



## **NICOLE GALLOWAY, CPA**

### **Missouri State Auditor**

Board of Directors  
County Employees' Retirement Fund  
and  
Missouri General Assembly  
Jefferson City, Missouri

This letter reports the results of our review of a complaint received by my office from an elected state representative. The complaint related to the reporting of salary information by county officials participating in the County Employees' Retirement Fund (CERF). The objectives of our review were to determine whether county officials reported appropriate salary information to the CERF for the calculation of retirement benefits and determine if county clerk and collector fees were used to improperly elevate annual compensation amounts reported to the CERF resulting in increased retirement benefits.

In addition, the state representative reported concerns about three specific county officials. These concerns were referred to the Attorney General's Office in a letter dated August 24, 2020.

#### **Methodology**

Our methodology included reviewing policies and procedures; comparing salary information from State Auditor's Office (SAO) audit reports, the CERF, and Secretary of State's Office (SOS); and interviewing various personnel of the CERF, as well as certain external parties.

In July 2020, the CERF provided us a report of county clerks and county collectors that had retired since January 1, 2010, including their final average salary. We compared the information to salary information previously reported by the SAO in the applicable county audit report and salary information provided by the SOS to determine if salary information reported to the CERF was comparable. When we identified differences, we obtained additional information from the applicable county. The SOS also provided salary history for the final 10 years, if applicable, of selected county collectors and clerks who had retired since 2010. We reviewed the data for significant fluctuations that may indicate more than one year's fees or commissions were reported in a single year's salary amount. We used the SOS Annual Report of County Officials' Compensation data because fees and commissions are not separately reported to the CERF and are generally included in the amount of total compensation. The SOS reports provided separate detail and amounts on base salary and fees and commissions for each elected official. To evaluate fluctuations, we reviewed related SAO audit reports, CERF information, and SOS filings; and discussed them with current county officials.

#### **Background**

The CERF was established by an act of the Missouri General Assembly effective August 28, 1994. The Board of Directors has the authority to adopt rules and regulations for administering the retirement fund. Laws governing the retirement fund are found in Sections 50.1000-50.1300, RSMo, and 16 CSR 50.

Counties report salary information online after each payroll period through CERF's secure county portal. CERF staff are trained to ask questions about reported compensation if it varies from previously reported information. As compensation is reported by pay period, CERF software flags any payroll amount that varies by \$6,000 or 25 percent of prior amount. CERF staff then follow up with the applicable county clerk's office to identify why there is a variance. Additionally, when a member applies for retirement benefits, CERF benefits staff will question compensation figures if the salary for the two highest years varies by more than 10 percent from prior years.

Various county clerks and collectors statewide receive additional compensation in the form of fees and commissions from activities they are not statutorily required to perform such as preparation of tax books and collection of property taxes for cities, drainage districts, and levee districts. These types of services are typically addressed in a contract between the parties that specifies the compensation for the services and how it will be paid.

Employees covered by the CERF can retire with full benefits at age 62 or reduced benefits at age 55. The monthly benefit for county employees is determined by selecting the highest benefit calculated using three different prescribed formulas (flat-dollar formula, targeted replacement ratio formula, and prior plan formula). When a participant leaves county employment, the county clerk's office in the county employing the person is required to complete a salary verification. In addition, the office must provide support for the two highest years of compensation documented by a W-2 form or certified payroll report. The CERF is dependent on the county providing accurate information for the fees and commissions received and the applicable year. Under Section 50.1034.1, RSMo, the CERF is authorized to adjust any benefit calculation that is made in error, including adjusting future benefit amounts and recovering any overpayments.

Under 16 CSR 50-2.050(4)(E), "Beginning January 1, 2000, officials whose compensation is collected partly or wholly from fees or a combination of fees and salary may only include these fees if they are processed through county payroll and in accordance with the definition of compensation included in 16 CSR 50-2.010(1)(K)." 16 CSR 50-2.010(1)(K), further provides "Compensation received from sources other than an employer and compensation received pursuant to independent contracting relationships shall not be included in calculating the retirement benefit."

### **Complaint and SAO Conclusion**

*Complaint - Compensation information reported to the CERF may be manipulated by elected officials receiving fees and commissions. The compensation is manipulated by reporting multiple years of fees and commissions earned in a single year's salary and, as a result, elevating the final compensation amounts used to calculate retirement benefits.*

To ensure that compensation information reported to the CERF was appropriate, we first compared the information with related SAO reports and SOS filings. We noted some differences and followed up on those differences with additional information from the CERF and the related county, if needed. After additional follow up, we noted the salary amounts used by the CERF to calculate the officials' retirement benefits were comparable with the amounts reported by the SAO and to the SOS, or were less than those amounts, which would be appropriate. Our review of SOS data identified some officials that did not report fees and/or commissions to the SOS as required. This problem was limited, but indicates there is an opportunity for improvement in the reporting.

For 40 officials, we evaluated fluctuations in salary and fee amounts reported to the SOS to determine if there was an opportunity for manipulated salary information reported to the CERF. The review found no

unexplained fluctuations in the amounts. We followed up with county and CERF officials to determine the reasons for some fluctuations and determined that in at least two cases, the official paid premiums for his/her own health insurance and these amounts were reported on the employee's W-2 form and included in CERF salary calculation appropriately. The CERF maintained documentation to support this information and we noted no concerns. We noted other increases in the fees reported generally related to new contracts with cities, levee districts, or drainage districts to collect property taxes or prepare tax books on their behalf.

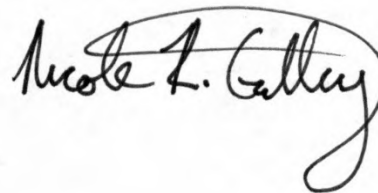
### **Overall SAO Conclusion**

Based on the information provided by the CERF and SOS, the county officials generally reported the same salary information to the CERF and the SOS. In some instances, fee and commission information was not reported to the SOS. As salary information is collected by both entities, opportunity exists for the CERF and SOS to further strengthen salary verification procedures by comparing information. Such collaboration would also allow the SOS to ensure fees and commissions are consistently reported.

We noted no unexplained fluctuations in the fee amounts reported to the SOS. While we noted no instances of manipulated fees and commission amounts to increase retirement benefits, CERF officials indicated they do not have the statutory authority to investigate or question information provided by counties without direct evidence of fraud or allegations by a credible source. To ensure compensation information is not manipulated, the General Assembly should (1) evaluate whether fees and commissions from duties county officials are not statutorily required to perform should be included in the final compensation amounts used in retirement benefits calculations and (2) consider passing legislation to ensure the CERF has the proper authority to investigate and question compensation amounts reported.

My office plans to continue to review CERF reporting during regularly scheduled audits of third class counties.

Sincerely,

A handwritten signature in black ink, reading "Nicole R. Galloway". The signature is fluid and cursive, with a large loop at the end of the last name.

Nicole R. Galloway, CPA  
State Auditor