

# Illinois Public Pensions

A pension management and investment newsletter for Illinois pension funds  
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## TABLE OF CONTENTS

Legislative update .....	2
Reconstituting the Downstate Fire Fighter Pension Boards .....	2
Transfers between Downstate Police Pension Service and IMRF .....	2
Prohibition on Sudan Investment .....	2
Changes to Teachers' Pensions .....	3
Impact of the Uniformed Services Employment and Reemployment Rights Act (USERRA).....	4
WorldCom investors get \$651 Million .....	7
Selecting and monitoring pension consultants.....	9
Tips for plan fiduciaries from the Securities and Exchange Commission	
Money attitudes and retirement plan design .....	13
Highlights of attitudinal characteristics.....	16
New info act resources .....	17
Author an article for the IPP newsletter.....	17
Mark your calendar! .....	18



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## Illinois Public Pensions

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## **Legislative update: Action in Springfield and how it will affect your fund**

### **Reconstituting the Downstate Fire Fighter Pension Boards**

#### **Public Act 94-0317 (HB 1403)**

The legislation requires that the terms of all current board members expire on the Monday, April 17, 2006. The new pension boards will consist of two members appointed by the mayor or village president, two active fire fighters, and one retired fire fighter. The active fire fighters will be elected by other active fire fighters, and the retired fire fighter will be elected by other retired fire fighters in the pension system. For more information refer to the Illinois Department of Financial and Professional Regulation Siren Advisory Services Bulletin at [http://www.ins.state.il.us/Public\\_Pension/PenSirens.nsf](http://www.ins.state.il.us/Public_Pension/PenSirens.nsf)

### **Transfers between Downstate Police Pension Service and IMRF**

#### **Public Act 94-0356 (HB 373)**

The deadline to apply for a transfer is January 1, 2006.

This legislation authorizes a member of a downstate police fund who has up to eight years of service under IMRF to transfer his or her service credit under IMRF to a downstate police fund. Conversely, members of IMRF who have up to 8 years of service in a downstate police fund can transfer their service under the downstate police fund to IMRF. Provides that if the amount transferred under this amendatory Act is less than the true cost to the receiving pension fund of allowing that creditable service to be established, then the amount of creditable service the person may establish under this amendatory Act shall be reduced by a corresponding amount. Refer to Emergency Rules posted for PA 94-0356 at [http://www.ins.state.il.us/Public\\_Pension/PenSirens.nsf](http://www.ins.state.il.us/Public_Pension/PenSirens.nsf)

### **Prohibition on Sudan Investment**

#### **Public Act 94-0079 (SB 23)**

The legislation amends the Illinois Pension Code. It pro-

hibits investments with the government of Sudan directly or through a funds manager. No portion of the retirement system or pension fund's assets is to be invested in Sudan eighteen months after the effective date of this act. The Act takes effect January 27, 2006. Concerns have been raised about the practical application of the penalties specified in this Act. IGFOA will be working with the Department of Professional Regulation to better understand how those provisions will be applied.

### **Changes to Teachers' Pensions Public Act 94-0004 (SB 27)**

This legislation makes a wide variety of changes to Teacher's Retirement System (TRS) from state cuts to standards for calculating benefits. State funding has been reduced by approximately 50 percent over the next two years, and will impact future state contributions. Pension benefits are normally calculated on an average of the four highest consecutive years in the last ten years of service. The employer will now be responsible for paying to TRS the actuarial values of any salary increase of over six percent that is used in pension calculation.

In addition, the legislation changes the standards for the enactment of benefit improvements. All future benefit changes will sunset after five years and must meet the following requirements:

1. New Benefits must be fully funded by an identical funding source.
2. New benefits must be certified as fully funded by the Public Pension Division of the Department of Financial and Professional Regulation. Otherwise, they will expire at the end of the fiscal year unless corrective active action is enacted in law.
3. New benefits without sufficient funding will be deemed null and void.
4. New benefits will expire after five years if not re-authorized by law.
5. New benefits pertain only to members who "apply and qualify."

## Impact of the Uniformed Services Employment and Reemployment Rights Act (USERRA)

THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA) was developed to protect civilian job rights and benefits for veterans and members of Reserve components. However, USERRA continues to make major improvements in “protecting service member rights and benefits by clarifying the law, improving enforcement mechanisms, and providing federal government employees with Department of Labor assistance in processing claims.”

USERRA expands the cumulative length of time that an individual may be absent from work for military duty and “retain reemployment rights for five years (the previous law provided four years of active duty, plus an additional year if it was for the convenience of the government).” There are important exceptions to the five-year limit, including initial enlistments lasting more than five years, periodic training duty, and involuntary active duty extensions and recalls, especially during a time of national emergency. USERRA clearly establishes that reemployment protection does not depend on the timing, frequency, duration, or nature of an individual’s service.

USERRA provides improved protection for disabled veterans, requiring employers to make reasonable efforts to accommodate the disability. Service members convalescing from injuries received during service or training may have up to two years to return to their jobs (as opposed to the one year provided by the old law).

As under the previous law, USERRA provides that returning service-members are reemployed in the job that they would have attained had they not been absent for military service (the long-standing “escalator” principle), with the same seniority, status and pay, as well as other rights and **benefits** determined by seniority. However, USERRA also requires that reasonable efforts (such as training or retraining) be made to enable returning service members to refresh or upgrade their skills to help them qualify for reemployment. The law

clearly provides for alternative reemployment positions if the service member cannot qualify for the “escalator” position. USERRA also reaffirms and clarifies that while an individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded other individuals on non-military leaves of absence.

**Health and pension plan coverage** for service members is clarified under USERRA. Individuals performing military duty of more than 30 days may elect to continue employer sponsored health care for up to 24 months; however, they may be required to pay up to 102 percent of the full premium. For military service of less than 31 days, health care coverage is provided as if the service member had remained employed. USERRA clarifies pension plan coverage by making explicit that **all pension plans are protected.**

The period an individual has to make application for reemployment or report back to work after military service is now based on time spent on military duty; not on the category of service performed. For service of less than 31 days, the service member must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period. For service of more than 30 days but less than 181 days, the service member must submit an application for reemployment within 14 days of release from service. For service of more than 180 days, an application for reemployment must be submitted within 90 days of release from service.

USERRA also requires that service members provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. Additionally, service members are able (but are not required) to use accrued vacation or annual leave while performing military duty.

### **Pension plan management**

USERRA requires that returning service members who meet the law’s eligibility criteria must be treated as if

they had been continuously employed for pension purposes, regardless of the type of pension plan the employer has implemented. This applies to vesting (determining when the employee qualifies for a pension) and also benefits computation (determining the amount of the employee's monthly pension check). USERRA applies to plans sponsored by more than one employer as well as single employer plans. USERRA also applies to pension plans established by state and local governments. Absence for service is not considered a break in employment for pension purposes. Also, an employee who would have become eligible to participate in a pension plan during that individual's time in the service should be placed in the plan retroactive to the date of initial eligibility. If the employer contribution is contingent on the employee's contribution, then the employee must make his or her contribution before the employer is obligated to make its contribution.

Congress made it clear that differences between pension plans (e.g., defined benefit, defined contribution, and sometimes, a profit-sharing plan) do not affect the overall nature of the plan as a reward for length of service, rather than a short-term reward for work performed (i.e., a fringe benefit).

Normally an employer is not permitted to delay reinstatement of employment because of any lack of service documentation. If the individual is absent from the position of employment for more than 90 days, the employer may require documentation before treating the employee as not having incurred a break in service for pension purposes. As with reemployment, an employer may not demand documentation that does not exist or is not readily available, and may request it only to verify that the application for reinstatement is timely, that the service limits in the law were not exceeded, and that the individual's release from service was not under any of the instances listed in section 4304 (<http://www.dol.gov/vets/usc/vpl/usc38.htm>) of USERRA.

**NOTE:** In an extremely rare circumstance, a person may wish to file complaints under both the USERRA and Veterans' Preference (VP) statutes. If a person thinks that

this situation applies, the individual must submit a separate complaint form for each statute allegedly violated (i.e., one for USERRA and one for VP). When this situation occurs, Veterans Employment and Training Services (VETS) will open two separate cases for investigation.

*Reprinted with permission from NAGDCA Notes, a publication of the [National Association of Government Defined Contribution Administrators Inc.](#) The information here is only an overview, and may not fully address or resolve individual situations.*

*For specifics, visit <http://www.dol.gov/vets/aboutvets/contacts/main.htm> or contact NAGDCA Project Coordinator Robert T. Hansel at [rhansel@amrinc.net](mailto:rhansel@amrinc.net) or 859-514-9161*

## **WorldCom investors get \$651 million**

**by Stephen Taub, CFO.com**

In the settlement, a group of banks and other defendants agreed to compensate institutional investors for losses on purchases of WorldCom bonds and stock.

A total of 67 institutional investors recovered more than \$651 million from a group of banks and other defendants to compensate the investors for losses on purchases of WorldCom bonds and stock from 1998 through 2001, according to Lerach Coughlin Stoia Geller Rudman & Robbins LLP, the law firm that represented the plaintiffs.

The institutional investors chose to opt out of the \$6.1 billion class action earlier this year that stemmed from litigation involving WorldCom's bankruptcy filing in 2002 after an \$11 billion accounting fraud at the company.

The \$651 million recovery won't be reduced by legal fees, since attorneys' fees and expenses were paid by defendants in addition to this recovery, according to Lerach Coughlin.

The institutional investors also recovered millions of dollars for December 2000 bond-offering claims the class

action did not pursue, according to plaintiffs' attorney William Lerach.

The plaintiffs' group is made up of public and private pension and benefit funds, joint employer-employee funds, insurance companies, and other institutional investors. They include the State Universities Retirement System of Illinois, the Teachers' Retirement System of the State of Illinois, the California Public Employees' Retirement System, the California State Teachers' Retirement System, the Los Angeles County Employees Retirement Association, the West Virginia Investment Management Board, and the Illinois State Board of Investment.

The defendants in the suit were CitiGroup, J.P. Morgan, Deutsche Bank, Tokyo-Mitsubishi, ABN AMRO, WestLandes, BNP Paribas, Caboto, Mizuho, Bank of America, CSFB, Lehman, Goldman Sachs, UBS Warburg, Arthur Andersen, and certain WorldCom officers and directors.

As part of the settlement, CitiGroup and J.P. Morgan have agreed to jointly petition the Securities and Exchange Commission with some of the plaintiffs to issue rules requiring increased disclosures in future securities offerings. The disclosure would include more information about loans to issuers and the issuers' officers, increased information regarding allocation of initial public offering shares to issuers' insiders, and more information about research coverage underwriters provide about issuers. "Our clients commend CitiGroup and J.P. Morgan for taking a leadership position and seeking increased disclosures which will benefit investors going forward," said Lerach.

The underwriters must "upgrade their due-diligence efforts" after paying twice to resolve WorldCom bondholders' claims, John Coffee, a law professor at Columbia University, told Bloomberg.

The institutional investors claimed they lost roughly \$1.8 billion from their investments in WorldCom bonds and stock. Lerach Coughlin asserted that its clients recovered a higher proportion of their losses than the plaintiffs in the class action did for the same securities.

Further, the institutional investors will be getting their money now, while class members will have to wait for up to two years to receive payment because of claims processing and the pending resolution of appeals, the firm pointed out.

Last week, five New York City public pension funds that also didn't join in the class-action settlement settled their own lawsuits for a total of \$78.9 million.

*Reprinted from Today in Finance for October 28, 2005, CFO.com—Tools & Resources for Finance Professionals.*

## Selecting and monitoring pension consultants

### Tips for plan fiduciaries from the Securities and Exchange Commission

THE EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) requires that fiduciaries of employee benefit plans administer and manage their plans prudently and in the interest of the plan's participants and beneficiaries. In carrying out these responsibilities, plan fiduciaries often rely heavily on pension consultants and other professionals for help. Findings included in a report by the staff of the U.S. Securities and Exchange Commission released in May 2005, however, raise serious questions concerning whether some pension consultants are fully disclosing potential conflicts of interest that may affect the objectivity of the advice they are providing to their pension plan clients.

Under the INVESTMENT ADVISERS ACT OF 1940 (Advisers Act), an investment adviser providing consulting services has a fiduciary duty to provide disinterested advice and disclose any material conflicts of interest to their clients. In this context, SEC staff examined the practices of advisers that provide pension consulting services to plan sponsors and trustees. These consulting services included assisting in determining the plan's investment objectives and restrictions, allocating plan

assets, selecting money managers, choosing mutual fund options, tracking investment performance, and selecting other service providers. Many of the consultants also offered, directly or through an affiliate or subsidiary, products and services to money managers. Additionally, many of the consultants also offered, directly or through an affiliate or subsidiary, brokerage and money management services, often marketed to plans as a package of “bundled” services. The SEC examination staff concluded in its report that the business alliances among pension consultants and money managers can give rise to serious potential conflicts of interest under the Advisers Act that need to be monitored and disclosed to plan fiduciaries.

To encourage the disclosure and review of more and better information about potential conflicts of interest, the Department of Labor and the SEC have developed the following set of questions to assist plan fiduciaries in evaluating the objectivity of the recommendations provided, or to be provided, by a pension consultant.

**1. Are you registered with the SEC or a state securities regulator as an investment adviser? If so, have you provided me with all the disclosures required under those laws (including Part II of Form ADV)?**

SEC COMMENT:

You can check yourself—and view Part I of the firm’s Form ADV—by searching the SEC’s Investment Adviser Public Disclosure website. Your investment adviser must furnish you with a copy of Part II of Form ADV. At present, the IAPD database contains Forms ADV only for investment adviser firms that register electronically using the Investment Adviser Registration Depository. In the future, the database will expand to encompass all registered investment advisers—individuals as well as firms—in every state. If you can’t locate an investment adviser in IAPD, be sure to contact your state securities regulator or the SEC’s Public Reference Branch.

**2. Do you or a related company have relationships with money managers that you recommend, consider for recommendation, or otherwise mention**

**to the plan for our consideration? If so, describe those relationships.**

SEC COMMENT:

When pension consultants have alliances or financial or other relationships with money managers or other service providers, the potential for material conflicts of interest increases, depending on the extent of the relationships. Knowing what relationships, if any, your pension consultant has with money managers may help you assess the objectivity of the advice the consultant provides.

**3. Do you or a related company receive any payments from money managers you recommend, consider for recommendation, or otherwise mention to the plan for our consideration? If so, what is the extent of these payments in relation to your other income (revenue)?**

SEC COMMENT:

Payments from money managers to pension consultants could create material conflicts of interests. You may wish to assess the extent of potential conflicts.

**4. Do you have any policies or procedures to address conflicts of interest or to prevent these payments or relationships from being considered when you provide advice to your clients?**

SEC COMMENT:

Probing how the consultant addresses these potential conflicts may help you determine whether the consultant is right for your plan.

**5. If you allow plans to pay your consulting fees using the plan's brokerage commissions, do you monitor the amount of commissions paid and alert plans when consulting fees have been paid in full? If not, how can a plan make sure it does not over-pay its consulting fees?**

SEC COMMENT:

You may wish to avoid any payment arrangements that could cause the plan to pay more than it should in pension consultant fees.

**6. If you allow plans to pay your consulting fees using the plan's brokerage commissions, what steps do you take to ensure that the plan receives best execution for its securities trades?**

SEC COMMENT:

Where and how brokerage orders are executed can impact the overall costs of the transaction, including the price the plan pays for the securities it purchases.

**7. Do you have any arrangements with broker-dealers under which you or a related company will benefit if money managers place trades for their clients with such broker-dealers?**

SEC COMMENT:

As noted above, you may wish to explore the consultant's relationships with other service providers to weigh the extent of any potential conflicts of interest.

**8. If you are hired, will you acknowledge in writing that you have a fiduciary obligation as an investment adviser to the plan while providing the consulting services we are seeking?**

SEC COMMENT:

All investment advisers (whether registered with the SEC or not) owe their advisory clients a fiduciary duty. Among other things, this means that advisers must disclose to their clients information about material conflicts of interest.

**9. Do you consider yourself a fiduciary under ERISA with respect to the recommendations you provide the plan?**

SEC COMMENT:

If the consultant is a fiduciary under ERISA and receives

fees from third parties as a result of their recommendations, a prohibited transaction under ERISA occurs unless the fees are used for the benefit of the plan (e.g., offset against the consulting fees charged the plan) or there is a relevant statutory or class exemption permitting the receipt of such fees.

**10. What percentage of your plan clients utilize money managers, investment funds, brokerage services or other service providers from whom you receive fees?**

SEC COMMENT:

The answer may help in evaluating the objectivity of the recommendations or the fiduciary status of the consultant under ERISA.

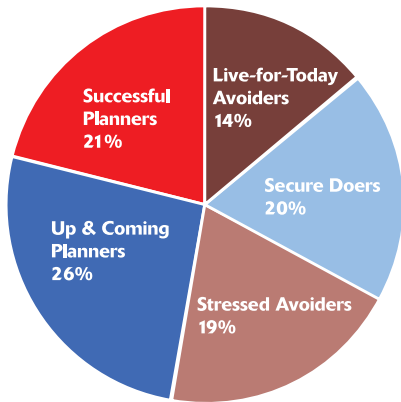
*Plan trustees, pension consultants, and other service providers can learn about their fiduciary responsibilities under the EMPLOYEE RETIREMENT INCOME SECURITY ACT by visiting the website of the Department of Labor at <http://www.dol.gov/>. Pension consultants who have questions concerning their obligations under the Investment Advisers Act of 1940 should either consult with an attorney who specializes in the federal securities laws or contact the staff of the SEC's Division of Investment Management. Visit <http://www.sec.gov/investor/pubs/sponsortips.htm> for more information.*

## **Money attitudes and retirement plan design**

**By Donna M. MacFarland, Carolyn D. Marconi and Stephen P. Utkus**

With the growth of defined contribution retirement plans, plan participants are increasingly expected to behave like financial planners, optimizing a series of saving, investment, tax, and spending decisions throughout their lives. Yet just as individuals have varying tastes in saving, we illustrate that participants in retirement plans have varying tastes for the types of

## The five “money attitude” segments



Source: The Vanguard Group, 2002

financial planning activities needed to ensure success in those plans. Workers can be classified into five “money attitude” segments, with markedly different preferences for savings behavior, equity risk taking, and retirement planning.

Our analysis suggests that a significant group of workers lacks the psychological attitudes or interests needed to maximize retirement security. Our results have important implications for the degree of participant direction in retirement programs; the role of negative elections and default options in plans, and the design of programs to enhance worker financial literacy.

The table on the next page summarizes key features of each of the five “Money Attitudes” segments, while the chart at upper right provides a snapshot of the size of each attitudinal segment.

About one-fifth (21 percent) of the retirement plan population (participants and eligible non-participants) may be characterized as **Successful Planners**. These individuals have a strong, goal-oriented vision of a successful retirement. They enjoy planning for the future and are optimistic that they are well-prepared for retirement. They are disciplined savers, and they derive a high level of personal satisfaction from the act of saving for the future. They are comfortable with equity risk-taking, and they rely on an extensive array of information sources to make decisions.

**Up & Coming Planners** accounted for another quarter (26 percent) of the retirement plan population. They possess many of the attitudes and preferences of Successful Planners—a strong, goal-oriented vision of retirement; an abiding interest in retirement planning; a disciplined approach to savings; and an equity orientation in their investment strategy. Where they differ from Successful Planners is in the degree of confidence about their plans. They lack the degree of optimism, the feeling of assured success, that the Successful Planners have achieved—hence the “Up & Coming” designation.

The **Secure Doer** segment accounted for one-fifth (20 percent) of the retirement plan population. The term “Doer” originated from the original interviews, during

which the research team observed a pattern of individuals having strong interest in savings, particularly out of a sense of responsibility or duty toward themselves or others. The term “Secure” originates from this segment’s relative aversion to stock market risk. Secure Doers appear to have a high level of interest in saving, but they are more security-conscious in their investment strategy and less willing to take on equity market risk. Their orientation to saving behavior, rather than retirement planning, is also reflected in a number of other attitudinal characteristics. Individuals in this segment are not particularly interested in money management, and retirement and financial planning; there would be few personal finance hobbyists in this segment. Unlike the two Planner categories, who have strong goal-oriented visions of retirement, Secure Doers do not appear to have a strong view of their retirement goals. In fact, they appear to be more willing to adjust their lifestyle to available resources rather than pursue a given set of goals with discipline.

The fourth segment is the **Stressed Avoiders**, which accounted one-fifth (19 percent) of the retirement plan population. Stressed Avoiders find financial matters to be a source of stress, anxiety, and confusion—all of which combine to create obstacles to planning a successful financial future. They do not appear to be particularly goal-oriented in thinking about the future. Worry, concern, stress, and pessimism are the emotions which most often surface when they confront financial issues. Of all of the segments, this group is least confident in its investing skills.

The final segment is the **Live-for-Today Avoiders**, which represented 14 percent of the retirement plan population. This group is not necessarily overwhelmed by the emotional aspects of money and retirement planning, but instead is uninterested in the future at all. Since they live for the present, they derive little or no satisfaction from saving for the future; leisure time is more valuable than any time spent on planning efforts.

## Highlights of attitudinal characteristics

	Successful Planners	Up & Coming Planners	Secure Doers	Stressed Avoiders	Live-For-Today Avoiders
N = %	237 21%	298 26%	229 20%	212 19%	165 14%
<b>Vision of Retirement</b>	Possess a strong vision with clear goals and aspirations	Similar to Successful Planners but with some uncertainty	Less goal focused; willing to adjust lifestyle to resources	Worried about the future and money; not goal- or vision-oriented	Not focused on the future at all
<b>Interest in retirement and financial planning</b>	Enjoy planning and dealing with finances; derive satisfaction from managing money	Enjoy dealing with finances, planning, money management	Strong interest in saving for the future, not as concerned with planning or managing their money	Stressed out and confused by financial planning, money but interested in learning more	Little interest in planning; not stressed; would rather “live for today” than “plan for tomorrow”
<b>Preparation for retirement</b>	Optimistic they will meet retirement goals; least concerned about having enough money	Not yet in a position to meet retirement goals but optimistic about the future	Optimistic about retirement; likely to save sufficiently for future	Pessimistic about having enough money for retirement	Have not considered retirement needs; have highest degree of confidence in Social Security
<b>Savings behavior/ deferral of gratification</b>	Disciplined savers; derive satisfaction from saving	Disciplined savers; enjoy savings process	Willing to save for future	Savings impeded by confusion, worry	Little satisfaction from saving; leisure time more valuable; retirement “too far away”
<b>Equity risk-taking</b>	Willing to take risks for higher return	Have made money in stocks, but are less confident than Successful Planners	Less willing to take equity market risk	Least confident of their investment skills	Middle-of-the road attitudes toward risk taking
<b>Sources of financial information</b>	Many-plan provider, media, Internet, adviser, employer	Many, like Successful Planners	Employer, plan provider, or adviser	Employer, plan provider	Employer, plan provider
<b>Other</b>	Older and more affluent; more active with the Internet	Younger than Successful Planners	Older and more affluent	Nonparticipants regret not having joined plan; participants wish they had started sooner	Somewhat younger than all other groups

Source: Authors' computations

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## **New information act in effect Jan. 1**

The new Illinois **PERSONAL INFORMATION PROTECTION ACT** takes effect January 1, 2006 and applies to all Pension Boards in Illinois.

Essentially, the Act requires any business, university, agency, or other entity that, for any purpose, deals with nonpublic personal information concerning an Illinois resident to notify these residents if this data suffers a security breach.

For links to more information and resources visit <http://www.igfoa.org/PersonalInformationProtectionActResources.htm>

## **Calling all ideas**

Would you like to author an article for the IPP newsletter? Do you have an idea for an educational topics to address in the 2006 IPP newsletter? Forward your ideas to [execdir@igfoa.org](mailto:execdir@igfoa.org) today!!

## **Reserve these 2006 dates!**

Watch for registration announcements at  
[www.igfoa.org](http://www.igfoa.org)

**Downstate IGFOA Chapter Winter Conference**  
Bloomington • Friday, January 20  
Featured topics: Wellness and Insurance

**Illinois Public Pension Institute**  
Friday, April 28th

**GFOA 100th Conference**  
Montreal Canada • Sunday-Wednesday, May 7-10

**Joint IGFOA and WGFOA Conference**  
Ho Chunk Hotel, Wisconsin • Thursday and  
Friday, June 8 and 9.  
Featured topics: Debt Management and Capital  
Financing

**Public Finance Law Institute,**  
Friday, August 25

**IGFOA Annual Conference**  
Peoria • Sunday-Tuesday, September 24-26

