



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3875

Introduced 2/28/2005, by Rep. Michael K. Smith

SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-149	from Ch. 108 1/2, par. 16-149
40 ILCS 5/16-149.1	from Ch. 108 1/2, par. 16-149.1
40 ILCS 5/16-149.2	from Ch. 108 1/2, par. 16-149.2
40 ILCS 5/16-149.6 new	

Amends the Downstate Teacher Article of the Illinois Pension Code. Provides that a teacher who (i) has been receiving a disability, occupational disability, or disability retirement benefit for at least one year and (ii) remains unable to resume regular full-time teaching due to disability, but is able to engage in limited or part-time employment as a teacher, may engage in such limited or part-time employment as a teacher without loss of the disability, occupational disability, or disability retirement benefit, provided that the teacher's earnings for that limited or part-time employment, when added to the amount of the benefit, do not exceed 100% of the salary rate upon which the benefit is based. Effective immediately.

LRB094 11596 AMC 42655 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

1 AN ACT in relation to public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 16-149, 16-149.1, and 16-149.2 and adding Section
6 16-149.6 as follows:

7 (40 ILCS 5/16-149) (from Ch. 108 1/2, par. 16-149)
8 Sec. 16-149. Disability benefit.

9 (a) A disability benefit is payable to a member who was in
10 active service on or after June 30, 1977 and has at least 3
11 years of creditable service. Part-time and substitute teachers
12 who are in active service on or after July 1, 1990 must have
13 worked as a teacher for at least 340 hours in either the school
14 year in which the disability occurs or in the preceding school
15 year.

16 The benefit is payable upon application of a member who is
17 not receiving a benefit under either Section 16-133, Section
18 16-149.1 or Section 16-149.2. The benefit shall be granted only
19 if the member is found by medical examination to be
20 incapacitated to perform the duties of his or her position as a
21 teacher and only if the commencement of the incapacity occurred
22 while the member was employed as a teacher or within 90 days of
23 such employment.

24 A member shall be considered disabled only when the System
25 has received (1) a written certificate by at least 2 licensed
26 and practicing physicians designated by the System, certifying
27 that the member is disabled and unable to properly perform the
28 duties of his or her position at the time of disability, except
29 in the case of disability due to pregnancy where a written
30 certificate from only one licensed and practicing physician is
31 required; (2) a written statement from the employer certifying
32 that the member is not eligible to receive a salary; and (3) a

1 certification from the member that he or she is not and has not
2 been engaged in gainful employment during the period of
3 disability.

4 The benefit shall begin to accrue on the 31st day of
5 absence from service on account of disability, except that when
6 an application is made more than 90 days subsequent to the
7 later of the commencement of disability or the date eligibility
8 for salary ceases, it shall begin to accrue from the date of
9 application, and shall be payable during the time the member
10 does not receive a retirement annuity. The benefit is not
11 payable to a member who is receiving or has a right to receive
12 any salary as a teacher, or is employed in any capacity as a
13 teacher by the employers included under this System or in an
14 equivalent capacity in any other public or private school,
15 college or university, except as provided in Section 16-149.6.

16 Service credits under the State Employees' Retirement
17 System of Illinois, the State Universities Retirement System
18 and the Illinois Municipal Retirement Fund shall be considered
19 in determining the member's eligibility for a disability
20 benefit and the total period during which the disability
21 benefit is payable.

22 (b) The disability benefit shall be 40% of the greater of
23 the member's most recent annual contract salary rate at the
24 time the disability benefit becomes payable or the member's
25 annual contract rate on the date the disability commenced.
26 Prior to July 1, 1990, if the most recent period of service of
27 any member was rendered on a less than full-time but not less
28 than half-time basis, the amount of the disability benefit
29 payable to such member shall be computed on the basis of the
30 salary received by such member for the member's last year of
31 service on a full-time basis if such salary was greater than
32 the member's most recent salary. For part-time and substitute
33 members after June 30, 1990, the disability benefit shall be
34 40% of the greater of the member's most recent annualized
35 salary rate at the time the disability benefit becomes payable
36 or the annualized salary rate or contract salary rate at the

1 time the disability commenced.

2 In addition to the above benefit, the member shall receive
3 creditable service and credit for contributions that the member
4 would have made in active employment during any period of
5 disability for which benefits are paid by the System on the
6 basis of the annual salary rate used in computing the benefit,
7 except as provided in Section 16-149.6.

8 (c) Effective January 1, 1988, the disability benefit shall
9 continue until the time one of the following events first
10 occurs: (1) disability ceases; (2) the member requests
11 termination of the benefit; (3) the aggregate period for which
12 disability payments made during the member's entire period of
13 service equals 1/4 of the total period of creditable service,
14 not including the time he or she has received the disability
15 payments; or (4) the member is engaged or found to be able to
16 engage in gainful employment, other than limited employment
17 under Section 16-149.6. If the disability benefit is
18 discontinued under item (4) but the member is subsequently
19 found to be unable to be gainfully employed due to the
20 disability which was the cause for his or her most recent
21 incapacity to perform the duties of a teacher, the disability
22 benefit will be resumed, upon notification of the System, as
23 soon as the member is not eligible to receive salary.

24 A disabled member who receives disability benefits for the
25 maximum period specified above or who requests that the
26 disability benefits be terminated may be retired on a
27 disability retirement annuity.

28 (d) The board shall prescribe rules governing the filing,
29 investigation, control, and supervision of disability claims.
30 The rules shall include specific standards to be used when
31 requesting additional medical examinations, hospital records
32 or other data necessary for determining the employment capacity
33 and condition of the member. Costs incurred by a claimant in
34 connection with completing a claim for disability benefits
35 shall be paid by the claimant.

36 (Source: P.A. 86-272; 86-273; 86-1028; 87-794; 87-1265.)

1 (40 ILCS 5/16-149.1) (from Ch. 108 1/2, par. 16-149.1)

2 Sec. 16-149.1. Occupational disability benefit.

3 (a) A member who becomes totally and immediately
4 incapacitated for duty as the proximate result of bodily
5 injuries sustained or a hazard undergone while in the
6 performance and within the scope of his or her duties, if such
7 injuries or hazard were not the consequence of the member's
8 willful negligence, shall receive an occupational disability
9 benefit upon making proper application. If application is made
10 more than 90 days subsequent to the later of the commencement
11 of disability or the date eligibility for salary ceases,
12 benefits shall begin to accrue from the date of application,
13 but service credit and credit for contributions will be earned
14 from the date of disability. The benefit is not payable to, and
15 credit for service and contributions may not be earned under
16 this Section by, a member who is receiving a benefit under
17 Section 16-133, 16-149, or 16-149.2, or who is receiving salary
18 as a teacher, or is employed in any capacity as a teacher by
19 the employers included under this System or in an equivalent
20 capacity in any other public or private school, college or
21 university, except as provided in Section 16-149.6.

22 Proper proof of disability shall consist of: (1) a written
23 certificate by at least 2 licensed and practicing physicians
24 designated by the System, certifying that member is disabled
25 and unable to perform assigned duties; (2) a written statement
26 from the employer certifying that the member is disabled and
27 not receiving a salary, and related information as to the cause
28 and commencement of disability; and (3) a written statement
29 from the member certifying that the member is not and has not
30 been engaged in gainful employment.

31 Occupational disability benefits under this Section shall
32 be payable only if (1) on the basis of a claim filed by the
33 applicant with the Illinois Workers' Compensation Commission,
34 it is determined by the Commission that the disability was
35 incurred while in the performance and within the scope of

1 assigned duties, under the terms of the Illinois Workers'
2 Compensation or Occupational Diseases Act, whichever applies,
3 and the claim is adjudicated as compensable by the Commission
4 under either of the aforesaid Acts; or (2) on the basis of a
5 claim filed by the applicant with an insurance carrier with
6 which the employer of the applicant has a workers' compensation
7 insurance policy, it is determined under the terms of the
8 aforesaid policy that the disability was incurred while in the
9 performance and within the scope of the member's assigned
10 duties and the claim is approved as compensable.

11 (b) The occupational disability benefit shall be the
12 greater of 60% of the member's contract salary rate at the time
13 the disability benefit becomes payable or the member's annual
14 contract rate on the date the disability commenced, and shall
15 be payable monthly in equal installments. For part-time and
16 substitute teachers after June 30, 1990, the benefit shall be
17 the greater of the member's most recent annualized salary rate
18 at the time the disability benefit becomes payable or the
19 annualized salary rate or annual contract rate at the time the
20 disability commenced.

21 Any amounts provided for a member or a member's dependents
22 under the Illinois Workers' Compensation Act, the Illinois
23 Occupational Diseases Act or a workers' compensation insurance
24 policy provided by the employer shall be applied as an offset
25 to any occupational benefit provided under this Section in such
26 manner as may be prescribed by the board.

27 In addition to the above benefit, the member shall receive
28 creditable service and credit for contributions that the member
29 would have made in active employment during the period of
30 disability, except as provided in Section 16-149.6. Creditable
31 service and credit for contributions shall be calculated on the
32 basis of the annual salary rate used in computing the benefit;
33 however, such credit shall not be used in the determination of
34 the period for which disability benefits are payable. A member
35 who remains disabled after the termination of benefits due to
36 age or the expiration of the maximum period for which benefits

1 are payable shall be entitled to the retirement annuity
2 provided under Section 16-133, notwithstanding that the member
3 may not have the required minimum period of creditable service
4 prescribed for such annuity.

5 (c) Effective January 1, 1988, the occupational disability
6 benefit shall continue until the time one of the following
7 first occurs: (1) disability ceases; (2) the member requests
8 termination of the benefit; or (3) the member is engaged or
9 found to be able to engage in gainful employment, other than
10 limited employment under Section 16-149.6. If the disability
11 benefit is discontinued under item (3) but the member is
12 subsequently found to be unable to be gainfully employed due to
13 the disability which was the cause for his or her most recent
14 incapacity to perform the duties of a teacher, the disability
15 benefit will be resumed, upon notification of the System, as
16 soon as the member is not eligible to receive salary.

17 (d) The board shall prescribe rules governing the filing,
18 investigation, control, and supervision of disability claims.
19 Costs incurred by a claimant in connection with completing a
20 claim for disability benefits shall be paid by the claimant.

21 (Source: P.A. 93-721, eff. 1-1-05.)

22 (40 ILCS 5/16-149.2) (from Ch. 108 1/2, par. 16-149.2)

23 Sec. 16-149.2. Disability retirement annuity.

24 (a) A member whose disability benefit has been terminated
25 under the provisions of Section 16-149 may be retired on a
26 disability retirement annuity payable effective the day
27 following such termination provided the member remains
28 disabled under the standard of disability provided in Section
29 16-149.

30 The disability retirement annuity shall be payable upon
31 receipt of written certificates from at least 2 licensed
32 physicians designated by the System verifying the continuation
33 of the disability condition. A disability retirement annuity
34 shall not be paid during any period for which the member
35 receives benefits under Section 16-133, Section 16-149, or

1 Section 16-149.1 or has a right to receive a salary as a
2 teacher, or is employed in any capacity as a teacher by the
3 employers included under this System or in an equivalent
4 capacity in any other public or private school, college or
5 university, except as provided in Section 16-149.6.

6 (b) The disability retirement annuity shall be equal to the
7 larger of: (1) 35% of the most recent annual contract salary
8 rate or for part-time and substitute members after June 30,
9 1990, the most recent annualized salary rate; or (2) if
10 disability commences prior to the member's attainment of age
11 55, the amount computed in accordance with Section 16-133,
12 provided the amount computed under paragraph (B) of Section
13 16-133 shall be reduced by 1/2 of 1% for each month that the
14 member is less than age 55; or (3) if disability commences
15 after the member's attainment of age 55, and the member is not
16 receiving a retirement annuity under Section 16-133, the amount
17 computed in accordance with Section 16-133.

18 Prior to July 1, 1990, if the most recent period of service
19 of any member eligible to receive a disability retirement
20 annuity was rendered on a less than full-time but not less than
21 half-time basis, the amount of the disability retirement
22 annuity payable shall be computed on the basis of the salary
23 received by such member for the member's last year of service
24 on a full-time basis if such salary was greater than the
25 member's most recent salary.

26 (c) If an annuitant receiving a disability retirement
27 annuity under this Section is engaged in or able to engage in
28 gainful employment (including limited employment under Section
29 16-149.6) paying more than the difference between the
30 disability retirement annuity and the salary rate upon which
31 the disability benefit is based, with no salary to be
32 considered less than the minimum prescribed in Section 24-8 of
33 the School Code, the disability retirement annuity shall be
34 reduced to an amount which together with the amount earned by
35 the annuitant, equals the salary rate upon which the disability
36 benefit is based. However, for the purposes of this subsection

1 (c) only, the salary rate upon which the benefit is based shall
2 be deemed to increase by 15% on the tenth anniversary of the
3 commencement of the annuity.

4 Once each year during the first 5 years following
5 retirement on a disability retirement annuity, and once in
6 every 3-year period thereafter, the System may require an
7 annuitant to undergo a medical examination, by a physician or
8 physicians designated by the System. If the annuitant refuses
9 to submit to such medical examination, the annuity shall be
10 discontinued until such time as the annuitant consents to the
11 examination, and if refusal continues for one year, all the
12 rights to the annuity shall be revoked.

13 (d) If an annuitant in receipt of a disability retirement
14 annuity returns to active service as a teacher (other than
15 limited employment under Section 16-149.6) or is no longer
16 disabled, such annuity shall cease and the annuitant shall
17 again become a member of the Retirement System and, if in
18 active service as a teacher, shall make regular contributions.
19 All service for which the annuitant had credit on the date of
20 disability shall be properly reestablished.

21 An annuitant in receipt of a disability retirement annuity
22 who returns to active service as a teacher and who again
23 becomes disabled shall not be entitled to a recomputation of
24 the disability retirement annuity based on amendments enacted
25 while the annuitant was in receipt of the annuity unless at
26 least one year of creditable service is rendered after the
27 latest re-entry into service.

28 (e) An annuitant in receipt of a disability retirement
29 annuity may, upon reaching retirement age as specified in
30 Section 16-132, apply for a retirement annuity which is to be
31 calculated as specified in Section 16-133. The disability
32 retirement annuity shall be discontinued upon commencement of
33 the retirement annuity.

34 (f) The board shall prescribe rules governing the filing,
35 investigation, control, and supervision of disability
36 retirement claims. The rules shall include specific standards

1 to be used when requesting additional medical examinations,
2 hospital records or other data necessary for determining the
3 employment capacity and condition of the annuitant. Costs
4 incurred by a claimant in connection with completing a claim
5 for disability benefits shall be paid by the claimant.

6 The changes to this Section made by this amendatory Act of
7 1991 shall apply not only to persons who on or after its
8 effective date are in service as a teacher under the System,
9 but also to persons whose status as a teacher terminated prior
10 to that date, whether or not the person is an annuitant on that
11 date.

12 (Source: P.A. 93-469, eff. 8-8-03.)

13 (40 ILCS 5/16-149.6 new)

14 Sec. 16-149.6. Limited employment during disability.

15 (a) A teacher who (i) has been receiving a disability,
16 occupational disability, or disability retirement benefit
17 under Section 16-149, 16-149.1, or 16-149.2 for at least one
18 year and (ii) remains unable to resume regular full-time
19 teaching due to disability, but is able to engage in limited or
20 part-time employment as a teacher, may engage in such limited
21 or part-time employment as a teacher without loss of the
22 disability, occupational disability, or disability retirement
23 benefit, provided that the teacher's earnings for that limited
24 or part-time employment, when added to the amount of the
25 benefit, do not exceed 100% of the salary rate upon which the
26 benefit is based.

27 (b) A disabled teacher who engages in limited or part-time
28 teaching under this Section and earns service and contribution
29 credits for that teaching shall not receive duplicate service
30 or contribution credits under Section 16-149 or 16-149.1.

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.