



## 94TH GENERAL ASSEMBLY

### State of Illinois

#### 2005 and 2006

##### SB0461

Introduced 2/16/2005, by Sen. Richard J. Winkel, Jr.

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-112	from Ch. 108 1/2, par. 15-112
40 ILCS 5/15-113.6	from Ch. 108 1/2, par. 15-113.6
40 ILCS 5/15-113.7	from Ch. 108 1/2, par. 15-113.7
40 ILCS 5/15-136	from Ch. 108 1/2, par. 15-136
40 ILCS 5/15-139	from Ch. 108 1/2, par. 15-139
40 ILCS 5/15-154	from Ch. 108 1/2, par. 15-154
40 ILCS 5/15-158.2	
40 ILCS 5/15-187	from Ch. 108 1/2, par. 15-187
40 ILCS 5/15-190	from Ch. 108 1/2, par. 15-190
40 ILCS 5/15-191	from Ch. 108 1/2, par. 15-191

Amends the State Universities Article of the Illinois Pension Code. Provides that, for an employee whose final rate of earnings period includes March 2005, the final rate of earnings means the average annual earnings during the 48 consecutive calendar month period ending with the last day of final termination of employment or the 4 consecutive academic years of service in which the employee's earnings were the highest, whichever is greater. In provisions concerning service for employment in public schools and service for other public employment, removes references to payment of 50% of the actuarial value of the increase in the retirement annuity provided by the service. In provisions concerning retirement annuities, provides that any retirement benefit accrued but unpaid on the death of an annuitant shall be paid to the annuitant's beneficiary. Makes changes concerning annuitants who return to employment for an employer. Provides that the 5 or more years of service after which a participant shall also be entitled to a distribution of employer contributions in a specified amount may include service for unused sick leave or reciprocal service from the participant's election to retire and apply the reciprocal provisions contained in the Code. Provides that certain military service shall be counted in determining when a self-managed plan becomes vested. Removes the requirement that, with respect to payment of benefits to persons under legal disability or minors, the receipt of payment be written for the purpose of the absolute discharge of the system's liability. Makes other changes. Effective immediately.

LRB094 10644 AMC 40998 b

PENSION IMPACT  
NOTE ACT MAY  
APPLY

1 AN ACT concerning 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 15-112, 15-113.6, 15-113.7, 15-136, 15-139, 15-154,  
6 15-158.2, 15-187, 15-190, and 15-191 as follows:

7 (40 ILCS 5/15-112) (from Ch. 108 1/2, par. 15-112)

8 Sec. 15-112. Final rate of earnings. "Final rate of  
9 earnings": For an employee who is paid on an hourly basis or  
10 who receives an annual salary in installments during 12 months  
11 of each academic year or whose final rate of earnings period  
12 includes March 1, 2005, the average annual earnings during the  
13 48 consecutive calendar month period ending with the last day  
14 of final termination of employment or the 4 consecutive  
15 academic years of service in which the employee's earnings were  
16 the highest, whichever is greater. For any other employee, the  
17 average annual earnings during the 4 consecutive academic years  
18 of service in which his or her earnings were the highest. For  
19 an employee with less than 48 months or 4 consecutive academic  
20 years of service, the average earnings during his or her entire  
21 period of service. The earnings of an employee with more than  
22 36 months of service prior to the date of becoming a  
23 participant are, for such period, considered equal to the  
24 average earnings during the last 36 months of such service. For  
25 an employee on leave of absence with pay, or on leave of  
26 absence without pay who makes contributions during such leave,  
27 earnings are assumed to be equal to the basic compensation on  
28 the date the leave began. For an employee on disability leave,  
29 earnings are assumed to be equal to the basic compensation on  
30 the date disability occurs or the average earnings during the  
31 24 months immediately preceding the month in which disability  
32 occurs, whichever is greater.

1 For a participant who retires on or after the effective  
2 date of this amendatory Act of 1997 with at least 20 years of  
3 service as a firefighter or police officer under this Article,  
4 the final rate of earnings shall be the annual rate of earnings  
5 received by the participant on his or her last day as a  
6 firefighter or police officer under this Article, if that is  
7 greater than the final rate of earnings as calculated under the  
8 other provisions of this Section.

9 If a participant is an employee for at least 6 months  
10 during the academic year in which his or her employment is  
11 terminated, the annual final rate of earnings shall be 25% of  
12 the sum of (1) the annual basic compensation for that year, and  
13 (2) the amount earned during the 36 months immediately  
14 preceding that year, if this is greater than the final rate of  
15 earnings as calculated under the other provisions of this  
16 Section.

17 In the determination of the final rate of earnings for an  
18 employee, that part of an employee's earnings for any academic  
19 year beginning after June 30, 1997, which exceeds the  
20 employee's earnings with that employer for the preceding year  
21 by more than 20 percent shall be excluded; in the event that an  
22 employee has more than one employer this limitation shall be  
23 calculated separately for the earnings with each employer. In  
24 making such calculation, only the basic compensation of  
25 employees shall be considered, without regard to vacation or  
26 overtime or to contracts for summer employment.

27 The following are not considered as earnings in determining  
28 final rate of earnings: (1) severance or separation pay, (2)  
29 retirement pay, (3) payment for unused sick leave, and (4)  
30 payments from an employer for the period used in determining  
31 final rate of earnings for any purpose other than (i) services  
32 rendered, (ii) leave of absence or vacation granted during that  
33 period, and (iii) vacation of up to 56 work days allowed upon  
34 termination of employment; except that, if the benefit has been  
35 collectively bargained between the employer and the recognized  
36 collective bargaining agent pursuant to the Illinois

1 Educational Labor Relations Act, payment received during a  
2 period of up to 2 academic years for unused sick leave may be  
3 considered as earnings in accordance with the applicable  
4 collective bargaining agreement, subject to the 20% increase  
5 limitation of this Section. Any unused sick leave considered as  
6 earnings under this Section shall not be taken into account in  
7 calculating service credit under Section 15-113.4.

8 Intermittent periods of service shall be considered as  
9 consecutive in determining final rate of earnings.

10 (Source: P.A. 92-599, eff. 6-28-02; 93-347, eff. 7-24-03.)

11 (40 ILCS 5/15-113.6) (from Ch. 108 1/2, par. 15-113.6)

12 Sec. 15-113.6. Service for employment in public schools.  
13 "Service for employment in public schools": Includes those  
14 periods not exceeding the lesser of 10 years or 2/3 of the  
15 service granted under other Sections of this Article dealing  
16 with service credit, during which a person who entered the  
17 system after September 1, 1974 was employed full time by a  
18 public common school, public college and public university, or  
19 by an agency or instrumentality of any of the foregoing, of any  
20 state, territory, dependency or possession of the United States  
21 of America, including the Philippine Islands, or a school  
22 operated by or under the auspices of any agency or department  
23 of any other state, if the person (1) cannot qualify for a  
24 retirement pension or other benefit based upon employer  
25 contributions from another retirement system, exclusive of  
26 federal social security, based in whole or in part upon this  
27 employment, and (2) pays ~~the lesser of (A)~~ an amount equal to  
28 8% of his or her annual basic compensation on the date of  
29 becoming a participating employee subsequent to this service  
30 multiplied by the number of years of such service, together  
31 with compound interest from the date participation begins to  
32 the date payment is received by the board at the rate of 6% per  
33 annum through August 31, 1982, and at the effective rates after  
34 that date, ~~and (B) 50% of the actuarial value of the increase~~  
35 ~~in the retirement annuity provided by this service,~~ and (3)

1 contributes for at least 5 years subsequent to this employment  
2 to one or more of the following systems: the State Universities  
3 Retirement System, the Teachers' Retirement System of the State  
4 of Illinois, and the Public School Teachers' Pension and  
5 Retirement Fund of Chicago.

6 The service granted under this Section shall not be  
7 considered in determining whether the person has the minimum of  
8 8 years of service required to qualify for a retirement annuity  
9 at age 55 or the 5 years of service required to qualify for a  
10 retirement annuity at age 62, as provided in Section 15-135.  
11 The maximum allowable service of 10 years for this governmental  
12 employment shall be reduced by the service credit which is  
13 validated under paragraph (3) of Section 16-127 and paragraph 1  
14 of Section 17-133.

15 (Source: P.A. 91-357, eff. 7-29-99.)

16 (40 ILCS 5/15-113.7) (from Ch. 108 1/2, par. 15-113.7)

17 Sec. 15-113.7. Service for other public employment.  
18 "Service for other public employment": Includes those periods  
19 not exceeding the lesser of 10 years or 2/3 of the service  
20 granted under other Sections of this Article dealing with  
21 service credit, during which a person was employed full time by  
22 the United States government, or by the government of a state,  
23 or by a political subdivision of a state, or by an agency or  
24 instrumentality of any of the foregoing, if the person (1)  
25 cannot qualify for a retirement pension or other benefit based  
26 upon employer contributions from another retirement system,  
27 exclusive of federal social security, based in whole or in part  
28 upon this employment, and (2) pays ~~the lesser of (A)~~ an amount  
29 equal to 8% of his or her annual basic compensation on the date  
30 of becoming a participating employee subsequent to this service  
31 multiplied by the number of years of such service, together  
32 with compound interest from the date participation begins to  
33 the date payment is received by the board at the rate of 6% per  
34 annum through August 31, 1982, and at the effective rates after  
35 that date, ~~and (B) 50% of the actuarial value of the increase~~

1 ~~in the retirement annuity provided by this service,~~ and (3)  
2 contributes for at least 5 years subsequent to this employment  
3 to one or more of the following systems: the State Universities  
4 Retirement System, the Teachers' Retirement System of the State  
5 of Illinois, and the Public School Teachers' Pension and  
6 Retirement Fund of Chicago. If a function of a governmental  
7 unit as defined by Section 20-107 is transferred by law, in  
8 whole or in part to an employer, and an employee transfers  
9 employment from this governmental unit to such employer within  
10 6 months of the transfer of the function, the payment for  
11 service authorized under this Section shall not exceed the  
12 amount which would have been payable for this service to the  
13 retirement system covering the governmental unit from which the  
14 function was transferred.

15 The service granted under this Section shall not be  
16 considered in determining whether the person has the minimum of  
17 8 years of service required to qualify for a retirement annuity  
18 at age 55 or the 5 years of service required to qualify for a  
19 retirement annuity at age 62, as provided in Section 15-135.  
20 The maximum allowable service of 10 years for this governmental  
21 employment shall be reduced by the service credit which is  
22 validated under paragraph (3) of Section 16-127 and paragraph  
23 one of Section 17-133.

24 Except as hereinafter provided, this Section shall not  
25 apply to persons who become participants in the system after  
26 September 1, 1974.

27 (Source: P.A. 90-65, eff. 7-7-97; 90-511, eff. 8-22-97.)

28 (40 ILCS 5/15-136) (from Ch. 108 1/2, par. 15-136)

29 Sec. 15-136. Retirement annuities - Amount. The provisions  
30 of this Section 15-136 apply only to those participants who are  
31 participating in the traditional benefit package or the  
32 portable benefit package and do not apply to participants who  
33 are participating in the self-managed plan.

34 (a) The amount of a participant's retirement annuity,  
35 expressed in the form of a single-life annuity, shall be

1 determined by whichever of the following rules is applicable  
2 and provides the largest annuity:

3 Rule 1: The retirement annuity shall be 1.67% of final rate  
4 of earnings for each of the first 10 years of service, 1.90%  
5 for each of the next 10 years of service, 2.10% for each year  
6 of service in excess of 20 but not exceeding 30, and 2.30% for  
7 each year in excess of 30; or for persons who retire on or  
8 after January 1, 1998, 2.2% of the final rate of earnings for  
9 each year of service.

10 Rule 2: The retirement annuity shall be the sum of the  
11 following, determined from amounts credited to the participant  
12 in accordance with the actuarial tables and the prescribed rate  
13 of interest in effect at the time the retirement annuity  
14 begins:

15 (i) the normal annuity which can be provided on an  
16 actuarially equivalent basis, by the accumulated normal  
17 contributions as of the date the annuity begins;

18 (ii) an annuity from employer contributions of an  
19 amount equal to that which can be provided on an  
20 actuarially equivalent basis from the accumulated normal  
21 contributions made by the participant under Section  
22 15-113.6 and Section 15-113.7 plus 1.4 times all other  
23 accumulated normal contributions made by the participant;  
24 and

25 (iii) the annuity that can be provided on an  
26 actuarially equivalent basis from the entire contribution  
27 made by the participant under Section 15-113.3.

28 With respect to a police officer or firefighter who retires  
29 on or after August 14, 1998, the accumulated normal  
30 contributions taken into account under clauses (i) and (ii) of  
31 this Rule 2 shall include the additional normal contributions  
32 made by the police officer or firefighter under Section  
33 15-157(a).

34 The amount of a retirement annuity calculated under this  
35 Rule 2 shall be computed solely on the basis of the  
36 participant's accumulated normal contributions, as specified

1 in this Rule and defined in Section 15-116. Neither an employee  
2 or employer contribution for early retirement under Section  
3 15-136.2 nor any other employer contribution shall be used in  
4 the calculation of the amount of a retirement annuity under  
5 this Rule 2.

6 This amendatory Act of the 91st General Assembly is a  
7 clarification of existing law and applies to every participant  
8 and annuitant without regard to whether status as an employee  
9 terminates before the effective date of this amendatory Act.

10 Rule 3: The retirement annuity of a participant who is  
11 employed at least one-half time during the period on which his  
12 or her final rate of earnings is based, shall be equal to the  
13 participant's years of service not to exceed 30, multiplied by  
14 (1) \$96 if the participant's final rate of earnings is less  
15 than \$3,500, (2) \$108 if the final rate of earnings is at least  
16 \$3,500 but less than \$4,500, (3) \$120 if the final rate of  
17 earnings is at least \$4,500 but less than \$5,500, (4) \$132 if  
18 the final rate of earnings is at least \$5,500 but less than  
19 \$6,500, (5) \$144 if the final rate of earnings is at least  
20 \$6,500 but less than \$7,500, (6) \$156 if the final rate of  
21 earnings is at least \$7,500 but less than \$8,500, (7) \$168 if  
22 the final rate of earnings is at least \$8,500 but less than  
23 \$9,500, and (8) \$180 if the final rate of earnings is \$9,500 or  
24 more, except that the annuity for those persons having made an  
25 election under Section 15-154(a-1) shall be calculated and  
26 payable under the portable retirement benefit program pursuant  
27 to the provisions of Section 15-136.4.

28 Rule 4: A participant who is at least age 50 and has 25 or  
29 more years of service as a police officer or firefighter, and a  
30 participant who is age 55 or over and has at least 20 but less  
31 than 25 years of service as a police officer or firefighter,  
32 shall be entitled to a retirement annuity of 2 1/4% of the  
33 final rate of earnings for each of the first 10 years of  
34 service as a police officer or firefighter, 2 1/2% for each of  
35 the next 10 years of service as a police officer or  
36 firefighter, and 2 3/4% for each year of service as a police



1 officer or firefighter in excess of 20. The retirement annuity  
2 for all other service shall be computed under Rule 1.

3 For purposes of this Rule 4, a participant's service as a  
4 firefighter shall also include the following:

5 (i) service that is performed while the person is an  
6 employee under subsection (h) of Section 15-107; and

7 (ii) in the case of an individual who was a  
8 participating employee employed in the fire department of  
9 the University of Illinois's Champaign-Urbana campus  
10 immediately prior to the elimination of that fire  
11 department and who immediately after the elimination of  
12 that fire department transferred to another job with the  
13 University of Illinois, service performed as an employee of  
14 the University of Illinois in a position other than police  
15 officer or firefighter, from the date of that transfer  
16 until the employee's next termination of service with the  
17 University of Illinois.

18 Rule 5: The retirement annuity of a participant who elected  
19 early retirement under the provisions of Section 15-136.2 and  
20 who, on or before February 16, 1995, brought administrative  
21 proceedings pursuant to the administrative rules adopted by the  
22 System to challenge the calculation of his or her retirement  
23 annuity shall be the sum of the following, determined from  
24 amounts credited to the participant in accordance with the  
25 actuarial tables and the prescribed rate of interest in effect  
26 at the time the retirement annuity begins:

27 (i) the normal annuity which can be provided on an  
28 actuarially equivalent basis, by the accumulated normal  
29 contributions as of the date the annuity begins; and

30 (ii) an annuity from employer contributions of an  
31 amount equal to that which can be provided on an  
32 actuarially equivalent basis from the accumulated normal  
33 contributions made by the participant under Section  
34 15-113.6 and Section 15-113.7 plus 1.4 times all other  
35 accumulated normal contributions made by the participant;  
36 and

1 (iii) an annuity which can be provided on an  
2 actuarially equivalent basis from the employee  
3 contribution for early retirement under Section 15-136.2,  
4 and an annuity from employer contributions of an amount  
5 equal to that which can be provided on an actuarially  
6 equivalent basis from the employee contribution for early  
7 retirement under Section 15-136.2.

8 In no event shall a retirement annuity under this Rule 5 be  
9 lower than the amount obtained by adding (1) the monthly amount  
10 obtained by dividing the combined employee and employer  
11 contributions made under Section 15-136.2 by the System's  
12 annuity factor for the age of the participant at the beginning  
13 of the annuity payment period and (2) the amount equal to the  
14 participant's annuity if calculated under Rule 1, reduced under  
15 Section 15-136(b) as if no contributions had been made under  
16 Section 15-136.2.

17 With respect to a participant who is qualified for a  
18 retirement annuity under this Rule 5 whose retirement annuity  
19 began before the effective date of this amendatory Act of the  
20 91st General Assembly, and for whom an employee contribution  
21 was made under Section 15-136.2, the System shall recalculate  
22 the retirement annuity under this Rule 5 and shall pay any  
23 additional amounts due in the manner provided in Section  
24 15-186.1 for benefits mistakenly set too low.

25 The amount of a retirement annuity calculated under this  
26 Rule 5 shall be computed solely on the basis of those  
27 contributions specifically set forth in this Rule 5. Except as  
28 provided in clause (iii) of this Rule 5, neither an employee  
29 nor employer contribution for early retirement under Section  
30 15-136.2, nor any other employer contribution, shall be used in  
31 the calculation of the amount of a retirement annuity under  
32 this Rule 5.

33 The General Assembly has adopted the changes set forth in  
34 Section 25 of this amendatory Act of the 91st General Assembly  
35 in recognition that the decision of the Appellate Court for the  
36 Fourth District in *Mattis v. State Universities Retirement*

1 System et al. might be deemed to give some right to the  
2 plaintiff in that case. The changes made by Section 25 of this  
3 amendatory Act of the 91st General Assembly are a legislative  
4 implementation of the decision of the Appellate Court for the  
5 Fourth District in *Mattis v. State Universities Retirement*  
6 *System et al.* with respect to that plaintiff.

7 The changes made by Section 25 of this amendatory Act of  
8 the 91st General Assembly apply without regard to whether the  
9 person is in service as an employee on or after its effective  
10 date.

11 (b) The retirement annuity provided under Rules 1 and 3  
12 above shall be reduced by 1/2 of 1% for each month the  
13 participant is under age 60 at the time of retirement. However,  
14 this reduction shall not apply in the following cases:

15 (1) For a disabled participant whose disability  
16 benefits have been discontinued because he or she has  
17 exhausted eligibility for disability benefits under clause  
18 (6) of Section 15-152;

19 (2) For a participant who has at least the number of  
20 years of service required to retire at any age under  
21 subsection (a) of Section 15-135; or

22 (3) For that portion of a retirement annuity which has  
23 been provided on account of service of the participant  
24 during periods when he or she performed the duties of a  
25 police officer or firefighter, if these duties were  
26 performed for at least 5 years immediately preceding the  
27 date the retirement annuity is to begin.

28 (c) The maximum retirement annuity provided under Rules 1,  
29 2, 4, and 5 shall be the lesser of (1) the annual limit of  
30 benefits as specified in Section 415 of the Internal Revenue  
31 Code of 1986, as such Section may be amended from time to time  
32 and as such benefit limits shall be adjusted by the  
33 Commissioner of Internal Revenue, and (2) 80% of final rate of  
34 earnings.

35 (d) An annuitant whose status as an employee terminates  
36 after August 14, 1969 shall receive automatic increases in his

1 or her retirement annuity as follows:

2 Effective January 1 immediately following the date the  
3 retirement annuity begins, the annuitant shall receive an  
4 increase in his or her monthly retirement annuity of 0.125% of  
5 the monthly retirement annuity provided under Rule 1, Rule 2,  
6 Rule 3, Rule 4, or Rule 5, contained in this Section,  
7 multiplied by the number of full months which elapsed from the  
8 date the retirement annuity payments began to January 1, 1972,  
9 plus 0.1667% of such annuity, multiplied by the number of full  
10 months which elapsed from January 1, 1972, or the date the  
11 retirement annuity payments began, whichever is later, to  
12 January 1, 1978, plus 0.25% of such annuity multiplied by the  
13 number of full months which elapsed from January 1, 1978, or  
14 the date the retirement annuity payments began, whichever is  
15 later, to the effective date of the increase.

16 The annuitant shall receive an increase in his or her  
17 monthly retirement annuity on each January 1 thereafter during  
18 the annuitant's life of 3% of the monthly annuity provided  
19 under Rule 1, Rule 2, Rule 3, Rule 4, or Rule 5 contained in  
20 this Section. The change made under this subsection by P.A.  
21 81-970 is effective January 1, 1980 and applies to each  
22 annuitant whose status as an employee terminates before or  
23 after that date.

24 Beginning January 1, 1990, all automatic annual increases  
25 payable under this Section shall be calculated as a percentage  
26 of the total annuity payable at the time of the increase,  
27 including all increases previously granted under this Article.

28 The change made in this subsection by P.A. 85-1008 is  
29 effective January 26, 1988, and is applicable without regard to  
30 whether status as an employee terminated before that date.

31 (e) If, on January 1, 1987, or the date the retirement  
32 annuity payment period begins, whichever is later, the sum of  
33 the retirement annuity provided under Rule 1 or Rule 2 of this  
34 Section and the automatic annual increases provided under the  
35 preceding subsection or Section 15-136.1, amounts to less than  
36 the retirement annuity which would be provided by Rule 3, the

1 retirement annuity shall be increased as of January 1, 1987, or  
2 the date the retirement annuity payment period begins,  
3 whichever is later, to the amount which would be provided by  
4 Rule 3 of this Section. Such increased amount shall be  
5 considered as the retirement annuity in determining benefits  
6 provided under other Sections of this Article. This paragraph  
7 applies without regard to whether status as an employee  
8 terminated before the effective date of this amendatory Act of  
9 1987, provided that the annuitant was employed at least  
10 one-half time during the period on which the final rate of  
11 earnings was based.

12 (f) A participant is entitled to such additional annuity as  
13 may be provided on an actuarially equivalent basis, by any  
14 accumulated additional contributions to his or her credit.  
15 However, the additional contributions made by the participant  
16 toward the automatic increases in annuity provided under this  
17 Section shall not be taken into account in determining the  
18 amount of such additional annuity.

19 (g) If, (1) by law, a function of a governmental unit, as  
20 defined by Section 20-107 of this Code, is transferred in whole  
21 or in part to an employer, and (2) a participant transfers  
22 employment from such governmental unit to such employer within  
23 6 months after the transfer of the function, and (3) the sum of  
24 (A) the annuity payable to the participant under Rule 1, 2, or  
25 3 of this Section (B) all proportional annuities payable to the  
26 participant by all other retirement systems covered by Article  
27 20, and (C) the initial primary insurance amount to which the  
28 participant is entitled under the Social Security Act, is less  
29 than the retirement annuity which would have been payable if  
30 all of the participant's pension credits validated under  
31 Section 20-109 had been validated under this system, a  
32 supplemental annuity equal to the difference in such amounts  
33 shall be payable to the participant.

34 (h) On January 1, 1981, an annuitant who was receiving a  
35 retirement annuity on or before January 1, 1971 shall have his  
36 or her retirement annuity then being paid increased \$1 per

1 month for each year of creditable service. On January 1, 1982,  
2 an annuitant whose retirement annuity began on or before  
3 January 1, 1977, shall have his or her retirement annuity then  
4 being paid increased \$1 per month for each year of creditable  
5 service.

6 (i) On January 1, 1987, any annuitant whose retirement  
7 annuity began on or before January 1, 1977, shall have the  
8 monthly retirement annuity increased by an amount equal to 8¢  
9 per year of creditable service times the number of years that  
10 have elapsed since the annuity began.

11 (j) Any retirement benefit accrued but unpaid on the death  
12 of an annuitant shall be paid to the annuitant's beneficiary.

13 (Source: P.A. 92-16, eff. 6-28-01; 93-347, eff. 7-24-03.)

14 (40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

15 Sec. 15-139. Retirement annuities; cancellation; suspended  
16 during employment.

17 (a) If an annuitant returns to employment for an employer  
18 within 2 months ~~60 days~~ after the beginning of the retirement  
19 annuity payment period, the retirement annuity shall be  
20 cancelled, and the annuitant shall refund to the System the  
21 total amount of the retirement annuity payments which he or she  
22 received. If the retirement annuity is cancelled, the  
23 participant shall continue to participate in the System.

24 (b) If an annuitant retires prior to age 60 and receives or  
25 becomes entitled to receive during any month compensation in  
26 excess of the monthly retirement annuity (including any  
27 automatic annual increases) for services performed after the  
28 date of retirement for any employer under this System, that  
29 portion of the monthly retirement annuity provided by employer  
30 contributions shall not be payable.

31 If an annuitant retires at age 60 or over and receives or  
32 becomes entitled to receive during any academic year  
33 compensation in excess of the difference between his or her  
34 highest annual earnings prior to retirement and his or her  
35 annual retirement annuity computed under Rule 1, Rule 2, Rule

1 3, Rule 4, or Rule 5 of Section 15-136, or under Section  
2 15-136.4, for services performed after the date of retirement  
3 for any employer under this System, that portion of the monthly  
4 retirement annuity provided by employer contributions shall be  
5 reduced by an amount equal to the compensation that exceeds  
6 such difference.

7 However, any remuneration received for serving as a member  
8 of the Illinois Educational Labor Relations Board shall be  
9 excluded from "compensation" for the purposes of this  
10 subsection (b), and serving as a member of the Illinois  
11 Educational Labor Relations Board shall not be deemed to be a  
12 return to employment for the purposes of this Section. This  
13 provision applies without regard to whether service was  
14 terminated prior to the effective date of this amendatory Act  
15 of 1991.

16 (c) If an employer certifies that an annuitant has been  
17 reemployed on a permanent and continuous basis or in a position  
18 in which the annuitant is expected to serve for at least 9  
19 months, the annuitant shall resume his or her status as a  
20 participating employee and shall be entitled to all rights  
21 applicable to participating employees upon filing with the  
22 board an election to forego all annuity payments during the  
23 period of reemployment. Upon subsequent retirement, the  
24 retirement annuity shall consist of the annuity which was  
25 terminated by the reemployment, plus the additional retirement  
26 annuity based upon service granted during the period of  
27 reemployment, but the combined retirement annuity shall not  
28 exceed the maximum annuity applicable on the date of the last  
29 retirement.

30 The total service and earnings credited before and after  
31 the initial date of retirement shall be considered in  
32 determining eligibility of the employee or the employee's  
33 beneficiary to benefits under this Article, and in calculating  
34 final rate of earnings.

35 In determining the death benefit payable to a beneficiary  
36 of an annuitant who again becomes a participating employee

1 under this Section, accumulated normal and additional  
2 contributions shall be considered as the sum of the accumulated  
3 normal and additional contributions at the date of initial  
4 retirement and the accumulated normal and additional  
5 contributions credited after that date, less the sum of the  
6 annuity payments received by the annuitant.

7 The survivors insurance benefits provided under Section  
8 15-145 shall not be applicable to an annuitant who resumes his  
9 or her status as a participating employee, unless the  
10 annuitant, at the time of initial retirement, either: (1) has a  
11 survivors insurance beneficiary who could qualify for such  
12 benefits; or (2) elected not to receive a refund of survivors  
13 insurance contributions. A portable benefit package lump-sum  
14 retirement benefit recipient may elect to receive an optional  
15 form of retirement annuity pursuant to the provisions of  
16 subsection (h) of Section 15-136.4, but only with respect to  
17 the additional retirement annuity earned during the period of  
18 reemployment.

19 If the annuitant's employment is terminated because of  
20 circumstances other than death before 9 months from the date of  
21 reemployment, the provisions of this Section regarding  
22 resumption of status as a participating employee shall not  
23 apply. The normal and survivors insurance contributions which  
24 are deducted during this period shall be refunded to the  
25 annuitant without interest, and subsequent benefits under this  
26 Article shall be the same as those which were applicable prior  
27 to the date the annuitant resumed employment.

28 The amendments made to this Section by this amendatory Act  
29 of the 91st General Assembly apply without regard to whether  
30 the annuitant was in service on or after the effective date of  
31 this amendatory Act.

32 (Source: P.A. 91-887 (Sections 10 and 25), eff. 7-6-00; 92-16,  
33 eff. 6-28-01.)

34 (40 ILCS 5/15-154) (from Ch. 108 1/2, par. 15-154)  
35 Sec. 15-154. Refunds.



1 (a) A participant whose status as an employee is  
2 terminated, regardless of cause, or who has been on lay off  
3 status for more than 120 days, and who is not on leave of  
4 absence, is entitled to a refund of contributions upon  
5 application; except that not more than one such refund  
6 application may be made during any academic year.

7 Except as set forth in subsections (a-1) and (a-2), the  
8 refund shall be the sum of the accumulated normal, additional,  
9 and survivors insurance contributions, plus the entire  
10 contribution made by the participant under Section 15-113.3,  
11 less the amount of interest credited on these contributions  
12 each year in excess of 4 1/2% of the amount on which interest  
13 was calculated.

14 (a-1) A person who elects, in accordance with the  
15 requirements of Section 15-134.5, to participate in the  
16 portable benefit package and who becomes a participating  
17 employee under that retirement program upon the conclusion of  
18 the one-year waiting period applicable to the portable benefit  
19 package election shall have his or her refund calculated in  
20 accordance with the provisions of subsection (a-2).

21 (a-2) The refund payable to a participant described in  
22 subsection (a-1) shall be the sum of the participant's  
23 accumulated normal and additional contributions, as defined in  
24 Sections 15-116 and 15-117, plus the entire contribution made  
25 by the participant under Section 15-113.3. If the participant  
26 terminates with 5 or more years of service from one or more of:  
27 (1) for employment as defined in Section 15-113.1, (2) service  
28 creditable under Section 15-113.4, or (3) reciprocal service  
29 from the participant's election to retire and apply the  
30 reciprocal provisions of Article 20 of this Code, then he or  
31 she shall also be entitled to a distribution of employer  
32 contributions in an amount equal to the sum of the accumulated  
33 normal and additional contributions, as defined in Sections  
34 15-116 and 15-117.

35 (b) Upon acceptance of a refund, the participant forfeits  
36 all accrued rights and credits in the System, and if

1 subsequently reemployed, the participant shall be considered a  
2 new employee subject to all the qualifying conditions for  
3 participation and eligibility for benefits applicable to new  
4 employees. If such person again becomes a participating  
5 employee and continues as such for 2 years, or is employed by  
6 an employer and participates for at least 2 years in the  
7 Federal Civil Service Retirement System, all such rights,  
8 credits, and previous status as a participant shall be restored  
9 upon repayment of the amount of the refund, together with  
10 compound interest thereon from the date the refund was received  
11 to the date of repayment at the rate of 6% per annum through  
12 August 31, 1982, and at the effective rates after that date.  
13 When a participant in the portable benefit package who received  
14 a refund which included a distribution of employer  
15 contributions repays a refund pursuant to this Section,  
16 one-half of the amount repaid shall be deemed the member's  
17 reinstated accumulated normal and additional contributions and  
18 the other half shall be allocated as an employer contribution  
19 to the System, except that any amount repaid for previously  
20 purchased military service credit under Section 15-113.3 shall  
21 be accounted for as such.

22 (c) If a participant covered under the traditional benefit  
23 package has made survivors insurance contributions, but has no  
24 survivors insurance beneficiary upon retirement, he or she  
25 shall be entitled to elect a refund of the accumulated  
26 survivors insurance contributions, or to elect an additional  
27 annuity the value of which is equal to the accumulated  
28 survivors insurance contributions. This election must be made  
29 prior to the date the person's retirement annuity is approved  
30 by the System.

31 (d) A participant, upon application, is entitled to a  
32 refund of his or her accumulated additional contributions  
33 attributable to the additional contributions described in the  
34 last sentence of subsection (c) of Section 15-157. Upon the  
35 acceptance of such a refund of accumulated additional  
36 contributions, the participant forfeits all rights and credits

1 which may have accrued because of such contributions.

2 (e) A participant who terminates his or her employee status  
3 and elects to waive service credit under Section 15-154.2, is  
4 entitled to a refund of the accumulated normal, additional and  
5 survivors insurance contributions, if any, which were credited  
6 the participant for this service, or to an additional annuity  
7 the value of which is equal to the accumulated normal,  
8 additional and survivors insurance contributions, if any;  
9 except that not more than one such refund application may be  
10 made during any academic year. Upon acceptance of this refund,  
11 the participant forfeits all rights and credits accrued because  
12 of this service.

13 (f) If a police officer or firefighter receives a  
14 retirement annuity under Rule 1 or 3 of Section 15-136, he or  
15 she shall be entitled at retirement to a refund of the  
16 difference between his or her accumulated normal contributions  
17 and the normal contributions which would have accumulated had  
18 such person filed a waiver of the retirement formula provided  
19 by Rule 4 of Section 15-136.

20 (g) If, at the time of retirement, a participant would be  
21 entitled to a retirement annuity under Rule 1, 2, 3, 4, or 5 of  
22 Section 15-136, or under Section 15-136.4, that exceeds the  
23 maximum specified in clause (1) of subsection (c) of Section  
24 15-136, he or she shall be entitled to a refund of the employee  
25 contributions, if any, paid under Section 15-157 after the date  
26 upon which continuance of such contributions would have  
27 otherwise caused the retirement annuity to exceed this maximum,  
28 plus compound interest at the effective rates.

29 (Source: P.A. 92-16, eff. 6-28-01; 92-424, eff. 8-17-01;  
30 93-347, eff. 7-24-03.)

31 (40 ILCS 5/15-158.2)

32 Sec. 15-158.2. Self-managed plan.

33 (a) Purpose. The General Assembly finds that it is  
34 important for colleges and universities to be able to attract  
35 and retain the most qualified employees and that in order to

1 attract and retain these employees, colleges and universities  
2 should have the flexibility to provide a defined contribution  
3 plan as an alternative for eligible employees who elect not to  
4 participate in a defined benefit retirement program provided  
5 under this Article. Accordingly, the State Universities  
6 Retirement System is hereby authorized to establish and  
7 administer a self-managed plan, which shall offer  
8 participating employees the opportunity to accumulate assets  
9 for retirement through a combination of employee and employer  
10 contributions that may be invested in mutual funds, collective  
11 investment funds, or other investment products and used to  
12 purchase annuity contracts, either fixed or variable or a  
13 combination thereof. The plan must be qualified under the  
14 Internal Revenue Code of 1986.

15 (b) Adoption by employers. Each employer subject to this  
16 Article may elect to adopt the self-managed plan established  
17 under this Section; this election is irrevocable. An employer's  
18 election to adopt the self-managed plan makes available to the  
19 eligible employees of that employer the elections described in  
20 Section 15-134.5.

21 The State Universities Retirement System shall be the plan  
22 sponsor for the self-managed plan and shall prepare a plan  
23 document and prescribe such rules and procedures as are  
24 considered necessary or desirable for the administration of the  
25 self-managed plan. Consistent with its fiduciary duty to the  
26 participants and beneficiaries of the self-managed plan, the  
27 Board of Trustees of the System may delegate aspects of plan  
28 administration as it sees fit to companies authorized to do  
29 business in this State, to the employers, or to a combination  
30 of both.

31 (c) Selection of service providers and funding vehicles.  
32 The System, in consultation with the employers, shall solicit  
33 proposals to provide administrative services and funding  
34 vehicles for the self-managed plan from insurance and annuity  
35 companies and mutual fund companies, banks, trust companies, or  
36 other financial institutions authorized to do business in this

1 State. In reviewing the proposals received and approving and  
2 contracting with no fewer than 2 and no more than 7 companies,  
3 the Board of Trustees of the System shall consider, among other  
4 things, the following criteria:

5 (1) the nature and extent of the benefits that would be  
6 provided to the participants;

7 (2) the reasonableness of the benefits in relation to  
8 the premium charged;

9 (3) the suitability of the benefits to the needs and  
10 interests of the participating employees and the employer;

11 (4) the ability of the company to provide benefits  
12 under the contract and the financial stability of the  
13 company; and

14 (5) the efficacy of the contract in the recruitment and  
15 retention of employees.

16 The System, in consultation with the employers, shall  
17 periodically review each approved company. A company may  
18 continue to provide administrative services and funding  
19 vehicles for the self-managed plan only so long as it continues  
20 to be an approved company under contract with the Board.

21 (d) Employee Direction. Employees who are participating in  
22 the program must be allowed to direct the transfer of their  
23 account balances among the various investment options offered,  
24 subject to applicable contractual provisions. The participant  
25 shall not be deemed a fiduciary by reason of providing such  
26 investment direction. A person who is a fiduciary shall not be  
27 liable for any loss resulting from such investment direction  
28 and shall not be deemed to have breached any fiduciary duty by  
29 acting in accordance with that direction. Neither the System  
30 nor the employer guarantees any of the investments in the  
31 employee's account balances.

32 (e) Participation. An employee eligible to participate in  
33 the self-managed plan must make a written election in  
34 accordance with the provisions of Section 15-134.5 and the  
35 procedures established by the System. Participation in the  
36 self-managed plan by an electing employee shall begin on the

1 first day of the first pay period following the later of the  
2 date the employee's election is filed with the System or the  
3 effective date as of which the employee's employer begins to  
4 offer participation in the self-managed plan. Employers may not  
5 make the self-managed plan available earlier than January 1,  
6 1998. An employee's participation in any other retirement  
7 program administered by the System under this Article shall  
8 terminate on the date that participation in the self-managed  
9 plan begins.

10 An employee who has elected to participate in the  
11 self-managed plan under this Section must continue  
12 participation while employed in an eligible position, and may  
13 not participate in any other retirement program administered by  
14 the System under this Article while employed by that employer  
15 or any other employer that has adopted the self-managed plan,  
16 unless the self-managed plan is terminated in accordance with  
17 subsection (i).

18 Participation in the self-managed plan under this Section  
19 shall constitute membership in the State Universities  
20 Retirement System.

21 A participant under this Section shall be entitled to the  
22 benefits of Article 20 of this Code.

23 (f) Establishment of Initial Account Balance. If at the  
24 time an employee elects to participate in the self-managed plan  
25 he or she has rights and credits in the System due to previous  
26 participation in the traditional benefit package, the System  
27 shall establish for the employee an opening account balance in  
28 the self-managed plan, equal to the amount of contribution  
29 refund that the employee would be eligible to receive under  
30 Section 15-154 if the employee terminated employment on that  
31 date and elected a refund of contributions, except that this  
32 hypothetical refund shall include interest at the effective  
33 rate for the respective years. The System shall transfer assets  
34 from the defined benefit retirement program to the self-managed  
35 plan, as a tax free transfer in accordance with Internal  
36 Revenue Service guidelines, for purposes of funding the

1 employee's opening account balance.

2 (g) No Duplication of Service Credit. Notwithstanding any  
3 other provision of this Article, an employee may not purchase  
4 or receive service or service credit applicable to any other  
5 retirement program administered by the System under this  
6 Article for any period during which the employee was a  
7 participant in the self-managed plan established under this  
8 Section.

9 (h) Contributions. The self-managed plan shall be funded by  
10 contributions from employees participating in the self-managed  
11 plan and employer contributions as provided in this Section.

12 The contribution rate for employees participating in the  
13 self-managed plan under this Section shall be equal to the  
14 employee contribution rate for other participants in the  
15 System, as provided in Section 15-157. This required  
16 contribution shall be made as an "employer pick-up" under  
17 Section 414(h) of the Internal Revenue Code of 1986 or any  
18 successor Section thereof. Any employee participating in the  
19 System's traditional benefit package prior to his or her  
20 election to participate in the self-managed plan shall continue  
21 to have the employer pick up the contributions required under  
22 Section 15-157. However, the amounts picked up after the  
23 election of the self-managed plan shall be remitted to and  
24 treated as assets of the self-managed plan. In no event shall  
25 an employee have an option of receiving these amounts in cash.  
26 Employees may make additional contributions to the  
27 self-managed plan in accordance with procedures prescribed by  
28 the System, to the extent permitted under rules prescribed by  
29 the System.

30 The program shall provide for employer contributions to be  
31 credited to each self-managed plan participant at a rate of  
32 7.6% of the participating employee's salary, less the amount  
33 used by the System to provide disability benefits for the  
34 employee. The amounts so credited shall be paid into the  
35 participant's self-managed plan accounts in a manner to be  
36 prescribed by the System.

1 An amount of employer contribution, not exceeding 1% of the  
2 participating employee's salary, shall be used for the purpose  
3 of providing the disability benefits of the System to the  
4 employee. Prior to the beginning of each plan year under the  
5 self-managed plan, the Board of Trustees shall determine, as a  
6 percentage of salary, the amount of employer contributions to  
7 be allocated during that plan year for providing disability  
8 benefits for employees in the self-managed plan.

9 The State of Illinois shall make contributions by  
10 appropriations to the System of the employer contributions  
11 required for employees who participate in the self-managed plan  
12 under this Section. The amount required shall be certified by  
13 the Board of Trustees of the System and paid by the State in  
14 accordance with Section 15-165. The System shall not be  
15 obligated to remit the required employer contributions to any  
16 of the insurance and annuity companies, mutual fund companies,  
17 banks, trust companies, financial institutions, or other  
18 sponsors of any of the funding vehicles offered under the  
19 self-managed plan until it has received the required employer  
20 contributions from the State. In the event of a deficiency in  
21 the amount of State contributions, the System shall implement  
22 those procedures described in subsection (c) of Section 15-165  
23 to obtain the required funding from the General Revenue Fund.

24 (i) Termination. The self-managed plan authorized under  
25 this Section may be terminated by the System, subject to the  
26 terms of any relevant contracts, and the System shall have no  
27 obligation to reestablish the self-managed plan under this  
28 Section. This Section does not create a right to continued  
29 participation in any self-managed plan set up by the System  
30 under this Section. If the self-managed plan is terminated, the  
31 participants shall have the right to participate in one of the  
32 other retirement programs offered by the System and receive  
33 service credit in such other retirement program for any years  
34 of employment following the termination.

35 (j) Vesting; Withdrawal; Return to Service. A participant  
36 in the self-managed plan becomes vested in the employer



1 contributions credited to his or her accounts in the  
2 self-managed plan on the earliest to occur of the following:

3 (1) completion of 5 years of service, counting service with an  
4 employer described in Section 15-106 or military service  
5 established under Section 15-113.3; (2) the death of the  
6 participating employee while employed by an employer described  
7 in Section 15-106, if the participant has completed at least 1  
8 1/2 years of service; or (3) the participant's election to  
9 retire and apply the reciprocal provisions of Article 20 of  
10 this Code.

11 A participant in the self-managed plan who receives a  
12 distribution of his or her vested amounts from the self-managed  
13 plan while not yet eligible for retirement under this Article  
14 (and Article 20, if applicable) shall forfeit all service  
15 credit and accrued rights in the System; if subsequently  
16 re-employed, the participant shall be considered a new  
17 employee. If a former participant again becomes a participating  
18 employee (or becomes employed by a participating system under  
19 Article 20 of this Code) and continues as such for at least 2  
20 years, all such rights, service credits, and previous status as  
21 a participant shall be restored upon repayment of the amount of  
22 the distribution, without interest.

23 (k) Benefit amounts. If an employee who is vested in  
24 employer contributions terminates employment, the employee  
25 shall be entitled to a benefit which is based on the account  
26 values attributable to both employer and employee  
27 contributions and any investment return thereon.

28 If an employee who is not vested in employer contributions  
29 terminates employment, the employee shall be entitled to a  
30 benefit based solely on the account values attributable to the  
31 employee's contributions and any investment return thereon,  
32 and the employer contributions and any investment return  
33 thereon shall be forfeited. Any employer contributions which  
34 are forfeited shall be held in escrow by the company investing  
35 those contributions and shall be used as directed by the System  
36 for future allocations of employer contributions or for the

1 restoration of amounts previously forfeited by former  
2 participants who again become participating employees.

3 (Source: P.A. 93-347, eff. 7-24-03.)

4 (40 ILCS 5/15-187) (from Ch. 108 1/2, par. 15-187)

5 Sec. 15-187. Felony conviction. None of the benefits  
6 provided under this Article shall be paid to any person who is  
7 convicted of any felony relating to or arising out of or in  
8 connection with the person's service as an employee.

9 This Section shall not operate to impair any contract or  
10 vested right heretofore acquired under any law or laws  
11 continued in this Article, nor to preclude the right to a  
12 refund. No refund paid to any person who is convicted of a  
13 felony relating to or arising out of or in connection with the  
14 person's service as an employee shall include employer  
15 contributions or interest thereon or, in the case of the  
16 self-managed plan authorized under Section 15-158.2, any  
17 employer contributions or investment return on such employer  
18 contributions.

19 All persons entering service subsequent to July 9, 1955  
20 shall be deemed to have consented to the provisions of this  
21 Section as a condition of coverage.

22 (Source: P.A. 93-347, eff. 7-24-03.)

23 (40 ILCS 5/15-190) (from Ch. 108 1/2, par. 15-190)

24 Sec. 15-190. Persons under legal disability. If a person is  
25 under legal disability when any right or privilege accrues to  
26 him or her under this Article, a guardian may be appointed  
27 pursuant to law, and may, on behalf of such person, claim and  
28 exercise any such right or privilege with the same force and  
29 effect as if the person had not been under a legal disability  
30 and had claimed or exercised such right or privilege.

31 If a person's application for benefits or a physician's  
32 certificate on file with the board shows that the person is  
33 under a legal disability, the benefits payable under this  
34 Article may be paid (1) directly to the person under legal

1 disability, (2) to any person who has legally qualified and is  
2 acting as guardian of the property of the person under legal  
3 disability, (3) to either parent of the person under legal  
4 disability or any adult person with whom the person under legal  
5 disability may at the time be living, provided only that such  
6 parent or adult person to whom any amount is to be paid shall  
7 have advised the board in writing that such amount will be held  
8 or used for the benefit of the person under legal disability,  
9 or (4) to the trustee of any trust created for the sole benefit  
10 of the person under legal disability while that person is  
11 living, provided only that the trustee of such trust to whom  
12 any amount is to be paid shall have advised the board in  
13 writing that such amount will be held or used for the benefit  
14 of the person under legal disability. The system shall not be  
15 required to determine the validity of the trust or any of the  
16 terms thereof. The representation of the trustee that the trust  
17 meets the requirements of this Section shall be conclusive as  
18 to the system. The ~~written~~ receipt of the payment by the person  
19 under legal disability or by the other person who receives such  
20 payment shall be an absolute discharge of the system's  
21 liability in respect of the amount so paid.

22 (Source: P.A. 93-347, eff. 7-24-03.)

23 (40 ILCS 5/15-191) (from Ch. 108 1/2, par. 15-191)

24 Sec. 15-191. Payment of benefits to minors. If any benefits  
25 under this Article become payable to a minor, the board may  
26 make payment (1) directly to the minor, (2) to any person who  
27 has legally qualified and is acting as guardian of the minor's  
28 person or property in any jurisdiction, (3) to either parent of  
29 the minor or to any adult person with whom the minor may at the  
30 time be living, provided only that the parent or other person  
31 to whom any amount is to be paid shall have advised the board  
32 in writing that such amount will be held or used for the  
33 benefit of the minor, or (4) to the trustee of any trust  
34 created for the sole benefit of the minor while that minor is  
35 living, provided only that the trustee of such trust to whom

1 any amount is to be paid shall have advised the board in  
2 writing that such amount will be held or used for the benefit  
3 of the minor. The system shall not be required to determine the  
4 validity of the trust or any of the terms thereof. The  
5 representation of the trustee that the trust meets the  
6 requirements of this Section shall be conclusive as to the  
7 system. The ~~written~~ receipt of the payment by the minor,  
8 parent, trustee, or other person who receives such payment  
9 shall be an absolute discharge of the system's liability in  
10 respect of the amount so paid.

11 (Source: P.A. 90-65, eff. 7-7-97; 90-511, eff. 8-22-97.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.