



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5506

Introduced 2/5/2010, by Rep. Renée Kosel

SYNOPSIS AS INTRODUCED:

40 ILCS 5/2-108.1	from Ch. 108 1/2, par. 2-108.1
40 ILCS 5/14-103.12	from Ch. 108 1/2, par. 14-103.12
40 ILCS 5/15-112	from Ch. 108 1/2, par. 15-112
40 ILCS 5/16-133	from Ch. 108 1/2, par. 16-133
40 ILCS 5/18-125	from Ch. 108 1/2, par. 18-125

Amends the General Assembly, State Employee, State Universities, Downstate Teacher, and Judges Articles of the Illinois Pension Code. Caps the salary, earnings, or compensation used in determining retirement annuities for persons who first enter the systems on or after July 1, 2010 at the Governor's salary on the date of the participant's retirement. Effective immediately.

LRB096 20152 AMC 35697 b

FISCAL NOTE ACT
MAY APPLY

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 2-108.1, 14-103.12, 15-112, 16-133, and 18-125 as
6 follows:

7 (40 ILCS 5/2-108.1) (from Ch. 108 1/2, par. 2-108.1)

8 Sec. 2-108.1. Highest salary for annuity purposes.

9 (a) "Highest salary for annuity purposes" means whichever
10 of the following is applicable to the participant:

11 For a participant who first becomes a participant of this
12 System before the effective date of this amendatory Act of the
13 96th General Assembly:

14 (1) For a participant who is a member of the General
15 Assembly on his or her last day of service: the highest
16 salary that is prescribed by law, on the participant's last
17 day of service, for a member of the General Assembly who is
18 not an officer; plus, if the participant was elected or
19 appointed to serve as an officer of the General Assembly
20 for 2 or more years and has made contributions as required
21 under subsection (d) of Section 2-126, the highest
22 additional amount of compensation prescribed by law, at the
23 time of the participant's service as an officer, for

1 members of the General Assembly who serve in that office.

2 (2) For a participant who holds one of the State
3 executive offices specified in Section 2-105 on his or her
4 last day of service: the highest salary prescribed by law
5 for service in that office on the participant's last day of
6 service.

7 (3) For a participant who is Clerk or Assistant Clerk
8 of the House of Representatives or Secretary or Assistant
9 Secretary of the Senate on his or her last day of service:
10 the salary received for service in that capacity on the
11 last day of service, but not to exceed the highest salary
12 (including additional compensation for service as an
13 officer) that is prescribed by law on the participant's
14 last day of service for the highest paid officer of the
15 General Assembly.

16 (4) For a participant who is a continuing participant
17 under Section 2-117.1 on his or her last day of service:
18 the salary received for service in that capacity on the
19 last day of service, but not to exceed the highest salary
20 (including additional compensation for service as an
21 officer) that is prescribed by law on the participant's
22 last day of service for the highest paid officer of the
23 General Assembly.

24 For a participant who first becomes a participant of this
25 System on or after the effective date of this amendatory Act of
26 the 96th General Assembly, the average monthly salary obtained

1 by dividing the total salary of the participant during the
2 period of: (1) the 48 consecutive months of service within the
3 last 120 months of service in which the total compensation was
4 the highest, or (2) the total period of service, if less than
5 48 months, by the number of months of service in that period.

6 Notwithstanding any other provision of this Article to the
7 contrary, for a person who first becomes a participant of the
8 System on or after July 1, 2010, a participant's highest annual
9 salary for annuity purposes may not exceed the Governor's
10 salary on the date of the participant's retirement.

11 (b) The earnings limitations of subsection (a) apply to
12 earnings under any other participating system under the
13 Retirement Systems Reciprocal Act that are considered in
14 calculating a proportional annuity under this Article, except
15 in the case of a person who first became a member of this
16 System before August 22, 1994.

17 (c) In calculating the subsection (a) earnings limitation
18 to be applied to earnings under any other participating system
19 under the Retirement Systems Reciprocal Act for the purpose of
20 calculating a proportional annuity under this Article, the
21 participant's last day of service shall be deemed to mean the
22 last day of service in any participating system from which the
23 person has applied for a proportional annuity under the
24 Retirement Systems Reciprocal Act.

25 (Source: P.A. 96-207, eff. 8-10-09.)

1 (40 ILCS 5/14-103.12) (from Ch. 108 1/2, par. 14-103.12)

2 Sec. 14-103.12. Final average compensation.

3 (a) For retirement and survivor annuities, "final average
4 compensation" means the monthly compensation obtained by
5 dividing the total compensation of an employee during the
6 period of: (1) the 48 consecutive months of service within the
7 last 120 months of service in which the total compensation was
8 the highest, or (2) the total period of service, if less than
9 48 months, by the number of months of service in such period;
10 provided that for purposes of a retirement annuity the average
11 compensation for the last 12 months of the 48-month period
12 shall not exceed the final average compensation by more than
13 25%.

14 Notwithstanding any other provision of this Article to the
15 contrary, for a person who first becomes an employee under the
16 System on or after July 1, 2010, an employee's final average
17 compensation may not exceed the Governor's salary on the date
18 of the employee's retirement.

19 (b) For death and disability benefits, in the case of a
20 full-time employee, "final average compensation" means the
21 greater of (1) the rate of compensation of the employee at the
22 date of death or disability multiplied by 1 in the case of a
23 salaried employee, by 174 in the case of an hourly employee,
24 and by 22 in the case of a per diem employee, or (2) for
25 benefits commencing on or after January 1, 1991, final average
26 compensation as determined under subsection (a).

1 For purposes of this paragraph, full or part-time status
2 shall be certified by the employing agency. Final rate of
3 compensation for a part-time employee shall be the total
4 compensation earned during the last full calendar month prior
5 to the date of death or disability.

6 (c) Notwithstanding the provisions of subsection (a), for
7 the purpose of calculating retirement and survivor annuities of
8 persons with at least 20 years of eligible creditable service
9 as defined in Section 14-110, "final average compensation"
10 means the monthly rate of compensation received by the person
11 on the last day of eligible creditable service (but not to
12 exceed 115% of the average monthly compensation received by the
13 person for the last 24 months of service, unless the person was
14 in service as a State policeman before the effective date of
15 this amendatory Act of 1997), or the average monthly
16 compensation received by the person for the last 48 months of
17 service prior to retirement, whichever is greater.

18 (d) Notwithstanding the provisions of subsection (a), for a
19 person who was receiving, on the date of retirement or death, a
20 disability benefit calculated under subdivision (b) (2) of this
21 Section, the final average compensation used to calculate the
22 disability benefit may be used for purposes of calculating the
23 retirement and survivor annuities.

24 (e) In computing the final average compensation, periods of
25 military leave shall not be considered.

26 (f) The changes to this Section made by this amendatory Act

1 of 1997 (redefining final average compensation for members
2 under the alternative formula) apply to members who retire on
3 or after January 1, 1998, without regard to whether employment
4 terminated before the effective date of this amendatory Act of
5 1997.

6 (g) For a member on leave of absence without pay who
7 purchases service credit for such period of leave pursuant to
8 subsection (l) of Section 14-104, earnings are assumed to be
9 equal to the rate of compensation in effect immediately prior
10 to the leave. If no contributions are required to establish
11 service credit for the period of leave, the member may elect to
12 establish earnings credit for the leave period within 48 months
13 after returning to work by making the employee and employer
14 contributions required by subsection (l) of Section 14-104,
15 based on the rate of compensation in effect immediately prior
16 to the leave, plus interest at the actuarially assumed rate. In
17 determining the contributions required for establishing
18 service credit under this subsection (g), the interest shall be
19 calculated from the beginning of the leave of absence to the
20 date of payment.

21 (Source: P.A. 96-525, eff. 8-14-09.)

22 (40 ILCS 5/15-112) (from Ch. 108 1/2, par. 15-112)

23 Sec. 15-112. Final rate of earnings. "Final rate of
24 earnings": For an employee who is paid on an hourly basis or
25 who receives an annual salary in installments during 12 months

1 of each academic year, the average annual earnings during the
2 48 consecutive calendar month period ending with the last day
3 of final termination of employment or the 4 consecutive
4 academic years of service in which the employee's earnings were
5 the highest, whichever is greater. For any other employee, the
6 average annual earnings during the 4 consecutive academic years
7 of service in which his or her earnings were the highest. For
8 an employee with less than 48 months or 4 consecutive academic
9 years of service, the average earnings during his or her entire
10 period of service. The earnings of an employee with more than
11 36 months of service prior to the date of becoming a
12 participant are, for such period, considered equal to the
13 average earnings during the last 36 months of such service. For
14 an employee on leave of absence with pay, or on leave of
15 absence without pay who makes contributions during such leave,
16 earnings are assumed to be equal to the basic compensation on
17 the date the leave began. For an employee on disability leave,
18 earnings are assumed to be equal to the basic compensation on
19 the date disability occurs or the average earnings during the
20 24 months immediately preceding the month in which disability
21 occurs, whichever is greater.

22 For a participant who retires on or after the effective
23 date of this amendatory Act of 1997 with at least 20 years of
24 service as a firefighter or police officer under this Article,
25 the final rate of earnings shall be the annual rate of earnings
26 received by the participant on his or her last day as a

1 firefighter or police officer under this Article, if that is
2 greater than the final rate of earnings as calculated under the
3 other provisions of this Section.

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

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

22 The following are not considered as earnings in determining
23 final rate of earnings: (1) severance or separation pay, (2)
24 retirement pay, (3) payment for unused sick leave, and (4)
25 payments from an employer for the period used in determining
26 final rate of earnings for any purpose other than (i) services

1 rendered, (ii) leave of absence or vacation granted during that
2 period, and (iii) vacation of up to 56 work days allowed upon
3 termination of employment; except that, if the benefit has been
4 collectively bargained between the employer and the recognized
5 collective bargaining agent pursuant to the Illinois
6 Educational Labor Relations Act, payment received during a
7 period of up to 2 academic years for unused sick leave may be
8 considered as earnings in accordance with the applicable
9 collective bargaining agreement, subject to the 20% increase
10 limitation of this Section. Any unused sick leave considered as
11 earnings under this Section shall not be taken into account in
12 calculating service credit under Section 15-113.4.

13 Notwithstanding any other provision of this Article to the
14 contrary, for a person who first becomes an employee under the
15 System on or after July 1, 2010, an employee's final rate of
16 earnings may not exceed the Governor's salary on the date of
17 the employee's retirement.

18 Intermittent periods of service shall be considered as
19 consecutive in determining final rate of earnings.

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

21 (40 ILCS 5/16-133) (from Ch. 108 1/2, par. 16-133)

22 Sec. 16-133. Retirement annuity; amount.

23 (a) The amount of the retirement annuity shall be (i) in
24 the case of a person who first became a teacher under this
25 Article before July 1, 2005, the larger of the amounts

1 determined under paragraphs (A) and (B) below, or (ii) in the
2 case of a person who first becomes a teacher under this Article
3 on or after July 1, 2005, the amount determined under the
4 applicable provisions of paragraph (B):

5 (A) An amount consisting of the sum of the following:

6 (1) An amount that can be provided on an
7 actuarially equivalent basis by the member's
8 accumulated contributions at the time of retirement;
9 and

10 (2) The sum of (i) the amount that can be provided
11 on an actuarially equivalent basis by the member's
12 accumulated contributions representing service prior
13 to July 1, 1947, and (ii) the amount that can be
14 provided on an actuarially equivalent basis by the
15 amount obtained by multiplying 1.4 times the member's
16 accumulated contributions covering service subsequent
17 to June 30, 1947; and

18 (3) If there is prior service, 2 times the amount
19 that would have been determined under subparagraph (2)
20 of paragraph (A) above on account of contributions
21 which would have been made during the period of prior
22 service creditable to the member had the System been in
23 operation and had the member made contributions at the
24 contribution rate in effect prior to July 1, 1947.

25 This paragraph (A) does not apply to a person who first
26 becomes a teacher under this Article on or after July 1,

1 2005.

2 (B) An amount consisting of the greater of the
3 following:

4 (1) For creditable service earned before July 1,
5 1998 that has not been augmented under Section
6 16-129.1: 1.67% of final average salary for each of the
7 first 10 years of creditable service, 1.90% of final
8 average salary for each year in excess of 10 but not
9 exceeding 20, 2.10% of final average salary for each
10 year in excess of 20 but not exceeding 30, and 2.30% of
11 final average salary for each year in excess of 30; and

12 For creditable service earned on or after July 1,
13 1998 by a member who has at least 24 years of
14 creditable service on July 1, 1998 and who does not
15 elect to augment service under Section 16-129.1: 2.2%
16 of final average salary for each year of creditable
17 service earned on or after July 1, 1998 but before the
18 member reaches a total of 30 years of creditable
19 service and 2.3% of final average salary for each year
20 of creditable service earned on or after July 1, 1998
21 and after the member reaches a total of 30 years of
22 creditable service; and

23 For all other creditable service: 2.2% of final
24 average salary for each year of creditable service; or

25 (2) 1.5% of final average salary for each year of
26 creditable service plus the sum \$7.50 for each of the

1 first 20 years of creditable service.

2 The amount of the retirement annuity determined under this
3 paragraph (B) shall be reduced by 1/2 of 1% for each month
4 that the member is less than age 60 at the time the
5 retirement annuity begins. However, this reduction shall
6 not apply (i) if the member has at least 35 years of
7 creditable service, or (ii) if the member retires on
8 account of disability under Section 16-149.2 of this
9 Article with at least 20 years of creditable service, or
10 (iii) if the member (1) has earned during the period
11 immediately preceding the last day of service at least one
12 year of contributing creditable service as an employee of a
13 department as defined in Section 14-103.04, (2) has earned
14 at least 5 years of contributing creditable service as an
15 employee of a department as defined in Section 14-103.04,
16 (3) retires on or after January 1, 2001, and (4) retires
17 having attained an age which, when added to the number of
18 years of his or her total creditable service, equals at
19 least 85. Portions of years shall be counted as decimal
20 equivalents.

21 (b) For purposes of this Section, final average salary
22 shall be the average salary for the highest 4 consecutive years
23 within the last 10 years of creditable service as determined
24 under rules of the board. The minimum final average salary
25 shall be considered to be \$2,400 per year.

26 Notwithstanding any other provision of this Article to the

1 contrary, for a person who first becomes a member of the System
2 on or after July 1, 2010, a member's final average salary may
3 not exceed the Governor's salary on the date of the member's
4 retirement.

5 In the determination of final average salary for members
6 other than elected officials and their appointees when such
7 appointees are allowed by statute, that part of a member's
8 salary for any year beginning after June 30, 1979 which exceeds
9 the member's annual full-time salary rate with the same
10 employer for the preceding year by more than 20% shall be
11 excluded. The exclusion shall not apply in any year in which
12 the member's creditable earnings are less than 50% of the
13 preceding year's mean salary for downstate teachers as
14 determined by the survey of school district salaries provided
15 in Section 2-3.103 of the School Code.

16 (c) In determining the amount of the retirement annuity
17 under paragraph (B) of this Section, a fractional year shall be
18 granted proportional credit.

19 (d) The retirement annuity determined under paragraph (B)
20 of this Section shall be available only to members who render
21 teaching service after July 1, 1947 for which member
22 contributions are required, and to annuitants who re-enter
23 under the provisions of Section 16-150.

24 (e) The maximum retirement annuity provided under
25 paragraph (B) of this Section shall be 75% of final average
26 salary.

1 (f) A member retiring after the effective date of this
2 amendatory Act of 1998 shall receive a pension equal to 75% of
3 final average salary if the member is qualified to receive a
4 retirement annuity equal to at least 74.6% of final average
5 salary under this Article or as proportional annuities under
6 Article 20 of this Code.

7 (Source: P.A. 94-4, eff. 6-1-05.)

8 (40 ILCS 5/18-125) (from Ch. 108 1/2, par. 18-125)

9 Sec. 18-125. Retirement annuity amount.

10 (a) The annual retirement annuity for a participant who
11 terminated service as a judge prior to July 1, 1971 shall be
12 based on the law in effect at the time of termination of
13 service.

14 (b) Effective July 1, 1971, the retirement annuity for any
15 participant in service on or after such date shall be 3 1/2% of
16 final average salary, as defined in this Section, for each of
17 the first 10 years of service, and 5% of such final average
18 salary for each year of service on excess of 10.

19 For purposes of this Section, final average salary for a
20 participant who first serves as a judge before August 10, 2009
21 (the effective date of Public Act 96-207) ~~this amendatory Act~~
22 ~~of the 96th General Assembly~~ shall be:

23 (1) the average salary for the last 4 years of credited
24 service as a judge for a participant who terminates service
25 before July 1, 1975.

1 (2) for a participant who terminates service after June
2 30, 1975 and before July 1, 1982, the salary on the last
3 day of employment as a judge.

4 (3) for any participant who terminates service after
5 June 30, 1982 and before January 1, 1990, the average
6 salary for the final year of service as a judge.

7 (4) for a participant who terminates service on or
8 after January 1, 1990 but before the effective date of this
9 amendatory Act of 1995, the salary on the last day of
10 employment as a judge.

11 (5) for a participant who terminates service on or
12 after the effective date of this amendatory Act of 1995,
13 the salary on the last day of employment as a judge, or the
14 highest salary received by the participant for employment
15 as a judge in a position held by the participant for at
16 least 4 consecutive years, whichever is greater.

17 However, in the case of a participant who elects to
18 discontinue contributions as provided in subdivision (a)(2) of
19 Section 18-133, the time of such election shall be considered
20 the last day of employment in the determination of final
21 average salary under this subsection.

22 For a participant who first serves as a judge on or after
23 August 10, 2009 (the effective date of Public Act 96-207) ~~this~~
24 ~~amendatory Act of the 96th General Assembly,~~ final average
25 salary shall be the average monthly salary obtained by dividing
26 the total salary of the participant during the period of: (1)

1 the 48 consecutive months of service within the last 120 months
2 of service in which the total compensation was the highest, or
3 (2) the total period of service, if less than 48 months, by the
4 number of months of service in that period.

5 The maximum retirement annuity for any participant shall be
6 85% of final average salary.

7 Notwithstanding any other provision of this Article to the
8 contrary, for a person who first becomes a participant of the
9 System on or after July 1, 2010, a participant's final average
10 salary may not exceed the Governor's salary on the date of the
11 participant's retirement.

12 (c) The retirement annuity for a participant who retires
13 prior to age 60 with less than 28 years of service in the
14 System shall be reduced 1/2 of 1% for each month that the
15 participant's age is under 60 years at the time the annuity
16 commences. However, for a participant who retires on or after
17 the effective date of this amendatory Act of the 91st General
18 Assembly, the percentage reduction in retirement annuity
19 imposed under this subsection shall be reduced by 5/12 of 1%
20 for every month of service in this System in excess of 20
21 years, and therefore a participant with at least 26 years of
22 service in this System may retire at age 55 without any
23 reduction in annuity.

24 The reduction in retirement annuity imposed by this
25 subsection shall not apply in the case of retirement on account
26 of disability.

1 (Source: P.A. 96-207, eff. 8-10-09; revised 10-30-09.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.