

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, 15-139.5, 15-152, 15-153.2, and
6 15-168.1 as follows:

7 (40 ILCS 5/15-113) (from Ch. 108 1/2, par. 15-113)

8 Sec. 15-113. Service. "Service": The periods defined in
9 Sections 15-113.1 through 15-113.9 and Sections ~~Section~~
10 15-113.11 through 15-113.12.

11 (Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12.)

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

13 (Text of Section WITHOUT the changes made by P.A. 98-599,
14 which has been held unconstitutional)

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

16 (a) This subsection (a) applies only to a Tier 1 member. A
17 participant who retires in one of the following specified years
18 with the specified amount of service is entitled to a
19 retirement annuity at any age under the retirement program
20 applicable to the participant:

21 35 years if retirement is in 1997 or before;

22 34 years if retirement is in 1998;

- 1 33 years if retirement is in 1999;
2 32 years if retirement is in 2000;
3 31 years if retirement is in 2001;
4 30 years if retirement is in 2002 or later.

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

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

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

15 (a-5) A Tier 2 member is entitled to a retirement annuity
16 upon written application if he or she has attained age 67 and
17 has at least 10 years of service credit and is otherwise
18 eligible under the requirements of this Article. A Tier 2
19 member who has attained age 62 and has at least 10 years of
20 service credit and is otherwise eligible under the requirements
21 of this Article may elect to receive the lower retirement
22 annuity provided in subsection (b-5) of Section 15-136 of this
23 Article.

24 (b) The annuity payment period shall begin on the date
25 specified by the participant or the recipient of a disability
26 retirement annuity submitting a written application. For a

1 participant, the date on which the annuity payment period
2 begins, ~~which date~~ shall not be prior to termination of
3 employment or more than one year before the application is
4 received by the board; however, if the participant is not an
5 employee of an employer participating in this System or in a
6 participating system as defined in Article 20 of this Code on
7 April 1 of the calendar year next following the calendar year
8 in which the participant attains age 70 1/2, the annuity
9 payment period shall begin on that date regardless of whether
10 an application has been filed. For a recipient of a disability
11 retirement annuity, the date on which the annuity payment
12 period begins shall not be prior to the discontinuation of the
13 disability retirement annuity under Section 15-153.2.

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

16 (Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12;
17 98-92, eff. 7-16-13.)

18 (40 ILCS 5/15-139.5)

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

21 (a) An employer who employs or re-employs a person
22 receiving a retirement annuity from the System in an academic
23 year beginning on or after August 1, 2013 must notify the
24 System of that employment within 60 days after employing the
25 annuitant. The notice must include a summary of the contract of

1 employment or specify the rate of compensation and the
2 anticipated length of employment of that annuitant. The notice
3 must specify whether the annuitant will be compensated from
4 federal, corporate, foundation, or trust funds or grants of
5 State funds that identify the principal investigator by name.
6 The notice must include the employer's determination of whether
7 or not the annuitant is an "affected annuitant" as defined in
8 subsection (b).

9 The employer must also record, document, and certify to the
10 System (i) the amount of compensation paid to the annuitant for
11 employment during the academic year, and (ii) the amount of
12 that compensation, if any, that comes from either federal,
13 corporate, foundation, or trust funds or grants of State funds
14 that identify the principal investigator by name.

15 As used in this Section, "academic year" means the 12-month
16 period beginning September 1.

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

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

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

1 annuitant first meets the following conditions:

2 (1) (Blank).

3 (2) While receiving a retirement annuity under this
4 Article, the annuitant was employed on or after August 1,
5 2013 by one or more employers under this Article and
6 received or became entitled to receive during an academic
7 year compensation for that employment in excess of 40% of
8 his or her highest annual earnings prior to retirement;
9 except that compensation paid from federal, corporate,
10 foundation, or trust funds or grants of State funds that
11 identify the principal investigator by name is excluded.

12 (3) The annuitant received an annualized retirement
13 annuity under this Article of at least \$10,000.

14 A person who becomes an affected annuitant remains an
15 affected annuitant, except for (i) any period during which the
16 person returns to active service and does not receive a
17 retirement annuity from the System or (ii) any period on or
18 after the effective date of this amendatory Act of the 100th
19 General Assembly during which an annuitant received an
20 annualized retirement annuity under this Article that is less
21 than \$10,000.

22 (c) It is the obligation of the employer to determine
23 whether an annuitant is an affected annuitant before employing
24 the annuitant. For that purpose the employer may require the
25 annuitant to disclose and document his or her relevant prior
26 employment and earnings history. Failure of the employer to

1 make this determination correctly and in a timely manner or to
2 include this determination with the notification required
3 under subsection (a) does not excuse the employer from making
4 the contribution required under subsection (e).

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

10 (d) Upon the request of an annuitant, the System shall
11 certify to the annuitant or the employer the following
12 information as reported by the employers, as that information
13 is indicated in the records of the System: (i) the annuitant's
14 highest annual earnings prior to retirement, (ii) the
15 compensation paid for that employment in each academic year,
16 and (iii) whether any of that employment or compensation has
17 been certified to the System as being paid from federal,
18 corporate, foundation, or trust funds or grants of State funds
19 that identify the principal investigator by name. The System
20 shall only be required to certify information that is received
21 from the employers.

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

1 trust funds or grants of State funds that identify the
2 principal investigator by name.

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

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

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

25 The System shall deem a failure to correctly determine the
26 annuitant's status to be justified if the employer establishes

1 to the System's satisfaction that the employer, after due
2 diligence, made an erroneous determination that the annuitant
3 was not an affected annuitant due to reasonable reliance on
4 false or misleading information provided by the annuitant or
5 another employer, or an error in the annuitant's official
6 employment or earnings records.

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

24 (g) If an employer is required to make a contribution to
25 the System as a result of employing an affected annuitant and
26 the annuitant later elects to forgo his or her annuity in that

1 same academic year pursuant to subsection (c) of Section
2 15-139, then the required contribution by the employer shall be
3 waived, and if the contribution has already been paid, it shall
4 be refunded to the employer without interest.

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

12 (i) Notwithstanding any other provision of this Section to
13 the contrary, if an employer employs an affected annuitant in
14 order to continue critical operations in the event of either an
15 employee's unforeseen illness, accident, or death or a
16 catastrophic incident or disaster, then, for one and only one
17 academic year, the employer is not required to pay the
18 contribution set forth in this Section for that annuitant. The
19 employer shall, however, immediately notify the System upon
20 employing a person subject to this subsection (i). For the
21 purposes of this subsection (i), "critical operations" means
22 teaching services, medical services, student welfare services,
23 and any other services that are critical to the mission of the
24 employer.

25 (j) This Section shall be applied and coordinated with the
26 regulatory obligations contained in the State Universities

1 Civil Service Act. This Section shall not apply to an annuitant
2 if the employer of that annuitant provides documentation to the
3 System that (1) the annuitant is employed in a status
4 appointment position, as that term is defined in 80 Ill. Adm.
5 Code 250.80, and (2) due to obligations contained under the
6 State Universities Civil Service Act, the employer does not
7 have the ability to limit the earnings or duration of
8 employment for the annuitant while employed in the status
9 appointment position.

10 (Source: P.A. 97-968, eff. 8-16-12; 98-596, eff. 11-19-13;
11 98-1144, eff. 6-1-15.)

12 (40 ILCS 5/15-152) (from Ch. 108 1/2, par. 15-152)

13 Sec. 15-152. Disability benefits - Duration. Disability
14 benefits shall be discontinued when the earliest of the
15 following occurs: (1) when disability ceases, (2) upon refusal
16 of the participant to submit to a reasonable physical
17 examination by a physician approved by the board, (3) upon
18 refusal of the participant to accept any position, assigned in
19 good faith by an employer, the duties of which could reasonably
20 be performed by the participant and the earnings of which would
21 be at least equal to the disability benefit payable under this
22 Article, (4) upon September 1, following the participant's 70th
23 birthday, if the disability benefit commenced prior to
24 attainment of age 65, (5) the end of the month following the
25 fifth anniversary of the date disability benefits commenced, if

1 such benefits began after the attainment of age 65, ~~or~~ (6) when
2 the total disability benefits paid equal 50% of the
3 participant's total earnings for the entire period of
4 employment for which service has been granted prior to the date
5 disability benefits began to accrue, or (7) upon failure of the
6 participant to provide an earnings verification necessary to
7 determine continuance of benefits. If the disability was caused
8 by an on-the-job accident, and the participant is granted
9 workers' compensation or occupational disease payments from
10 the employer or the State of Illinois, the limitation in clause
11 (6) shall not be applicable.

12 Service and earnings credits under the State Employees'
13 Retirement System of Illinois and the Teachers' Retirement
14 System of the State of Illinois shall be considered in
15 determining the employee's eligibility for, and the duration of
16 disability benefits.

17 If, by law, a function of a governmental unit, as defined
18 by Section 20-107 is transferred in whole or in part to an
19 employer and an employee transfers employment from the
20 governmental unit to such employer within 6 months after the
21 transfer of this function, the pension credits in the
22 governmental unit's retirement system which have been
23 validated under Section 20-109, shall be treated the same as
24 pension credits in this Section in determining an employee's
25 eligibility for, and the duration of disability benefits.

26 (Source: P.A. 86-273.)

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

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

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

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

21 (ii) any other medical examinations, hospital records,
22 laboratory results, or other information necessary for
23 determining the employment capacity and condition of the
24 participant.

25 The terms "medically determinable physical or mental

1 impairment" and "substantial gainful activity" shall have the
2 meanings ascribed to them in the federal Social Security Act,
3 as now or hereafter amended, and the regulations issued
4 thereunder.

5 The disability retirement annuity payment period shall
6 begin immediately following the expiration of the disability
7 benefit payments under clause (6) of Section 15-152 and shall
8 be discontinued for a recipient of a disability retirement
9 annuity when (1) the physical or mental impairment no longer
10 prevents the recipient ~~participant~~ from engaging in any
11 substantial gainful activity, (2) the recipient ~~participant~~
12 dies, ~~or~~ (3) the recipient ~~participant~~ elects to receive a
13 retirement annuity under Sections 15-135 and 15-136, (4) the
14 recipient refuses to submit to a reasonable physical
15 examination by a physician approved by the board, or (5) the
16 recipient fails to provide an earnings verification necessary
17 to determine continuance of benefits. If a person's disability
18 retirement annuity is discontinued under clause (1), all rights
19 and credits accrued in the system on the date that the
20 disability retirement annuity began shall be restored, and the
21 disability retirement annuity paid shall be considered as
22 disability payments under clause (6) of Section 15-152.

23 The board shall adopt rules governing the filing,
24 investigation, control, and supervision of disability
25 retirement annuity claims. Costs incurred by a claimant in
26 connection with completing a claim for a disability retirement

1 annuity shall be paid: (A) by the claimant in the case of the
2 one required medical examination, medical certificate, and any
3 other requirements generally imposed by the board on all
4 disability retirement annuity claimants; and (B) by the System
5 in the case of any additional medical examination or other
6 additional requirement imposed on a particular claimant that is
7 not imposed generally on all disability retirement annuity
8 claimants.

9 (Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12.)

10 (40 ILCS 5/15-168.1)

11 Sec. 15-168.1. Testimony and the production of records. The
12 secretary of the Board shall have the power to issue subpoenas
13 to compel the attendance of witnesses and the production of
14 documents and records, including law enforcement records
15 maintained by law enforcement agencies, in conjunction with:

16 (1) the determination of employer payments required
17 under subsection (g) of Section 15-155;

18 (2) a disability claim;

19 (3) an administrative review proceeding;

20 (4) an attempt to obtain information to assist in the
21 collection of sums due to the System;

22 (5) obtaining any and all personal identifying
23 information necessary for the administration of benefits;

24 (6) the determination of the death of a benefit
25 recipient or a potential benefit recipient; or

1 (7) a felony forfeiture investigation.

2 The fees of witnesses for attendance and travel shall be
3 the same as the fees of witnesses before the circuit courts of
4 this State and shall be paid by the party seeking the subpoena.
5 The Board may apply to any circuit court in the State for an
6 order requiring compliance with a subpoena issued under this
7 Section. Subpoenas issued under this Section shall be subject
8 to applicable provisions of the Code of Civil Procedure.

9 (Source: P.A. 94-1057, eff. 7-31-06.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.