.

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