**Section 4445.320 HEART Act**

The downstate firefighters' pension funds will operate in compliance with USERRA, as required by Section 1-118 of the Pension Code, and as amended and expanded by the HEART Act.

a) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in USERRA), to the extent required by IRC section 401(a)(37), survivors of a member in a State or local retirement or pension system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's period of qualified military service must be counted for vesting purposes.

b) Beginning January 1, 2009, to the extent required by IRC sections 3401(h) and 414(u)(12), an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in USERRA)) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under IRC section 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

c) Effective with respect to deaths and disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in USERRA), to the extent permitted by IRC section 414(u)(8), for benefit accrual purposes and, in the case of death, for vesting purposes, the member will be treated as having earned years of service for the period of qualified military service, having returned to employment on the day before the death and/or disability, and then having terminated on the date of death or disability. This provision applies only if the employer and the employee have made contributions equal to those that would have been made had the employee been active during the period of coverage. This provision shall be applied to all similarly situated individuals with respect to an employer in a reasonably equivalent manner.

(Source: Added at 39 Ill. Reg. 4968, effective March 23, 2015)