

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 15-113, 15-135, 15-136, 15-136.4, 15-139, 15-153.2,
6 and 15-186 and by adding Sections 15-139.5 and 15-168.2 as
7 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
16 entitled to a retirement annuity at any age under the
17 retirement program applicable to the participant:

18 35 years if retirement is in 1997 or before;

19 34 years if retirement is in 1998;

20 33 years if retirement is in 1999;

21 32 years if retirement is in 2000;

22 31 years if retirement is in 2001;

1 30 years if retirement is in 2002 or later.

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

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

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

12 (b) The annuity payment period shall begin on the date
13 specified by the participant or the recipient of a disability
14 retirement annuity submitting a written application, which
15 date shall not be prior to termination of employment or more
16 than one year before the application is received by the board;
17 however, if the participant is not an employee of an employer
18 participating in this System or in a participating system as
19 defined in Article 20 of this Code on April 1 of the calendar
20 year next following the calendar year in which the participant
21 attains age 70 1/2, the annuity payment period shall begin on
22 that date regardless of whether an application has been filed.

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

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

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

2 Sec. 15-136. Retirement annuities - Amount. The provisions
3 of this Section 15-136 apply only to those participants who are
4 participating in the traditional benefit package or the
5 portable benefit package and do not apply to participants who
6 are participating in the self-managed plan.

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

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

18 Rule 2: The retirement annuity shall be the sum of the
19 following, determined from amounts credited to the participant
20 in accordance with the actuarial tables and the effective
21 ~~prescribed~~ rate of interest in effect at the time the
22 retirement annuity begins:

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

26 (ii) an annuity from employer contributions of an

1 amount equal to that which can be provided on an
2 actuarially equivalent basis from the accumulated normal
3 contributions made by the participant under Section
4 15-113.6 and Section 15-113.7 plus 1.4 times all other
5 accumulated normal contributions made by the participant;
6 and

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

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

16 The amount of a retirement annuity calculated under this
17 Rule 2 shall be computed solely on the basis of the
18 participant's accumulated normal contributions, as specified
19 in this Rule and defined in Section 15-116. Neither an employee
20 or employer contribution for early retirement under Section
21 15-136.2 nor any other employer contribution shall be used in
22 the calculation of the amount of a retirement annuity under
23 this Rule 2.

24 This amendatory Act of the 91st General Assembly is a
25 clarification of existing law and applies to every participant
26 and annuitant without regard to whether status as an employee

1 terminates before the effective date of this amendatory Act.

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

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

22 Rule 4: A participant who is at least age 50 and has 25 or
23 more years of service as a police officer or firefighter, and a
24 participant who is age 55 or over and has at least 20 but less
25 than 25 years of service as a police officer or firefighter,
26 shall be entitled to a retirement annuity of 2 1/4% of the

1 final rate of earnings for each of the first 10 years of
2 service as a police officer or firefighter, 2 1/2% for each of
3 the next 10 years of service as a police officer or
4 firefighter, and 2 3/4% for each year of service as a police
5 officer or firefighter in excess of 20. The retirement annuity
6 for all other service shall be computed under Rule 1.

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

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

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

22 Rule 5: The retirement annuity of a participant who elected
23 early retirement under the provisions of Section 15-136.2 and
24 who, on or before February 16, 1995, brought administrative
25 proceedings pursuant to the administrative rules adopted by the
26 System to challenge the calculation of his or her retirement

1 annuity shall be the sum of the following, determined from
2 amounts credited to the participant in accordance with the
3 actuarial tables and the prescribed rate of interest in effect
4 at the time the retirement annuity begins:

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

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

15 (iii) an annuity which can be provided on an
16 actuarially equivalent basis from the employee
17 contribution for early retirement under Section 15-136.2,
18 and an annuity from employer contributions of an amount
19 equal to that which can be provided on an actuarially
20 equivalent basis from the employee contribution for early
21 retirement under Section 15-136.2.

22 In no event shall a retirement annuity under this Rule 5 be
23 lower than the amount obtained by adding (1) the monthly amount
24 obtained by dividing the combined employee and employer
25 contributions made under Section 15-136.2 by the System's
26 annuity factor for the age of the participant at the beginning

1 of the annuity payment period and (2) the amount equal to the
2 participant's annuity if calculated under Rule 1, reduced under
3 Section 15-136(b) as if no contributions had been made under
4 Section 15-136.2.

5 With respect to a participant who is qualified for a
6 retirement annuity under this Rule 5 whose retirement annuity
7 began before the effective date of this amendatory Act of the
8 91st General Assembly, and for whom an employee contribution
9 was made under Section 15-136.2, the System shall recalculate
10 the retirement annuity under this Rule 5 and shall pay any
11 additional amounts due in the manner provided in Section
12 15-186.1 for benefits mistakenly set too low.

13 The amount of a retirement annuity calculated under this
14 Rule 5 shall be computed solely on the basis of those
15 contributions specifically set forth in this Rule 5. Except as
16 provided in clause (iii) of this Rule 5, neither an employee
17 nor employer contribution for early retirement under Section
18 15-136.2, nor any other employer contribution, shall be used in
19 the calculation of the amount of a retirement annuity under
20 this Rule 5.

21 The General Assembly has adopted the changes set forth in
22 Section 25 of this amendatory Act of the 91st General Assembly
23 in recognition that the decision of the Appellate Court for the
24 Fourth District in *Mattis v. State Universities Retirement*
25 *System et al.* might be deemed to give some right to the
26 plaintiff in that case. The changes made by Section 25 of this

1 amendatory Act of the 91st General Assembly are a legislative
2 implementation of the decision of the Appellate Court for the
3 Fourth District in *Mattis v. State Universities Retirement*
4 *System et al.* with respect to that plaintiff.

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

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

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

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

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

26 (c) The maximum retirement annuity provided under Rules 1,

1 2, 4, and 5 shall be the lesser of (1) the annual limit of
2 benefits as specified in Section 415 of the Internal Revenue
3 Code of 1986, as such Section may be amended from time to time
4 and as such benefit limits shall be adjusted by the
5 Commissioner of Internal Revenue, and (2) 80% of final rate of
6 earnings.

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

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

24 The annuitant shall receive an increase in his or her
25 monthly retirement annuity on each January 1 thereafter during
26 the annuitant's life of 3% of the monthly annuity provided

1 under Rule 1, Rule 2, Rule 3, Rule 4, or Rule 5 contained in
2 this Section. The change made under this subsection by P.A.
3 81-970 is effective January 1, 1980 and applies to each
4 annuitant whose status as an employee terminates before or
5 after that date.

6 Beginning January 1, 1990, all automatic annual increases
7 payable under this Section shall be calculated as a percentage
8 of the total annuity payable at the time of the increase,
9 including all increases previously granted under this Article.

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

13 (e) If, on January 1, 1987, or the date the retirement
14 annuity payment period begins, whichever is later, the sum of
15 the retirement annuity provided under Rule 1 or Rule 2 of this
16 Section and the automatic annual increases provided under the
17 preceding subsection or Section 15-136.1, amounts to less than
18 the retirement annuity which would be provided by Rule 3, the
19 retirement annuity shall be increased as of January 1, 1987, or
20 the date the retirement annuity payment period begins,
21 whichever is later, to the amount which would be provided by
22 Rule 3 of this Section. Such increased amount shall be
23 considered as the retirement annuity in determining benefits
24 provided under other Sections of this Article. This paragraph
25 applies without regard to whether status as an employee
26 terminated before the effective date of this amendatory Act of

1 1987, provided that the annuitant was employed at least
2 one-half time during the period on which the final rate of
3 earnings was based.

4 (f) A participant is entitled to such additional annuity as
5 may be provided on an actuarially equivalent basis, by any
6 accumulated additional contributions to his or her credit.
7 However, the additional contributions made by the participant
8 toward the automatic increases in annuity provided under this
9 Section shall not be taken into account in determining the
10 amount of such additional annuity.

11 (g) If, (1) by law, a function of a governmental unit, as
12 defined by Section 20-107 of this Code, is transferred in whole
13 or in part to an employer, and (2) a participant transfers
14 employment from such governmental unit to such employer within
15 6 months after the transfer of the function, and (3) the sum of
16 (A) the annuity payable to the participant under Rule 1, 2, or
17 3 of this Section (B) all proportional annuities payable to the
18 participant by all other retirement systems covered by Article
19 20, and (C) the initial primary insurance amount to which the
20 participant is entitled under the Social Security Act, is less
21 than the retirement annuity which would have been payable if
22 all of the participant's pension credits validated under
23 Section 20-109 had been validated under this system, a
24 supplemental annuity equal to the difference in such amounts
25 shall be payable to the participant.

26 (h) On January 1, 1981, an annuitant who was receiving a

1 retirement annuity on or before January 1, 1971 shall have his
2 or her retirement annuity then being paid increased \$1 per
3 month for each year of creditable service. On January 1, 1982,
4 an annuitant whose retirement annuity began on or before
5 January 1, 1977, shall have his or her retirement annuity then
6 being paid increased \$1 per month for each year of creditable
7 service.

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

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

14 (40 ILCS 5/15-136.4)

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

17 (a) This Section 15-136.4 describes the form of annuity and
18 survivor benefits available to a participant who has elected
19 the portable benefit package and has completed the one-year
20 waiting period required under subsection (e) of Section
21 15-134.5. For purposes of this Section, the term "eligible
22 spouse" means the husband or wife of a participant to whom the
23 participant is married on the date the participant's annuity
24 payment period begins, provided however, that if the
25 participant should die prior to the commencement of retirement

1 annuity benefits, then "eligible spouse" means the husband or
2 wife, if any, to whom the participant was married throughout
3 the one-year period preceding the date of his or her death.

4 (b) This subsection (b) describes the normal form of
5 annuity payable to a participant subject to this Section
6 15-136.4. If the participant is unmarried on the date his or
7 her annuity payment period begins, then the annuity payments
8 shall be made in the form of a single-life annuity as described
9 in Section 15-118. If the participant is married on the date
10 his or her annuity payments commence, then the annuity payments
11 shall be paid in the form of a qualified joint and survivor
12 annuity that is the actuarial equivalent of the single-life
13 annuity. Under the "qualified joint and survivor annuity", a
14 reduced amount shall be paid to the participant for his or her
15 lifetime and his or her eligible spouse, if surviving at the
16 participant's death, shall be entitled to receive thereafter a
17 lifetime survivorship annuity in a monthly amount equal to 50%
18 of the reduced monthly amount that was payable to the
19 participant. The last payment of a qualified joint and survivor
20 annuity shall be made as of the first day of the month in which
21 the death of the survivor occurs.

22 (c) Instead of the normal form of annuity that would be
23 paid under subsection (b), a participant may elect in writing
24 within the 180-day ~~90-day~~ period prior to the date his or her
25 annuity payments commence to waive the normal form of annuity
26 payment and receive an optional form of payment as described in

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

15 (d) The eligible spouse's consent to any election made
16 pursuant to this Section that requires the eligible spouse's
17 consent shall be in writing and shall acknowledge the effect of
18 the consent. In addition, the eligible spouse's signature on
19 the written consent must be witnessed by a notary public. The
20 eligible spouse's consent need not be obtained if the system is
21 satisfied that there is no eligible spouse, that the eligible
22 spouse cannot be located, or because of any other relevant
23 circumstances. An eligible spouse's consent under this Section
24 is valid only with respect to the specified optional form of
25 payment and, if applicable, contingent annuitant designated by
26 the participant. If the optional form of payment or the

1 contingent annuitant is subsequently changed (other than by a
2 revocation of the optional form of payment and reinstatement of
3 the qualified joint and survivor annuity), a new consent by the
4 eligible spouse is required. The eligible spouse's consent to
5 an election made by a participant pursuant to this Section,
6 once made, may not be revoked by the eligible spouse.

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

19 (f) If a married participant with at least 1.5 years of
20 service dies prior to commencing retirement annuity payments
21 and prior to taking a refund under Section 15-154, his or her
22 eligible spouse is entitled to receive a pre-retirement
23 survivor annuity, if there is not then in effect a waiver of
24 the pre-retirement survivor annuity. The pre-retirement
25 survivor annuity payable under this subsection shall be a
26 monthly annuity payable for the eligible spouse's life,

1 commencing as of the beginning of the month next following the
2 later of the date of the participant's death or the date the
3 participant would have first met the eligibility requirements
4 for retirement, and continuing through the beginning of the
5 month in which the death of the eligible spouse occurs. The
6 monthly amount payable to the spouse under the pre-retirement
7 survivor annuity shall be equal to the monthly amount that
8 would be payable as a survivor annuity under the qualified
9 joint and survivor annuity described in subsection (b) if: (1)
10 in the case of a participant who dies on or after the date on
11 which the participant has met the eligibility requirements for
12 retirement, the participant had retired with an immediate
13 qualified joint and survivor annuity on the day before the
14 participant's date of death; or (2) in the case of a
15 participant who dies before the earliest date on which the
16 participant would have met the eligibility requirements for
17 retirement age, the participant had separated from service on
18 the date of death, survived to the earliest retirement age
19 based on service prior to his or her death, retired with an
20 immediate qualified joint and survivor annuity at the earliest
21 retirement age, and died on the day after the day on which the
22 participant would have attained the earliest retirement age.

23 (g) A married participant who has not retired may elect at
24 any time to waive the pre-retirement survivor annuity described
25 in subsection (f). Any such election shall require the consent
26 of the participant's eligible spouse in the manner described in

1 subsection (d). A waiver of the pre-retirement survivor annuity
2 shall increase the lump sum death benefit payable under
3 subsection (b) of Section 15-141. Prior to electing any waiver
4 of the pre-retirement survivor annuity, the participant shall
5 be provided with a written explanation of (1) the terms and
6 conditions of the pre-retirement survivor annuity and the death
7 benefits payable from the system both with and without the
8 pre-retirement survivor annuity, (2) the participant's right
9 to elect a waiver of the pre-retirement survivor annuity
10 coverage subject to his or her spouse's consent, and (3) the
11 participant's right to reinstate pre-retirement survivor
12 annuity coverage at any time by revoking a prior waiver of such
13 coverage.

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

20 (1) Joint and Survivor Annuity Options: The
21 participant may elect to receive a reduced annuity payable
22 for his or her life and to have a lifetime survivorship
23 annuity in a monthly amount equal to 50%, 75%, or 100% (as
24 elected by the participant) of that reduced monthly amount,
25 to be paid after the participant's death to his or her
26 contingent annuitant, if the contingent annuitant is alive

1 at the time of the participant's death.

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

5 (3) Lump sum retirement benefit. The participant may
6 elect to receive a lump sum retirement benefit that is
7 equal to the amount of a refund payable under Section
8 15-154(a-2).

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

11 For the purposes of this Section, the term "contingent
12 annuitant" means the beneficiary who is designated by a
13 participant at the time the participant elects a joint and
14 survivor annuity to receive the lifetime survivorship annuity
15 in the event the beneficiary survives the participant at the
16 participant's death.

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

20 (j) An election made pursuant to subsection (h) shall
21 become inoperative if the participant or the contingent
22 annuitant dies before the date the participant's annuity
23 payments commence, or if the eligible spouse's consent is
24 required and not given.

25 (k) (Blank).

26 (l) The automatic annual increases described in subsection

1 (d) of Section 15-136 shall apply to retirement benefits under
2 the portable benefit package and the automatic annual increases
3 described in subsection (j) of Section 15-145 shall apply to
4 survivor benefits under the portable benefit package.

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

6 (40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

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

9 (a) If an annuitant returns to employment for an employer
10 within 60 days after the beginning of the retirement annuity
11 payment period, the retirement annuity shall be cancelled, and
12 the annuitant shall refund to the System the total amount of
13 the retirement annuity payments which he or she received. If
14 the retirement annuity is cancelled, the participant shall
15 continue to participate in the System.

16 (b) If an annuitant retires prior to age 60 and receives or
17 becomes entitled to receive during any month compensation in
18 excess of the monthly retirement annuity (including any
19 automatic annual increases) for services performed after the
20 date of retirement for any employer under this System, that
21 portion of the monthly retirement annuity provided by employer
22 contributions shall not be payable.

23 If an annuitant retires at age 60 or over and receives or
24 becomes entitled to receive during any academic year
25 compensation in excess of the difference between his or her

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

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

18 (c) If an employer certifies that an annuitant has been
19 reemployed on a permanent and continuous basis or in a position
20 in which the annuitant is expected to serve for at least 9
21 months, the annuitant shall resume his or her status as a
22 participating employee and shall be entitled to all rights
23 applicable to participating employees upon filing with the
24 board an election to forgo ~~forego~~ all annuity payments during
25 the period of reemployment. Upon subsequent retirement, the
26 retirement annuity shall consist of the annuity which was

1 terminated by the reemployment, plus the additional retirement
2 annuity based upon service granted during the period of
3 reemployment, but the combined retirement annuity shall not
4 exceed the maximum annuity applicable on the date of the last
5 retirement.

6 The total service and earnings credited before and after
7 the initial date of retirement shall be considered in
8 determining eligibility of the employee or the employee's
9 beneficiary to benefits under this Article, and in calculating
10 final rate of earnings.

11 In determining the death benefit payable to a beneficiary
12 of an annuitant who again becomes a participating employee
13 under this Section, accumulated normal and additional
14 contributions shall be considered as the sum of the accumulated
15 normal and additional contributions at the date of initial
16 retirement and the accumulated normal and additional
17 contributions credited after that date, less the sum of the
18 annuity payments received by the annuitant.

19 The survivors insurance benefits provided under Section
20 15-145 shall not be applicable to an annuitant who resumes his
21 or her status as a participating employee, unless the
22 annuitant, at the time of initial retirement, has a survivors
23 insurance beneficiary who could qualify for such benefits.

24 If the participant's ~~annuitant's~~ employment is terminated
25 because of circumstances other than death before 9 months from
26 the date of reemployment, the provisions of this Section

1 regarding resumption of status as a participating employee
2 shall not apply. The normal and survivors insurance
3 contributions which are deducted during this period shall be
4 refunded to the annuitant without interest, and subsequent
5 benefits under this Article shall be the same as those which
6 were applicable prior to the date the annuitant resumed
7 employment.

8 The amendments made to this Section by this amendatory Act
9 of the 91st General Assembly apply without regard to whether
10 the annuitant was in service on or after the effective date of
11 this amendatory Act.

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

14 (40 ILCS 5/15-139.5 new)

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

17 (a) An employer who employs or re-employs a person
18 receiving a retirement annuity from the System in an academic
19 year beginning on or after August 1, 2012 must notify the
20 System of that employment within 60 days after employing the
21 annuitant. The notice must include a copy of the contract of
22 employment; if no written contract of employment exists, then
23 the notice must specify the rate of compensation and the
24 anticipated length of employment of that annuitant. The notice
25 must specify whether the annuitant will be compensated from

1 federal, foundation, or trust funds. The notice must include
2 the employer's determination of whether or not the annuitant is
3 an "affected annuitant" as defined in subsection (b).

4 The employer must also record, document, and certify to the
5 System (i) the number of paid days and paid weeks worked by the
6 annuitant in the academic year, (ii) the amount of compensation
7 paid to the annuitant for employment during the academic year,
8 and (iii) the amount of that compensation, if any, that comes
9 from federal, foundation, or trust funds.

10 As used in this Section, "paid day" means a day on which a
11 person performs personal services for an employer and for which
12 the person is compensated by the employer; and "paid week"
13 means a calendar week in which a person has at least one paid
14 day.

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

19 The System may specify the time, form, and manner of
20 providing the determinations, notifications, certifications,
21 and documentation required under this Section.

22 (b) A person receiving a retirement annuity from the System
23 becomes an "affected annuitant" on the first day of the
24 academic year following the academic year in which the
25 annuitant first meets both of the following conditions:

26 (1) While receiving a retirement annuity under this

1 Article, the annuitant has been employed on or after August
2 1, 2012 by one or more employers under this Article for a
3 total of more than 18 paid weeks (which need not have been
4 with the same employer or in the same academic year);
5 except that any periods of employment for which the
6 annuitant was compensated solely from federal, foundation,
7 or trust funds are excluded.

8 (2) While receiving a retirement annuity under this
9 Article, the annuitant was employed on or after August 1,
10 2012 by one or more employers under this Article and
11 received or became entitled to receive during an academic
12 year compensation for that employment in excess of 40% of
13 his or her highest annual earnings prior to retirement;
14 except that compensation paid from federal, foundation, or
15 trust funds is excluded.

16 A person who becomes an affected annuitant remains an
17 affected annuitant, except for any period during which the
18 person returns to active service and does not receive a
19 retirement annuity from the System.

20 (c) It is the obligation of the employer to determine
21 whether an annuitant is an affected annuitant before employing
22 the annuitant. For that purpose the employer may require the
23 annuitant to disclose and document his or her relevant prior
24 employment and earnings history. Failure of the employer to
25 make this determination correctly and in a timely manner or to
26 include this determination with the notification required

1 under subsection (a) does not excuse the employer from making
2 the contribution required under subsection (e).

3 The System may assist the employer in determining whether a
4 person is an affected annuitant. The System shall inform the
5 employer if it discovers that the employer's determination is
6 inconsistent with the employment and earnings information in
7 the System's records.

8 (d) Upon the request of an annuitant, the System shall
9 certify to the annuitant the following information as reported
10 by the employers, as that information is indicated in the
11 records of the System: (i) the annuitant's highest annual
12 earnings prior to retirement, (ii) the number of paid weeks
13 worked by the annuitant for an employer on or after August 1,
14 2012, (iii) the compensation paid for that employment in each
15 academic year, and (iv) whether any of that employment or
16 compensation has been certified to the System as being paid
17 from federal, foundation, or trust funds. The System shall only
18 be required to certify information that is received from the
19 employers.

20 (e) In addition to the requirements of subsection (a), an
21 employer who employs an affected annuitant must pay to the
22 System an employer contribution in the amount and manner
23 provided in this Section, unless the annuitant is compensated
24 by that employer solely from federal, foundation, or trust
25 funds.

26 The employer contribution required under this Section for

1 employment of an affected annuitant in an academic year shall
2 be equal to 12 times the amount of the gross monthly retirement
3 annuity payable to the annuitant for the month in which the
4 first paid day of that employment in that academic year occurs,
5 after any reduction in that annuity that may be imposed under
6 subsection (b) of Section 15-139.

7 If an affected annuitant is employed by more than one
8 employer in an academic year, the employer contribution
9 required under this Section shall be divided among those
10 employers in proportion to their respective portions of the
11 total compensation paid to the affected annuitant for that
12 employment during that academic year.

13 If the System determines that an employer, without
14 reasonable justification, has failed to make the determination
15 of affected annuitant status correctly and in a timely manner,
16 or has failed to notify the system or to correctly document or
17 certify to the System any of the information required by this
18 Section, and that failure results in a delayed determination by
19 the System that a contribution is payable under this Section,
20 then the amount of that employer's contribution otherwise
21 determined under this Section shall be doubled.

22 The System shall deem a failure to correctly determine the
23 annuitant's status to be justified if the employer establishes
24 to the System's satisfaction that the employer, after due
25 diligence, made an erroneous determination that the annuitant
26 was not an affected annuitant due to reasonable reliance on

1 false or misleading information provided by the annuitant or
2 another employer, or an error in the annuitant's official
3 employment or earnings records.

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

21 (g) If an employer is required to make a contribution to
22 the System as a result of employing an affected annuitant and
23 the annuitant later elects to forgo his or her annuity in that
24 same academic year pursuant to subsection (c) of Section
25 15-139, then the required contribution by the employer shall be
26 waived, and if the contribution has already been paid, it shall

1 be refunded to the employer without interest.

2 (h) Notwithstanding any other provision of this Article,
3 the employer contribution required under this Section shall not
4 be included in the determination of any benefit under this
5 Article or any other Article of this Code, regardless of
6 whether the annuitant returns to active service, and is in
7 addition to any other State or employer contribution required
8 under this Article.

9 (40 ILCS 5/15-153.2) (from Ch. 108 1/2, par. 15-153.2)

10 Sec. 15-153.2. Disability retirement annuity. A
11 participant whose disability benefits are discontinued under
12 the provisions of clause (6) of Section 15-152 and who is not a
13 participant in the optional retirement plan established under
14 Section 15-158.2 is entitled to a disability retirement annuity
15 of 35% of the basic compensation which was payable to the
16 participant at the time that disability began, provided that
17 the board determines that the participant has a medically
18 determinable physical or mental impairment that prevents him or
19 her from engaging in any substantial gainful activity, and
20 which can be expected to result in death or which has lasted or
21 can be expected to last for a continuous period of not less
22 than 12 months.

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

25 (i) a written certificate from one or more licensed and

1 practicing physicians appointed by or acceptable to the
2 board, stating that the participant is unable to engage in
3 any substantial gainful activity; and

4 (ii) any other medical examinations, hospital records,
5 laboratory results, or other information necessary for
6 determining the employment capacity and condition of the
7 participant.

8 The terms "medically determinable physical or mental
9 impairment" and "substantial gainful activity" shall have the
10 meanings ascribed to them in the federal Social Security Act,
11 as now or hereafter amended, and the regulations issued
12 thereunder.

13 The disability retirement annuity payment period shall
14 begin immediately following the expiration of the disability
15 benefit payments under clause (6) of Section 15-152 and shall
16 be discontinued for a recipient of a disability retirement
17 annuity when (1) the physical or mental impairment no longer
18 prevents the participant from engaging in any substantial
19 gainful activity, (2) the participant dies or (3) the
20 participant elects to receive a retirement annuity under
21 Sections 15-135 and 15-136. If a person's disability retirement
22 annuity is discontinued under clause (1), all rights and
23 credits accrued in the system on the date that the disability
24 retirement annuity began shall be restored, and the disability
25 retirement annuity paid shall be considered as disability
26 payments under clause (6) of Section 15-152.

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

3 (40 ILCS 5/15-168.2 new)

4 Sec. 15-168.2. Audit of employers. Beginning August 1,
5 2012, the System may audit the employment records and payroll
6 records of all employers. When the System audits an employer,
7 it shall specify the exact information it requires, which may
8 include but need not be limited to the names, titles, and
9 earnings history of every individual receiving compensation
10 from the employer. If an employer is audited by the System,
11 then the employer must provide to the System all necessary
12 documents and records within 60 calendar days after receiving
13 notification from the System. When the System audits an
14 employer, it shall send related correspondence by certified
15 mail.

16 (40 ILCS 5/15-186) (from Ch. 108 1/2, par. 15-186)

17 Sec. 15-186. Fraud.

18 Any person who knowingly makes any false statement, or
19 falsifies or permits to be falsified any record or records of
20 this system, in any attempt to defraud the system or to mislead
21 or defraud an employer with respect to employment of an
22 annuitant under Section 15-139.5, is guilty of a Class A
23 misdemeanor.

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

1 Section 99. Effective date. This Act takes effect July 1,
2 2012.