



Rep. Daniel Biss

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1 AMENDMENT TO HOUSE BILL 4996

2 AMENDMENT NO. _____. Amend House Bill 4996 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 15-113, 15-135, 15-136, 15-136.4, 15-139,
6 15-153.2, and 15-186 and by adding Sections 15-139.5 and
7 15-168.2 as follows:

8 (40 ILCS 5/15-113) (from Ch. 108 1/2, par. 15-113)

9 Sec. 15-113. Service. "Service": The periods defined in
10 Sections 15-113.1 through 15-113.9 and Section 15-113.11.

11 (Source: P.A. 84-1472.)

12 (40 ILCS 5/15-135) (from Ch. 108 1/2, par. 15-135)

13 Sec. 15-135. Retirement annuities - Conditions.

14 (a) A participant who retires in one of the following
15 specified years with the specified amount of service is

1 entitled to a retirement annuity at any age under the
2 retirement program applicable to the participant:

3 35 years if retirement is in 1997 or before;

4 34 years if retirement is in 1998;

5 33 years if retirement is in 1999;

6 32 years if retirement is in 2000;

7 31 years if retirement is in 2001;

8 30 years if retirement is in 2002 or later.

9 A participant with 8 or more years of service after
10 September 1, 1941, is entitled to a retirement annuity on or
11 after attainment of age 55.

12 A participant with at least 5 but less than 8 years of
13 service after September 1, 1941, is entitled to a retirement
14 annuity on or after attainment of age 62.

15 A participant who has at least 25 years of service in this
16 system as a police officer or firefighter is entitled to a
17 retirement annuity on or after the attainment of age 50, if
18 Rule 4 of Section 15-136 is applicable to the participant.

19 (b) The annuity payment period shall begin on the date
20 specified by the participant or the recipient of a disability
21 retirement annuity submitting a written application, which
22 date shall not be prior to termination of employment or more
23 than one year before the application is received by the board;
24 however, if the participant is not an employee of an employer
25 participating in this System or in a participating system as
26 defined in Article 20 of this Code on April 1 of the calendar

1 year next following the calendar year in which the participant
2 attains age 70 1/2, the annuity payment period shall begin on
3 that date regardless of whether an application has been filed.

4 (c) An annuity is not payable if the amount provided under
5 Section 15-136 is less than \$10 per month.

6 (Source: P.A. 92-749, eff. 8-2-02.)

7 (40 ILCS 5/15-136) (from Ch. 108 1/2, par. 15-136)

8 Sec. 15-136. Retirement annuities - Amount. The provisions
9 of this Section 15-136 apply only to those participants who are
10 participating in the traditional benefit package or the
11 portable benefit package and do not apply to participants who
12 are participating in the self-managed plan.

13 (a) The amount of a participant's retirement annuity,
14 expressed in the form of a single-life annuity, shall be
15 determined by whichever of the following rules is applicable
16 and provides the largest annuity:

17 Rule 1: The retirement annuity shall be 1.67% of final rate
18 of earnings for each of the first 10 years of service, 1.90%
19 for each of the next 10 years of service, 2.10% for each year
20 of service in excess of 20 but not exceeding 30, and 2.30% for
21 each year in excess of 30; or for persons who retire on or
22 after January 1, 1998, 2.2% of the final rate of earnings for
23 each year of service.

24 Rule 2: The retirement annuity shall be the sum of the
25 following, determined from amounts credited to the participant

1 in accordance with the actuarial tables and the effective
2 ~~prescribed~~ rate of interest in effect at the time the
3 retirement annuity begins:

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

7 (ii) an annuity from employer contributions of an
8 amount equal to that which can be provided on an
9 actuarially equivalent basis from the accumulated normal
10 contributions made by the participant under Section
11 15-113.6 and Section 15-113.7 plus 1.4 times all other
12 accumulated normal contributions made by the participant;
13 and

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

17 With respect to a police officer or firefighter who retires
18 on or after August 14, 1998, the accumulated normal
19 contributions taken into account under clauses (i) and (ii) of
20 this Rule 2 shall include the additional normal contributions
21 made by the police officer or firefighter under Section
22 15-157(a).

23 The amount of a retirement annuity calculated under this
24 Rule 2 shall be computed solely on the basis of the
25 participant's accumulated normal contributions, as specified
26 in this Rule and defined in Section 15-116. Neither an employee

1 or employer contribution for early retirement under Section
2 15-136.2 nor any other employer contribution shall be used in
3 the calculation of the amount of a retirement annuity under
4 this Rule 2.

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

9 This Rule 2 does not apply to a person who first becomes an
10 employee under this Article on or after July 1, 2005.

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

1 payable under the portable retirement benefit program pursuant
2 to the provisions of Section 15-136.4.

3 Rule 4: A participant who is at least age 50 and has 25 or
4 more years of service as a police officer or firefighter, and a
5 participant who is age 55 or over and has at least 20 but less
6 than 25 years of service as a police officer or firefighter,
7 shall be entitled to a retirement annuity of 2 1/4% of the
8 final rate of earnings for each of the first 10 years of
9 service as a police officer or firefighter, 2 1/2% for each of
10 the next 10 years of service as a police officer or
11 firefighter, and 2 3/4% for each year of service as a police
12 officer or firefighter in excess of 20. The retirement annuity
13 for all other service shall be computed under Rule 1.

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

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

18 (ii) in the case of an individual who was a
19 participating employee employed in the fire department of
20 the University of Illinois's Champaign-Urbana campus
21 immediately prior to the elimination of that fire
22 department and who immediately after the elimination of
23 that fire department transferred to another job with the
24 University of Illinois, service performed as an employee of
25 the University of Illinois in a position other than police
26 officer or firefighter, from the date of that transfer

1 until the employee's next termination of service with the
2 University of Illinois.

3 Rule 5: The retirement annuity of a participant who elected
4 early retirement under the provisions of Section 15-136.2 and
5 who, on or before February 16, 1995, brought administrative
6 proceedings pursuant to the administrative rules adopted by the
7 System to challenge the calculation of his or her retirement
8 annuity shall be the sum of the following, determined from
9 amounts credited to the participant in accordance with the
10 actuarial tables and the prescribed rate of interest in effect
11 at the time the retirement annuity begins:

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

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

22 (iii) an annuity which can be provided on an
23 actuarially equivalent basis from the employee
24 contribution for early retirement under Section 15-136.2,
25 and an annuity from employer contributions of an amount
26 equal to that which can be provided on an actuarially

1 equivalent basis from the employee contribution for early
2 retirement under Section 15-136.2.

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

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

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

1 this Rule 5.

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

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

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

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

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

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

7 (c) The maximum retirement annuity provided under Rules 1,
8 2, 4, and 5 shall be the lesser of (1) the annual limit of
9 benefits as specified in Section 415 of the Internal Revenue
10 Code of 1986, as such Section may be amended from time to time
11 and as such benefit limits shall be adjusted by the
12 Commissioner of Internal Revenue, and (2) 80% of final rate of
13 earnings.

14 (d) An annuitant whose status as an employee terminates
15 after August 14, 1969 shall receive automatic increases in his
16 or her retirement annuity as follows:

17 Effective January 1 immediately following the date the
18 retirement annuity begins, the annuitant shall receive an
19 increase in his or her monthly retirement annuity of 0.125% of
20 the monthly retirement annuity provided under Rule 1, Rule 2,
21 Rule 3, Rule 4, or Rule 5, contained in this Section,
22 multiplied by the number of full months which elapsed from the
23 date the retirement annuity payments began to January 1, 1972,
24 plus 0.1667% of such annuity, multiplied by the number of full
25 months which elapsed from January 1, 1972, or the date the
26 retirement annuity payments began, whichever is later, to

1 January 1, 1978, plus 0.25% of such annuity multiplied by the
2 number of full months which elapsed from January 1, 1978, or
3 the date the retirement annuity payments began, whichever is
4 later, to the effective date of the increase.

5 The annuitant shall receive an increase in his or her
6 monthly retirement annuity on each January 1 thereafter during
7 the annuitant's life of 3% of the monthly annuity provided
8 under Rule 1, Rule 2, Rule 3, Rule 4, or Rule 5 contained in
9 this Section. The change made under this subsection by P.A.
10 81-970 is effective January 1, 1980 and applies to each
11 annuitant whose status as an employee terminates before or
12 after that date.

13 Beginning January 1, 1990, all automatic annual increases
14 payable under this Section shall be calculated as a percentage
15 of the total annuity payable at the time of the increase,
16 including all increases previously granted under this Article.

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

20 (e) If, on January 1, 1987, or the date the retirement
21 annuity payment period begins, whichever is later, the sum of
22 the retirement annuity provided under Rule 1 or Rule 2 of this
23 Section and the automatic annual increases provided under the
24 preceding subsection or Section 15-136.1, amounts to less than
25 the retirement annuity which would be provided by Rule 3, the
26 retirement annuity shall be increased as of January 1, 1987, or

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

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

18 (g) If, (1) by law, a function of a governmental unit, as
19 defined by Section 20-107 of this Code, is transferred in whole
20 or in part to an employer, and (2) a participant transfers
21 employment from such governmental unit to such employer within
22 6 months after the transfer of the function, and (3) the sum of
23 (A) the annuity payable to the participant under Rule 1, 2, or
24 3 of this Section (B) all proportional annuities payable to the
25 participant by all other retirement systems covered by Article
26 20, and (C) the initial primary insurance amount to which the

1 participant is entitled under the Social Security Act, is less
2 than the retirement annuity which would have been payable if
3 all of the participant's pension credits validated under
4 Section 20-109 had been validated under this system, a
5 supplemental annuity equal to the difference in such amounts
6 shall be payable to the participant.

7 (h) On January 1, 1981, an annuitant who was receiving a
8 retirement annuity on or before January 1, 1971 shall have his
9 or her retirement annuity then being paid increased \$1 per
10 month for each year of creditable service. On January 1, 1982,
11 an annuitant whose retirement annuity began on or before
12 January 1, 1977, shall have his or her retirement annuity then
13 being paid increased \$1 per month for each year of creditable
14 service.

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

20 (Source: P.A. 93-347, eff. 7-24-03; 94-4, eff. 6-1-05.)

21 (40 ILCS 5/15-136.4)

22 Sec. 15-136.4. Retirement and Survivor Benefits Under
23 Portable Benefit Package.

24 (a) This Section 15-136.4 describes the form of annuity and
25 survivor benefits available to a participant who has elected

1 the portable benefit package and has completed the one-year
2 waiting period required under subsection (e) of Section
3 15-134.5. For purposes of this Section, the term "eligible
4 spouse" means the husband or wife of a participant to whom the
5 participant is married on the date the participant's annuity
6 payment period begins, provided however, that if the
7 participant should die prior to the commencement of retirement
8 annuity benefits, then "eligible spouse" means the husband or
9 wife, if any, to whom the participant was married throughout
10 the one-year period preceding the date of his or her death.

11 (b) This subsection (b) describes the normal form of
12 annuity payable to a participant subject to this Section
13 15-136.4. If the participant is unmarried on the date his or
14 her annuity payment period begins, then the annuity payments
15 shall be made in the form of a single-life annuity as described
16 in Section 15-118. If the participant is married on the date
17 his or her annuity payments commence, then the annuity payments
18 shall be paid in the form of a qualified joint and survivor
19 annuity that is the actuarial equivalent of the single-life
20 annuity. Under the "qualified joint and survivor annuity", a
21 reduced amount shall be paid to the participant for his or her
22 lifetime and his or her eligible spouse, if surviving at the
23 participant's death, shall be entitled to receive thereafter a
24 lifetime survivorship annuity in a monthly amount equal to 50%
25 of the reduced monthly amount that was payable to the
26 participant. The last payment of a qualified joint and survivor

1 annuity shall be made as of the first day of the month in which
2 the death of the survivor occurs.

3 (c) Instead of the normal form of annuity that would be
4 paid under subsection (b), a participant may elect in writing
5 within the 180-day ~~90-day~~ period prior to the date his or her
6 annuity payments commence to waive the normal form of annuity
7 payment and receive an optional form of payment as described in
8 subsection (h). If the participant is married and elects an
9 optional form of payment under subsection (h) other than a
10 joint and survivor annuity with the eligible spouse designated
11 as the contingent annuitant, then such election shall require
12 the consent of his or her eligible spouse in the manner
13 described in subsection (d). At any time during the 180-day
14 ~~90-day~~ period preceding the date the participant's payment
15 period begins, the participant may revoke the optional form of
16 payment elected under this subsection (c) and reinstate
17 coverage under the qualified joint and survivor annuity without
18 the spouse's consent, but an election to revoke the optional
19 form elected and elect a new optional form of payment or
20 designate a different contingent annuitant shall not be
21 effective without the eligible spouse's consent.

22 (d) The eligible spouse's consent to any election made
23 pursuant to this Section that requires the eligible spouse's
24 consent shall be in writing and shall acknowledge the effect of
25 the consent. In addition, the eligible spouse's signature on
26 the written consent must be witnessed by a notary public. The

1 eligible spouse's consent need not be obtained if the system is
2 satisfied that there is no eligible spouse, that the eligible
3 spouse cannot be located, or because of any other relevant
4 circumstances. An eligible spouse's consent under this Section
5 is valid only with respect to the specified optional form of
6 payment and, if applicable, contingent annuitant designated by
7 the participant. If the optional form of payment or the
8 contingent annuitant is subsequently changed (other than by a
9 revocation of the optional form of payment and reinstatement of
10 the qualified joint and survivor annuity), a new consent by the
11 eligible spouse is required. The eligible spouse's consent to
12 an election made by a participant pursuant to this Section,
13 once made, may not be revoked by the eligible spouse.

14 (e) Within a reasonable period of time preceding the date a
15 participant's annuity commences, a participant shall be
16 supplied with a written explanation of (1) the terms and
17 conditions of the normal form single-life annuity and qualified
18 joint and survivor annuity, (2) the participant's right to
19 elect a single-life annuity or an optional form of payment
20 under subsection (h) subject to his or her eligible spouse's
21 consent, if applicable, and (3) the participant's right to
22 reinstate coverage under the qualified joint and survivor
23 annuity prior to his or her annuity commencement date by
24 revoking an election of an optional form of payment under
25 subsection (h).

26 (f) If a married participant with at least 1.5 years of

1 service dies prior to commencing retirement annuity payments
2 and prior to taking a refund under Section 15-154, his or her
3 eligible spouse is entitled to receive a pre-retirement
4 survivor annuity, if there is not then in effect a waiver of
5 the pre-retirement survivor annuity. The pre-retirement
6 survivor annuity payable under this subsection shall be a
7 monthly annuity payable for the eligible spouse's life,
8 commencing as of the beginning of the month next following the
9 later of the date of the participant's death or the date the
10 participant would have first met the eligibility requirements
11 for retirement, and continuing through the beginning of the
12 month in which the death of the eligible spouse occurs. The
13 monthly amount payable to the spouse under the pre-retirement
14 survivor annuity shall be equal to the monthly amount that
15 would be payable as a survivor annuity under the qualified
16 joint and survivor annuity described in subsection (b) if: (1)
17 in the case of a participant who dies on or after the date on
18 which the participant has met the eligibility requirements for
19 retirement, the participant had retired with an immediate
20 qualified joint and survivor annuity on the day before the
21 participant's date of death; or (2) in the case of a
22 participant who dies before the earliest date on which the
23 participant would have met the eligibility requirements for
24 retirement age, the participant had separated from service on
25 the date of death, survived to the earliest retirement age
26 based on service prior to his or her death, retired with an

1 immediate qualified joint and survivor annuity at the earliest
2 retirement age, and died on the day after the day on which the
3 participant would have attained the earliest retirement age.

4 (g) A married participant who has not retired may elect at
5 any time to waive the pre-retirement survivor annuity described
6 in subsection (f). Any such election shall require the consent
7 of the participant's eligible spouse in the manner described in
8 subsection (d). A waiver of the pre-retirement survivor annuity
9 shall increase the lump sum death benefit payable under
10 subsection (b) of Section 15-141. Prior to electing any waiver
11 of the pre-retirement survivor annuity, the participant shall
12 be provided with a written explanation of (1) the terms and
13 conditions of the pre-retirement survivor annuity and the death
14 benefits payable from the system both with and without the
15 pre-retirement survivor annuity, (2) the participant's right
16 to elect a waiver of the pre-retirement survivor annuity
17 coverage subject to his or her spouse's consent, and (3) the
18 participant's right to reinstate pre-retirement survivor
19 annuity coverage at any time by revoking a prior waiver of such
20 coverage.

21 (h) By filing a timely election with the system, a
22 participant who will be eligible to receive a retirement
23 annuity under this Section may waive the normal form of annuity
24 payment described in subsection (b), subject to obtaining the
25 consent of his or her eligible spouse, if applicable, and elect
26 to receive any one of the following optional forms of payment:

1 (1) Joint and Survivor Annuity Options: The
2 participant may elect to receive a reduced annuity payable
3 for his or her life and to have a lifetime survivorship
4 annuity in a monthly amount equal to 50%, 75%, or 100% (as
5 elected by the participant) of that reduced monthly amount,
6 to be paid after the participant's death to his or her
7 contingent annuitant, if the contingent annuitant is alive
8 at the time of the participant's death.

9 (2) Single-Life Annuity Option (optional for married
10 participants). The participant may elect to receive a
11 single-life annuity payable for his or her life only.

12 (3) Lump sum retirement benefit. The participant may
13 elect to receive a lump sum retirement benefit that is
14 equal to the amount of a refund payable under Section
15 15-154(a-2).

16 All joint and survivor annuity forms shall be in an amount that
17 is the actuarial equivalent of the single-life annuity.

18 For the purposes of this Section, the term "contingent
19 annuitant" means the beneficiary who is designated by a
20 participant at the time the participant elects a joint and
21 survivor annuity to receive the lifetime survivorship annuity
22 in the event the beneficiary survives the participant at the
23 participant's death.

24 (i) Under no circumstances may an option be elected,
25 changed, or revoked after the date the participant's retirement
26 annuity commences.

1 (j) An election made pursuant to subsection (h) shall
2 become inoperative if the participant or the contingent
3 annuitant dies before the date the participant's annuity
4 payments commence, or if the eligible spouse's consent is
5 required and not given.

6 (k) (Blank).

7 (l) The automatic annual increases described in subsection
8 (d) of Section 15-136 shall apply to retirement benefits under
9 the portable benefit package and the automatic annual increases
10 described in subsection (j) of Section 15-145 shall apply to
11 survivor benefits under the portable benefit package.

12 (Source: P.A. 96-586, eff. 8-18-09.)

13 (40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

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

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

23 (b) If an annuitant retires prior to age 60 and receives or
24 becomes entitled to receive during any month compensation in
25 excess of the monthly retirement annuity (including any

1 automatic annual increases) for services performed after the
2 date of retirement for any employer under this System, that
3 portion of the monthly retirement annuity provided by employer
4 contributions shall not be payable.

5 If an annuitant retires at age 60 or over and receives or
6 becomes entitled to receive during any academic year
7 compensation in excess of the difference between his or her
8 highest annual earnings prior to retirement and his or her
9 annual retirement annuity computed under Rule 1, Rule 2, Rule
10 3, Rule 4, or Rule 5 of Section 15-136, or under Section
11 15-136.4, for services performed after the date of retirement
12 for any employer under this System, that portion of the monthly
13 retirement annuity provided by employer contributions shall be
14 reduced by an amount equal to the compensation that exceeds
15 such difference.

16 However, any remuneration received for serving as a member
17 of the Illinois Educational Labor Relations Board shall be
18 excluded from "compensation" for the purposes of this
19 subsection (b), and serving as a member of the Illinois
20 Educational Labor Relations Board shall not be deemed to be a
21 return to employment for the purposes of this Section. This
22 provision applies without regard to whether service was
23 terminated prior to the effective date of this amendatory Act
24 of 1991.

25 (c) If an employer certifies that an annuitant has been
26 reemployed on a permanent and continuous basis or in a position

1 in which the annuitant is expected to serve for at least 9
2 months, the annuitant shall resume his or her status as a
3 participating employee and shall be entitled to all rights
4 applicable to participating employees upon filing with the
5 board an election to forgo ~~forego~~ all annuity payments during
6 the period of reemployment. Upon subsequent retirement, the
7 retirement annuity shall consist of the annuity which was
8 terminated by the reemployment, plus the additional retirement
9 annuity based upon service granted during the period of
10 reemployment, but the combined retirement annuity shall not
11 exceed the maximum annuity applicable on the date of the last
12 retirement.

13 The total service and earnings credited before and after
14 the initial date of retirement shall be considered in
15 determining eligibility of the employee or the employee's
16 beneficiary to benefits under this Article, and in calculating
17 final rate of earnings.

18 In determining the death benefit payable to a beneficiary
19 of an annuitant who again becomes a participating employee
20 under this Section, accumulated normal and additional
21 contributions shall be considered as the sum of the accumulated
22 normal and additional contributions at the date of initial
23 retirement and the accumulated normal and additional
24 contributions credited after that date, less the sum of the
25 annuity payments received by the annuitant.

26 The survivors insurance benefits provided under Section

1 15-145 shall not be applicable to an annuitant who resumes his
2 or her status as a participating employee, unless the
3 annuitant, at the time of initial retirement, has a survivors
4 insurance beneficiary who could qualify for such benefits.

5 If the participant's ~~annuitant's~~ employment is terminated
6 because of circumstances other than death before 9 months from
7 the date of reemployment, the provisions of this Section
8 regarding resumption of status as a participating employee
9 shall not apply. The normal and survivors insurance
10 contributions which are deducted during this period shall be
11 refunded to the annuitant without interest, and subsequent
12 benefits under this Article shall be the same as those which
13 were applicable prior to the date the annuitant resumed
14 employment.

15 The amendments made to this Section by this amendatory Act
16 of the 91st General Assembly apply without regard to whether
17 the annuitant was in service on or after the effective date of
18 this amendatory Act.

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

21 (40 ILCS 5/15-139.5 new)

22 Sec. 15-139.5. Return to work by affected annuitant; notice
23 and contribution by employer.

24 (a) An employer who employs a person receiving a retirement
25 annuity from the System in an academic year beginning on or

1 after August 1, 2012 must notify the System of that employment
2 within 60 days after employing the annuitant. The notice must
3 specify whether the annuitant will be compensated from federal,
4 foundation, or trust funds that are contingent upon the
5 employment of that specific annuitant. The notice must include
6 the employer's determination of whether or not the annuitant is
7 an "affected annuitant" as defined in subsection (b).

8 The employer must also record, document, and certify to the
9 System (i) the number of paid days and paid weeks worked by the
10 annuitant in the academic year, (ii) the amount of compensation
11 paid to the annuitant for employment during the academic year,
12 and (iii) the amount of that compensation, if any, that comes
13 from federal, foundation, or trust funds that are contingent
14 upon the employment of that specific annuitant.

15 As used in this Section, "paid day" means a day on which a
16 person performs personal services for an employer and for which
17 the person is compensated by the employer; and "paid week"
18 means a calendar week in which a person has at least one paid
19 day.

20 For the purposes of this Section, an annuitant whose
21 employment by an employer extends over more than one academic
22 year shall be deemed to be re-employed by that employer in each
23 of those academic years.

24 The System may specify the time, form, and manner of
25 providing the determinations, notifications, certifications,
26 and documentation required under this Section.

1 (b) A person receiving a retirement annuity from the System
2 becomes an "affected annuitant" on the first day of the
3 academic year following the academic year in which the
4 annuitant first meets both of the following conditions:

5 (1) While receiving a retirement annuity under this
6 Article, the annuitant has been employed on or after August
7 1, 2012 by one or more employers under this Article for a
8 total of more than 18 paid weeks (which need not have been
9 with the same employer or in the same academic year);
10 except that any periods of employment for which the
11 annuitant was compensated solely from federal, foundation,
12 or trust funds that were contingent upon the employment of
13 that specific annuitant are excluded.

14 (2) While receiving a retirement annuity under this
15 Article, the annuitant was employed on or after August 1,
16 2012 by one or more employers under this Article and
17 received or became entitled to receive during an academic
18 year compensation for that employment in excess of 40% of
19 his or her highest annual earnings prior to retirement;
20 except that compensation paid from federal, foundation, or
21 trust funds that are contingent upon the employment of that
22 specific annuitant is excluded.

23 A person who becomes an affected annuitant remains an
24 affected annuitant, except for any period during which the
25 person returns to active service and does not receive a
26 retirement annuity from the System.

1 (c) It is the obligation of the employer to determine
2 whether an annuitant is an affected annuitant before employing
3 the annuitant. For that purpose the employer may require the
4 annuitant to disclose and document his or her relevant prior
5 employment and earnings history. Failure of the employer to
6 make this determination correctly and in a timely manner or to
7 include this determination with the notification required
8 under subsection (a) does not excuse the employer from making
9 the contribution required under subsection (e).

10 The System may assist the employer in determining whether a
11 person is an affected annuitant. The System shall inform the
12 employer if it discovers that the employer's determination is
13 inconsistent with the employment and earnings information in
14 the System's records.

15 (d) Upon the request of an annuitant, the System shall
16 certify to the annuitant the following information, as that
17 information is indicated in the records of the System: (i) the
18 annuitant's highest annual earnings prior to retirement, (ii)
19 the number of paid weeks worked by the annuitant for an
20 employer on or after August 1, 2012, (iii) the compensation
21 paid for that employment in each academic year, and (iv)
22 whether any of that employment or compensation has been
23 certified to the System as being paid from federal, foundation,
24 or trust funds that were contingent upon the employment of that
25 specific annuitant.

26 (e) In addition to the requirements of subsection (a), an

1 employer who employs an affected annuitant must pay to the
2 System an employer contribution in the amount and manner
3 provided in this Section, unless the annuitant is compensated
4 by that employer solely from federal, foundation, or trust
5 funds that are contingent upon the employment of that specific
6 annuitant.

7 The employer contribution required under this Section for
8 employment of an affected annuitant in an academic year shall
9 be equal to 12 times the amount of the gross monthly retirement
10 annuity payable to the annuitant for the month in which the
11 first paid day of that employment occurs, after any reduction
12 in that annuity that may be imposed under subsection (b) of
13 Section 15-139.

14 If an affected annuitant is employed by more than one
15 employer in an academic year, the employer contribution
16 required under this Section shall be divided among those
17 employers in proportion to their respective portions of the
18 total compensation paid to the affected annuitant for that
19 employment during that academic year.

20 If the System determines that an employer, without
21 reasonable justification, has failed to make the determination
22 of affected annuitant status correctly and in a timely manner,
23 or has failed to notify the system or to correctly document or
24 certify to the System any of the information required by this
25 Section, and that failure results in a delayed determination by
26 the System that a contribution is payable under this Section,

1 then the amount of that employer's contribution otherwise
2 determined under this Section shall be doubled.

3 The System shall deem a failure to correctly determine the
4 annuitant's status to be justified if the employer establishes
5 to the System's satisfaction that the employer, after due
6 diligence, made an erroneous determination that the annuitant
7 was not an affected annuitant due to reasonable reliance on
8 false or misleading information provided by the annuitant or
9 another employer, or an error in the annuitant's official
10 employment or earnings records.

11 (f) Whenever the System determines that an employer is
12 liable for a contribution under this Section, it shall so
13 notify the employer and certify the amount of the contribution.
14 The employer may pay the required contribution without interest
15 at any time within one year after receipt of the certification.
16 If the employer fails to pay within that year, then interest
17 shall be charged at a rate equal to the System's annual
18 actuarially assumed rate of return on investment, compounded
19 annually from the 366th day after receipt of the certification
20 from the System. Payment must be concluded within 2 years after
21 receipt of the certification by the employer. If the employer
22 fails to make complete payment, including applicable interest,
23 within 2 years, then the System may, after giving notice to the
24 employer, certify the delinquent amount to the State
25 Comptroller, and the Comptroller shall thereupon deduct the
26 certified delinquent amount from State funds payable to the

1 employer and pay them instead to the System.

2 (g) If an employer is required to make a contribution to
3 the System as a result of employing an affected annuitant and
4 the annuitant later elects to forgo his or her annuity in that
5 same academic year pursuant to subsection (c) of Section
6 15-139, then the required contribution by the employer shall be
7 waived, and if the contribution has already been paid, it shall
8 be refunded to the employer without interest.

9 (h) Notwithstanding any other provision of this Article,
10 the employer contribution required under this Section shall not
11 be included in the determination of any benefit under this
12 Article or any other Article of this Code, regardless of
13 whether the annuitant returns to active service, and is in
14 addition to any other State or employer contribution required
15 under this Article.

16 (40 ILCS 5/15-153.2) (from Ch. 108 1/2, par. 15-153.2)

17 Sec. 15-153.2. Disability retirement annuity. A
18 participant whose disability benefits are discontinued under
19 the provisions of clause (6) of Section 15-152 and who is not a
20 participant in the optional retirement plan established under
21 Section 15-158.2 is entitled to a disability retirement annuity
22 of 35% of the basic compensation which was payable to the
23 participant at the time that disability began, provided that
24 the board determines that the participant has a medically
25 determinable physical or mental impairment that prevents him or

1 her from engaging in any substantial gainful activity, and
2 which can be expected to result in death or which has lasted or
3 can be expected to last for a continuous period of not less
4 than 12 months.

5 The board's determination of whether a participant is
6 disabled shall be based upon:

7 (i) a written certificate from one or more licensed and
8 practicing physicians appointed by or acceptable to the
9 board, stating that the participant is unable to engage in
10 any substantial gainful activity; and

11 (ii) any other medical examinations, hospital records,
12 laboratory results, or other information necessary for
13 determining the employment capacity and condition of the
14 participant.

15 The terms "medically determinable physical or mental
16 impairment" and "substantial gainful activity" shall have the
17 meanings ascribed to them in the federal Social Security Act,
18 as now or hereafter amended, and the regulations issued
19 thereunder.

20 The disability retirement annuity payment period shall
21 begin immediately following the expiration of the disability
22 benefit payments under clause (6) of Section 15-152 and shall
23 be discontinued for a recipient of a disability retirement
24 annuity when (1) the physical or mental impairment no longer
25 prevents the participant from engaging in any substantial
26 gainful activity, (2) the participant dies or (3) the

1 participant elects to receive a retirement annuity under
2 Sections 15-135 and 15-136. If a person's disability retirement
3 annuity is discontinued under clause (1), all rights and
4 credits accrued in the system on the date that the disability
5 retirement annuity began shall be restored, and the disability
6 retirement annuity paid shall be considered as disability
7 payments under clause (6) of Section 15-152.

8 (Source: P.A. 90-14, eff. 7-1-97; 90-65, eff. 7-7-97; 90-511,
9 eff. 8-22-97; 90-766, eff. 8-14-98.)

10 (40 ILCS 5/15-168.2 new)

11 Sec. 15-168.2. Audit of employers. Beginning August 1,
12 2012, the System may audit the employment records and payroll
13 records of all employers. When the System audits an employer,
14 it shall specify the exact information it requires, which may
15 include but need not be limited to the names, titles, and
16 earnings history of every individual receiving compensation
17 from the employer. If an employer is audited by the System,
18 then the employer must provide to the System all necessary
19 documents and records within 60 calendar days after receiving
20 notification from the System. When the System audits an
21 employer, it shall send related correspondence by certified
22 mail.

23 (40 ILCS 5/15-186) (from Ch. 108 1/2, par. 15-186)

24 Sec. 15-186. Fraud.

1 Any person who knowingly makes any false statement, or
2 falsifies or permits to be falsified any record or records of
3 this system, in any attempt to defraud the system or to mislead
4 or defraud an employer with respect to employment of an
5 annuitant under Section 15-139.5, is guilty of a Class A
6 misdemeanor.

7 (Source: P.A. 77-2830.)

8 Section 99. Effective date. This Act takes effect July 1,
9 2012."