



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB2994

Introduced 2/23/2011, by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/17-121	from Ch. 108 1/2, par. 17-121
40 ILCS 5/17-122	from Ch. 108 1/2, par. 17-122
40 ILCS 5/17-124	from Ch. 108 1/2, par. 17-124
40 ILCS 5/17-125	from Ch. 108 1/2, par. 17-125
30 ILCS 805/8.35 new	

Amends the Chicago Teachers Article of the Illinois Pension Code. Provides that attainment of age 18 does not terminate the children's pension of a child who is disabled and was dependent upon a deceased teacher at the time of his or her death. Provides that, if there is no eligible surviving spouse or eligible child of a deceased teacher, his or her parent is entitled to a survivor's pension if he or she was dependent upon the deceased teacher at the time of his or her death. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB097 05115 JDS 45160 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 17-121, 17-122, 17-124, and 17-125 as follows:

6 (40 ILCS 5/17-121) (from Ch. 108 1/2, par. 17-121)

7 Sec. 17-121. Survivor's pensions - Eligibility.

8 (a) A surviving spouse of a teacher shall be entitled to a  
9 survivor's pension only if the surviving spouse was married to  
10 the teacher for at least one year immediately prior to the  
11 teacher's death.

12 The changes made to this subsection (a) by this amendatory  
13 Act of the 92nd General Assembly apply (i) only to the  
14 surviving spouse of a person who dies on or after the effective  
15 date of this amendatory Act, and only if the amount of any  
16 refund of contributions for survivor's pension is repaid with  
17 interest in accordance with subsection (f), and (ii)  
18 notwithstanding Section 17-157 and without regard to whether  
19 the deceased person was in service on or after the effective  
20 date of this amendatory Act.

21 (b) If the surviving spouse is under age 50 and there are  
22 no eligible ~~minor~~ children born to or legally adopted by the  
23 contributor and his or her surviving spouse, payment of the

1 survivor's pension shall begin when the surviving spouse  
2 attains age 50.

3 (c) Beginning January 1, 2003, the remarriage of a  
4 surviving spouse at any age does not terminate his or her  
5 survivor's pension.

6 A surviving spouse whose survivor's pension (or  
7 expectation of a survivor's pension upon attainment of age 50)  
8 was terminated before January 1, 2003 due to remarriage and who  
9 applies for reinstatement of that pension and repays the amount  
10 of any refund of contributions for survivor's pension with  
11 interest in accordance with subsection (f) shall be entitled to  
12 have the survivor's pension (or expectation of a survivor's  
13 pension upon attainment of age 50) reinstated. The reinstated  
14 pension shall begin to accrue on the first day of the month  
15 following the month in which the application and repayment, if  
16 any, are received by the Fund, but in no event sooner than  
17 January 1, 2003 and, if subsection (b) applies, no sooner than  
18 upon attainment of age 50. The reinstated pension shall include  
19 any one-time or annual increases in the survivor's pension  
20 received prior to the date of termination, but not any  
21 increases that would otherwise have accrued from the date of  
22 termination to the date of reinstatement.

23 This subsection (c) applies notwithstanding Section 17-157  
24 and without regard to whether the deceased teacher was in  
25 service on or after the effective date of this amendatory Act  
26 of the 92nd General Assembly.

1           (d) Except as provided in subsection (c), remarriage of  
2 the surviving spouse prior to September 1, 1983 while in  
3 receipt of a survivor's pension shall permanently terminate  
4 payment thereof, regardless of any subsequent change in marital  
5 status; however, beginning September 1, 1983, remarriage of a  
6 surviving spouse after attainment of age 55 shall not terminate  
7 the survivor's pension.

8           A surviving spouse whose pension was terminated on or after  
9 September 1, 1983 due to remarriage after attainment of age 55,  
10 and who applies for reinstatement of that pension before  
11 January 1, 1990, shall be entitled to have the pension  
12 reinstated effective January 1, 1990.

13           (e) A surviving spouse of a member or annuitant under this  
14 Fund who is also a dependent beneficiary under the provisions  
15 of Section 16-140 is eligible for a reciprocal survivor's  
16 pension, provided that any refund of survivor's pension  
17 contributions is repaid to the Fund and application is made  
18 within 30 days after the effective date of this amendatory Act  
19 of the 92nd General Assembly.

20           (f) If a refund of contributions for survivor's pension  
21 has been paid, a person choosing to establish or reestablish  
22 the right to receive a survivor's pension pursuant to the  
23 changes made to this Section by this amendatory Act of the 92nd  
24 General Assembly must first repay to the Fund the amount of the  
25 refund of contributions for survivor's pension, together with  
26 interest thereon at the rate of 5% per year, compounded

1 annually, from the date of the refund to the date of repayment.  
2 (Source: P.A. 92-416, eff. 8-17-01; 92-599, eff. 6-28-02.)

3 (40 ILCS 5/17-122) (from Ch. 108 1/2, par. 17-122)

4 Sec. 17-122. Survivor's and children's pensions - Amount.

5 Upon the death of a teacher who has completed at least 1 1/2  
6 years of contributing service with either this Fund or the  
7 State Universities Retirement System or the Teachers'  
8 Retirement System of the State of Illinois, provided his death  
9 occurred while (a) in active service covered by the Fund or  
10 during his first 18 months of continuous employment without a  
11 break in service under any other participating system as  
12 defined in the Illinois Retirement Systems Reciprocal Act  
13 except the State Universities Retirement System and the  
14 Teachers' Retirement System of the State of Illinois, (b) on a  
15 creditable leave of absence, (c) on a noncreditable leave of  
16 absence of no more than one year, or (d) a pension was deferred  
17 or pending provided the teacher had at least 10 years of  
18 validated service credit, or upon the death of a pensioner  
19 otherwise qualified for such benefit, the surviving spouse,  
20 eligible and unmarried minor children of the deceased teacher  
21 under age 18, and dependent parents of the deceased teacher  
22 shall be entitled to pensions, under the conditions stated  
23 hereinafter. Such ~~survivor's and children's~~ pensions shall be  
24 based on the average of the 4 highest consecutive years of  
25 salary in the last 10 years of service or on the average salary

1 for total service, if total service has been less than 4 years,  
2 according to the following percentages:

3 30% of average salary or 50% of the retirement pension  
4 earned by the teacher, whichever is larger, subject to the  
5 prescribed maximum monthly payment, for a surviving spouse  
6 alone on attainment of age 50;

7 60% of average salary for a surviving spouse and eligible  
8 ~~minor~~ children of the deceased teacher.

9 If no eligible spouse survives, or the surviving spouse  
10 remarries, or the parent of the children of the deceased member  
11 is otherwise ineligible for a survivor's pension, a children's  
12 pension for eligible ~~minor~~ children ~~under age 18~~ shall be paid  
13 to their parent or legal guardian for their benefit according  
14 to the following percentages:

15 30% of average salary for one child;

16 60% of average salary for 2 or more children.

17 A disabled child who was dependent upon a deceased teacher  
18 at the time of his or her death whose children's pension was  
19 terminated due to attainment of age 18 may apply to the Fund  
20 for reinstatement of that pension. An application for  
21 reinstatement shall be accompanied by the payment of an amount  
22 equal to (1) the amount of any refund received by the deceased  
23 teacher under Section 17-125 and (2) interest thereon from the  
24 date of the payment of the refund to the date of application  
25 for reinstatement at the rate of 5% per year. The reinstated  
26 pension shall begin to accrue on the first day of the month

1 following the month the application is received by the Fund,  
2 but in no event sooner than January 1, 2012. However, if the  
3 pension is payable to anyone else, the pension shall not be  
4 reinstated until the pension is no longer payable to any  
5 eligible surviving spouse or other eligible children. A  
6 reinstated annuity shall include any one-time or annual  
7 increases received prior to the date of termination, as well as  
8 any increases that would otherwise have accrued from the date  
9 of termination to the date of reinstatement.

10 The changes made to this Section by this amendatory Act of  
11 the 97th General Assembly pertaining to reinstatement of a  
12 children's pension apply notwithstanding Section 17-157 and  
13 without regard to whether the deceased teacher was in service  
14 on or after the effective date of this amendatory Act.

15 If there is no eligible spouse and no eligible child, then  
16 a pension shall be paid to the eligible parents of the deceased  
17 teacher, if any, according to the following percentages:

18 30% of average salary for one eligible parent;

19 60% of average salary for 2 eligible parents.

20 On January 1, 1981, any survivor or child who was receiving  
21 a survivor's or children's pension on or before January 1,  
22 1971, shall have his survivor's or children's pension then  
23 being paid increased by 1% for each full year which has elapsed  
24 from the date the pension began. On January 1, 1982, any  
25 survivor or child whose pension began after January 1, 1971,  
26 but before January 1, 1981, shall have his survivor's or

1 children's pension then being paid increased 1% for each full  
2 year which has elapsed from the date the pension began. On  
3 January 1, 1987, any survivor or child whose pension began on  
4 or before January 1, 1977, shall have the monthly survivor's or  
5 children's pension increased by \$1 for each full year which has  
6 elapsed since the pension began.

7 Beginning January 1, 1990, every survivor's and children's  
8 pension shall be increased (1) on each January 1 occurring on  
9 or after the commencement of the pension if the deceased  
10 teacher died while receiving a retirement pension, or (2) in  
11 other cases, on each January 1 occurring on or after the first  
12 anniversary of the commencement of the pension, by an amount  
13 equal to 3% of the current amount of the pension, including all  
14 increases previously granted under this Article,  
15 notwithstanding Section 17-157. Such increases shall apply  
16 without regard to whether the deceased teacher was in service  
17 on or after the effective date of this amendatory Act of 1991,  
18 but shall not accrue for any period prior to January 1, 1990.

19 Subject to the minimum established below, the maximum  
20 amount of pension for a surviving spouse alone or one minor  
21 child shall be \$400 per month, and the maximum combined  
22 pensions for a surviving spouse and children of the deceased  
23 teacher shall be \$600 per month, with individual pensions  
24 adjusted for all beneficiaries pro rata to conform with this  
25 limitation. If proration is unnecessary the minimum survivor's  
26 and children's pensions shall be \$40 per month. The minimum



1 total survivor's and children's pension payable upon the death  
2 of a contributor or annuitant which occurs after December 31,  
3 1986, shall be 50% of the earned retirement pension of such  
4 contributor or annuitant, calculated without early retirement  
5 discount in the case of death in service.

6 On death after retirement, the total survivor's and  
7 children's pensions shall not exceed the monthly retirement or  
8 disability pension paid to the deceased retirant. Survivor's  
9 and children's benefits described in this Section shall apply  
10 to all service and disability pensioners eligible for a pension  
11 as of July 1, 1981.

12 For the purposes of this Section, the term "eligible child"  
13 means an unmarried minor child of a deceased teacher who is  
14 under 18 years of age or a child of a deceased teacher who is  
15 disabled and was dependent upon the deceased teacher at the  
16 time of his or her death.

17 For the purposes of this Section, the term "eligible  
18 parent" means a parent of a deceased teacher who was dependent  
19 upon the teacher at the time of his or her death.

20 In this Article, the term "survivor's and children's  
21 benefits" includes benefits paid to an eligible parent and the  
22 term "survivor's and children's pension" includes a pension  
23 paid to an eligible parent, unless the context requires  
24 otherwise.

25 (Source: P.A. 90-32, eff. 6-27-97; 90-566, eff. 1-2-98.)

1 (40 ILCS 5/17-124) (from Ch. 108 1/2, par. 17-124)

2 Sec. 17-124. Death Benefits - Death on pension. On written  
3 application to the Board, there shall be paid to the estate of  
4 a deceased teacher-pensioner pension payments, accrued,  
5 temporarily withheld or represented by checks uncashed at the  
6 date of his death and the excess, if any, of an amount equal to  
7 his refundable contributions for service or disability  
8 retirement pension over pension to the date of death; provided,  
9 that if there be filed with the Board prior to the death of the  
10 pensioner his written direction, signed and acknowledged  
11 before an officer authorized to take acknowledgments, that such  
12 payments be paid to designated beneficiaries, they shall be so  
13 paid on written application therefor to the Board. If none of  
14 several named beneficiaries survives the pensioner and no  
15 directive was furnished by the member to cover this  
16 contingency, the deceased beneficiary's share shall be paid to  
17 the estate of the pensioner.

18 If a reversionary pension is payable upon death of a  
19 pensioner, the determination and payment of any refund of  
20 contributions payable under this Section shall be made upon  
21 death of the reversionary pensioner. At such time a refund of  
22 contributions less (1) the amount contributed for annual  
23 increases in pension and (2) total pension payments to the  
24 teacher-pensioner and survivor shall be paid in the manner  
25 provided in this Section to the designated beneficiaries, or  
26 estate of the deceased survivor.

1           If a pension is payable to a surviving spouse, eligible  
2 child, or an eligible parent ~~and/or minor children~~ upon death  
3 of a pensioner, the determination of any refund of  
4 contributions payable under this Section shall be made when the  
5 last of those pensions is no longer payable ~~upon death of the~~  
6 ~~survivor and marriage or attainment of age 18 of minor~~  
7 ~~children~~. At that time a refund of contributions for retirement  
8 and survivors' and children's pensions less total pension  
9 payments to the teacher-pensioner, surviving spouse, eligible  
10 ~~survivor and minor children, and eligible parents~~ shall be paid  
11 in the manner provided in this Section to the designated  
12 beneficiaries, or estate of the deceased survivor.

13           If eligible beneficiaries for survivors' or children's  
14 benefits existed at the time of a pensioner's retirement but  
15 not on the date of his death thereafter, the excess of total  
16 contributions for retirement and survivors' and children's  
17 pensions over pensions paid shall be determined upon death of  
18 the pensioner and paid in the manner provided in this Section  
19 to the designated beneficiaries, or estate of the deceased  
20 teacher-pensioner.

21           Reversionary or survivor's pension payments accrued,  
22 temporarily withheld, or represented by uncashed checks to the  
23 date of death shall be paid to the reversionary pensioner's or  
24 survivor's designated beneficiaries, or estate in the manner  
25 provided in this Section.

26           On death of a retired teacher whose death occurs on or

1 after the effective date of this amendatory Act of 1991, there  
2 shall be payable a lump sum death benefit equal to 6 times the  
3 teacher's salary rate for his last month of service or \$10,000,  
4 whichever is less, upon death during the first year on pension  
5 minus 1/5 of the death benefit, as defined herein, for each  
6 year or fraction thereof on pension after the first full year,  
7 to a minimum of \$5,000.

8 Notwithstanding Section 17-157, the changes made in this  
9 Section and Section 17-123 by this amendatory Act of 1991 shall  
10 apply to teachers dying on or after the effective date of this  
11 amendatory Act of 1991 without regard to whether service  
12 terminated prior to that date.

13 (Source: P.A. 90-566, eff. 1-2-98.)

14 (40 ILCS 5/17-125) (from Ch. 108 1/2, par. 17-125)

15 Sec. 17-125. Refund of contributions. Upon certification  
16 by the Employer of his resignation or cancellation of his  
17 teaching certificate prior to completion of the minimum term of  
18 service required to establish eligibility for a pension and on  
19 written application therefor, a teacher shall be paid a refund  
20 of all the amounts he has contributed to the Fund, less any  
21 former refund that has not been repaid.

22 Upon certification by the Employer of his resignation or  
23 cancellation of his teaching certificate after completion of  
24 the minimum term of service required to establish eligibility  
25 for a pension and on written application therefor, a teacher

1 shall be paid a refund of all the amounts he has contributed,  
2 less (1) any former refund that has not been repaid, and (2)  
3 pension payments received, provided he has executed and  
4 delivered to the Board his written receipt and release in that  
5 behalf. Thereupon, he shall have no further interest in or  
6 claim against the Fund.

7 A request for refund under either of the preceding  
8 paragraphs shall be considered valid if withdrawal from service  
9 occurred at least 2 months prior to the filing of such request.

10 Upon retirement of a teacher either on immediate or  
11 deferred pension, if the teacher is not then married, or if his  
12 spouse, ~~or~~ children, or parents do not meet the qualifying  
13 conditions for survivor's or children's pensions, the total  
14 amount contributed by him or otherwise paid by deductions from  
15 salary for survivor's pension, shall be refunded to him,  
16 without interest. No survivor's or children's pension rights  
17 shall be effective thereafter in such a case.

18 During a teacher's term of service, no refund is payable  
19 except contributions made in error.

20 (Source: P.A. 90-566, eff. 1-2-98.)

21 Section 90. The State Mandates Act is amended by adding  
22 Section 8.35 as follows:

23 (30 ILCS 805/8.35 new)

24 Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8

1 of this Act, no reimbursement by the State is required for the  
2 implementation of any mandate created by this amendatory Act of  
3 the 97th General Assembly.

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.