

# FRANCZEK RADELET

ATTORNEYS & COUNSELORS

## Collective Bargaining and ACA Update

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## Agenda

- Grand Bargain and the State Budget
- Bargaining Salary and CPI
- Affordable Care Act Changes
- How to Address the Unknown

# Development of the Grand Bargain

- 2017 and still no state budget
- In 2015 Rauner insisted on reform before approving a budget
  - Workers Compensation reform
  - Property tax freeze
  - Eliminate fair share fee requirements
  - Limits on bargaining over wages, tenure, pension
  - Pension reform
  - Local Government Bankruptcy

# Grand Bargain

- General Assembly Unwilling to Move on Labor Portions of Turnaround Agenda
- All Issues Currently Tied to Each Other
  - Property Tax Freeze
  - Pension Changes
  - Minimum Wage Increase
  - Workers Compensation Reform
  - Local Government Consolidation
  - GO Restructuring Bonds
  - Procurement Code Changes
  - Home Rule Entities Can Convey Interest in Revenues and Taxes from State Comptroller
  - Income Tax Rate Hike
  - Sugary Beverage Tax
  - Gaming Changes and Additions

# Property Tax Freeze

- House approves property tax freeze for some local municipalities
  - Beginning in 2017, property tax extensions frozen at the amount of the 2015 extension
  - Property taxes can be raised only through a referendum
- SB0013
  - Tax freeze for all local units of government for 2017 and 2018 unless approved by voters
  - Local School Boards must forward some cost projections to the State Board of Education
    - Beginning July 1, 2022, State Board will review and analyze cost projections and file report by December 31, 2022.
    - Moratorium on third-party contracts for non-instructional services while State Board is preparing its report

# Pension Reform Legislation

- Senate Bill 0011

- Cullerton proposes a revision to the current Pension Code that requires all Tier 1 employees to either (i) elect to have automatic annual increases in retirement annuity delayed until five years after retirement or reaching the age of 67 (whichever is lesser), and reduce the annual increases to “the lesser of 3% or half the rate of inflation;” or (ii) maintain their current benefit package but none of their future wage increases will count toward the final pensionable salary.
- Employees that choose (i) will have future increases in income treated as pensionable; those who choose (ii) will not.
- Bargaining over any pension changes, impact of the changes, or implementation of the changes that result from the requirements described above is prohibited.
  - Exemption for certain existing agreements until they expire.
- Pension Cost Shift

# State Contribution to Chicago Teacher's Fund

- SB0005
- State to contribute \$215,200,000 to CTPF for FY17 and \$221,300,000 for FY18.
- Beginning in FY19, State will contribute an amount equal to the employer normal cost for that fiscal year.

# Illinois Funding Commission Report

- Report outlining framework on funding reform drawing on evidence-based model with modifications.
- Emphasize funding system that reflects adequacy based on student needs and address equality by providing funds to neediest districts first.
  - 3 possible funding mechanisms for funding districts with high poverty
    - ISBE working on model



# Funding Commission Report

- Need minimum of \$3.5 billion over the next decade for all districts to meet or exceed their adequacy target
- If funding must be cut, proration is not to be used, per pupil reductions to be implemented
- Urges legislation that ends chronic underfunding of low-income schools
- Statute to create Commission for the Oversight and Implementation of School Funding Formula
- Transparency in how funds are being spent and if increased funding results in increased student growth and higher proficiency rates

# Minimum Wage Increase

- SB0003
- Increase minimum wage from \$8.25 to \$9.00 beginning July 1, 2017
- Fifty Cent Increase each July 1 until 2021 (minimum will be \$11.00)

# Other Provisions of Grand Bargain

- Tax Increases
  - Income tax hike: go from 3.75% to 4.95%
  - Tax on bottled sugar-sweetened beverages at 1 cent per ounce
- Gaming Changes
  - Creates the Chicago Casino Development Authority to promote and maintain a casino
  - Authorizes electronic gaming at race tracks
- \$7 Billion of Bonds

# Collectively Bargained Salaries

## MEDIAN SCHEDULED SALARIES OF ILLINOIS PUBLIC SCHOOL DISTRICTS

	2012-2013		2013-2014		2014-2015	
	<i>Median Salary</i>	<i>Increase over '11-12</i>	<i>Median Salary</i>	<i>Increase over '12-13</i>	<i>Median Salary</i>	<i>Increase over '13-14</i>
B.A. Min.	\$36,361	1.2%	\$36,635	0.8%	\$36,927	0.8%
B.A. Max.	\$53,762	1.0%	\$53,942	0.3%	\$54,844	1.7%
M.A. Min.	\$40,160	1.6%	\$40,397	0.6%	\$40,891	1.2%
M.A. (10 Yrs.)	\$49,766	1.0%	\$49,766	0.0%	\$51,192	2.8%
M.A. Max.	\$66,188	1.4%	\$66,588	0.6%	\$67,598	1.5%
M.A. + Min.	\$44,610	1.7%	\$45,095	1.1%	\$45,423	0.7%
M.A. + Max.	\$74,050	1.5%	\$74,050	1.1%	\$75,826	1.3%

# % of School Districts with No Increases in Scheduled Salaries

	'11 - '12	'12 - '13	'13 - '14	'14 - '15
B.A. Min.	22.3%	25.5%	25.8%	26.6%
B.A. Max.	19.3%	19.3%	19.1%	20.5%
M.A. Min	21.4%	24.2%	24.3%	25.8%
M.A. Max	18.4%	19.4 %	18.4%	19.1%
M.A. + 30 - 32 Beg.	23.4%	22.8%	20.2%	21.6%
M.A. + 30 - 32 Max.	19.3%	17.8%	15.5%	16.4%

# % of School Districts with Decreases in Scheduled Salaries

	'11 – '12	'12– '13	'13 – '14	'14 – '15
B.A. Min.	3.8%	2.9%	3.76%	5.2%
B.A. Max.	6.0%	6.8%	7.84%	10.1%
M.A. Min	4.3%	4.4%	4.6%	6.0%
M.A. Max	5.9%	6.1%	7.0%	9.8%
M.A. + 30 – 32 Beg.	5.8%	13.4%	16.0%	17.0%
M.A. + 30 – 32 Max.	6.7%	14.3%	18.7%	19.7%

# Mean Percentage of Teacher Retirement Paid by the Board

	TRS Percentage	Percentage of Districts
Elementary	8.62	60.57
Secondary	8.14	55.2
Unit	9.37	71.75

# Salary Schedules and CPI

- Elimination of Salary Schedules
- Reliance on CPI with floor and ceiling:
  - “CPI with a floor of 1.5% and ceiling of 4%”
  - “80% of CPI with a floor of 1% and a ceiling of 3.5%”
- Floor becomes the new “step”
- Dissatisfaction with the unknown increase



# ERO Elimination

- ERO – early retirement with full pension with up-front employee and Board contributions
- ERO Sunset on July 1, 2016
- Impact on TRS contributions and employee salaries

# Dealing with Changes to the ACA

- Significant changes to the Affordable Care Act are likely under Trump administration and new Congress
  - Repeal and replace effort moving slowly
    - Slim Republican majority in Senate limits extent of possible changes
  - Regulatory/sub-regulatory changes
    - January 20, 2017 Executive Order

# January 20, 2017 Executive Order

“ . . . To the maximum extent permitted by law, the Secretary of Health and Human Services and the heads of all other executive departments and agencies with authorities and responsibilities under the [ACA] shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the [ACA] that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications. . . .

. . . To the extent that carrying out the directives in this order would require revision of regulations issued through notice-and-comment rulemaking, the heads of agencies shall comply with the Administrative Procedure Act and other applicable statutes in considering or promulgating such regulatory revisions.”

# Areas of Potential Change

- Cadillac tax
- Employer mandate and individual mandate
- Annual ACA reporting
- Increased flexibility for Health Savings Accounts (HSAs)
- Sale of health insurance across state lines
- Prescription drug pricing
- Elimination (or reduction) of tax-free treatment of health premiums
- What is NOT likely to go away:
  - Age 26 coverage requirement
  - Ban on preexisting conditions
  - Ban on lifetime and annual limits
  - Other insurance market reform requirements

# Ability to Make Mid-Term Plan Changes

- Districts should retain flexibility in CBAs to make mid-term changes to health plan provisions to address all areas of potential change, including in particular:
  - Cadillac tax
  - Employer mandate/plan eligibility
  - Potential changes to HSA rules

# Flexibility to Address the Unknown

- The Unknowns – Revenue, Pension, Health Insurance
- Collective Bargaining Approaches:
  - Length of Agreement
  - Reopeners
  - Contingency Clauses
  - Limited Waiver of Right to Bargain
  - Reduction in Force

# Questions?

