**Section 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%**

Purpose. This Section implements Section 15-155(g), (h), (i), (j) and (k) of the Code. This Section shall not apply to benefits from other retirement systems or pension funds payable under the Retirement Systems Reciprocal Act (Article 20 of the Code).

a) Calculation of the Employer Cost. This calculation is made when a monthly benefit is calculated from the participant's final rate of earnings (FRE). The "present value of the increase in benefits" described in Section 15-155(g), called the "Employer Cost", will be calculated as follows:

1) The earnings, as defined in Section 15-111 of the Code, for every academic year in the FRE period, as defined in Section 15-112 of the Code, are adjusted on a full-time equivalent basis.

A) 48 Month FREs and Partial Academic Years. When the final rate of earnings for a participant is the average annual earnings during the 48 consecutive calendar month period ending with the last day of final termination of employment, any partial academic year at the beginning of the final rate of earnings period will be disregarded.

B) Full-Time Equivalent (FTE) Basis

i) SURS will adjust earnings from an employer in a manner consistent with the percent time employed reported by the employer.

ii) The FTE earnings of an academic year shall equal the total earnings in the academic year divided by the average percent time of employment.

C) Earnings credited during periods of service purchased under Sections 15-113.1 through 15-113.7 of the Code shall be determined on a FTE basis.

D) For the purpose of Section 15-155(g), earnings do not include payments made under a collective bargaining agreement for unused sick leave or payments made for unused vacation.

E) For purposes of Section 15-155(g), earnings shall include earnings, to the extent not established by a participant under Section 15-113.11 or 15-113.12, that would have been paid to the participant had the participant not taken periods of voluntary or involuntary furlough occurring on or after July 1, 2015 and on or before June 30, 2017, or periods of voluntary pay reduction in lieu of furlough occurring on or after July 1, 2015 and on or before June 30, 2017. These earnings shall be reported by the employer in the format specified by the System for this purpose.

2) The FTE earnings of each academic year in the FRE period are limited to 106% of the previous academic year's FTE earnings to yield the "Capped FTE Earnings" of each academic year.

3) The Capped FTE Earnings of each academic year are multiplied by their respective average percent times of employment to yield the "Capped Earnings" for each academic year. The Capped Earnings shall be used to determine the "Capped FRE".

4) The "Benefit Increase" shall equal the difference between the FRE and the Capped FRE, multiplied by the number of years of service, and further multiplied by 2.2%.

5) The Employer Cost equals the actuarial present value of the Benefit Increase. This actuarial present value calculation will be made by using actuarial tables provided by SURS' actuary from time to time. The actuarial table used will correspond with the type of monthly benefit that is provided to the participant. A single-life annuity table will be used when a traditional benefit package participant has no eligible survivor at the time of retirement. If the participant had employment with more than one employer during the final rate of earnings period, the Employer Cost is calculated for each employer using only the earnings with that employer. However, no Employer Cost will be assessed among multiple, concurrent employers if the increase in total earnings for the concurrent academic year in the FRE period does not exceed 6% over the total earnings of the previous academic year.

b) Employer Billing

1) Billing. *Whenever it determines that a payment is or may be required under* Section 15-155(g), *SURS will calculate the amount of the payment and bill the employer for the amount. The bill will specify the calculations used to determine the amount due*.

2) Request for Recalculation. *If the employer disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to SURS in writing for a recalculation. The application must specify the grounds of the dispute and, if the employer asserts the calculation is subject to* *Section 15-155(h) or (i),* *must include an affidavit setting forth and attesting to all facts within the employer's knowledge that are pertinent to the applicability of Section 15-155(h) or (i). Upon receiving a timely application for recalculation, SURS will review the application and, if appropriate, recalculate the amount due*.

3) Payment. *The employer contributions required under Section 15-155(g) may be paid in the form of a lump sum within 90 days after the receipt of the bill. If the employer contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to SURS' prescribed rate of interest compounded annually from the 91st day after the receipt of the bill. Payments must be concluded within 3 years after the employer's receipt of the bill*. [40 ILCS 5/15-155(g)]

4) Appeals of the Recalculation. The employer may appeal a recalculation pursuant to Section 1600.510.

c) Exclusions for Earnings Increases Paid on or after June 1, 2005, but before July 1, 2011, under Section 15-155(h)

1) Grandfathering. *When assessing payment for any amount due under* Section 15-155(g), *SURS will exclude earnings increases paid to participants* required *under contracts or collective bargaining agreements entered into, amended, or renewed before June 1, 2005.* [40 ILCS 5/15-155(h)] These contracts are "grandfathered". For the purposes of Section 15-155(h):

A) A contract or collective bargaining agreement is "entered into, amended or renewed" on the earliest of the following:

i) the date the governing body of the employer voted to accept the contract or collective bargaining agreement;

ii) the date the contract or collective bargaining agreement was executed in final form by the parties; or

iii) the date the parties to the contract or collective bargaining agreement reached a tentative agreement regarding the terms of the contract or collective bargaining agreement, provided that the tentative agreement is subsequently approved by the governing body of the employer on or after June 1, 2005, without any changes to the terms that have the effects described under subsection (c)(1)(B)(i) or (ii).

B) A contract or collective bargaining agreement will not exclude earnings increases paid under the contract or agreement if the contract or agreement is amended or renegotiated after June 1, 2005 to have the effect of:

i) increasing the earnings usable for the FRE (except when the increase is the result of a salary reopener provision that was part of the contract or collective bargaining agreement prior to June 1, 2005); or

ii) extending the expiration date of the contract (in which case the earnings will be excluded only through the original expiration date of the contract).

C) Miscellaneous

i) A contract exception made by an employer for an individual shall disqualify that individual's earnings increases from grandfathering but shall not invalidate the grandfathering for any other persons.

ii) A memorandum of understanding between the employer and the collective bargaining unit to increase the credit hours available shall not invalidate the contract, but any earnings increases because of the increased credit hours shall not be excluded from the calculation under subsection (a), unless Section 15-155(h) or (i) of the Code applies.

iii) When a member has given notice to the employer of intent to retire pursuant to the terms of a grandfathered contract or collective bargaining agreement, earnings provided under the contract or collective bargaining agreement shall be excluded so long as the earnings are provided to the member within four years after the expiration date of the contract or collective bargaining agreement.

iv) Notwithstanding the other provisions of this subsection (c)(1), earnings paid under a grandfathered contract on or after July 1, 2011 shall not be excluded from earnings under subsection (a).

2) Earnings 10 Years Prior to Retirement Eligibility. *When assessing payment for any amount due under* Section 15-155(g) of the Code*, SURS will exclude earnings increases paid to a participant at a time when the participant is 10 or more years from retirement eligibility under Section 15-135 of the Code.* [40 ILCS 5/15-155(h)] Earnings increases paid in academic years preceding and including the academic year during which the participant was 10 years from attaining earliest retirement eligibility shall be excluded.

3) Overloads and Overtime

A) *Earnings increases resulting from overload work, including a contract for summer teaching, or overtime when the employer has certified to SURS, and SURS has approved the certification, that:*

i) *in the case of overloads:*

*• the overload work is for the sole purpose of academic instruction in excess of the standard number of instruction hours for a full-time employee occurring during the academic year that the overload is paid; and*

*•* *the earnings increases are equal to or less than the rate of pay for academic instruction computed using the participant's current salary rate and work schedule; and*

ii) *in the case of overtime, the overtime was necessary for the educational mission.* [40 ILCS 5/15-155(h)]

B) The certification shall be in the form adopted by SURS and be signed by a duly authorized representative of the employer. The certification must be accompanied by supporting documentation as required by the form.

C) The standard number of instruction hours for a full-time employee shall be consistent with employer policy in force for the academic year in which the overload earnings were earned.

4) Promotions

A) *When assessing payment for any amount due under* Section 15-155(g) of the Code*, SURS will exclude earnings increases resulting from:*

i) *a promotion for which the employee moves from one classification to a higher classification under the State Universities Civil Service System;*

ii) *a promotion in academic rank for a tenured or tenure-track faculty position; or*

iii) *a promotion that the Illinois Community College Board has recommended in accordance with Section 15-155(k).*

B) *The earnings increases* referenced in subsection (c)(4)(A) *shall be excluded only if the promotion is to a position that has existed and been filled by a member for no less than one complete academic year and the earnings increase as a result of the promotion is an increase that results in an amount no greater than the average salary paid for other similar positions.* [40 ILCS 5/15-155(h)]

C) The employer shall certify that the promotion is to a position that has existed and been filled by a member for no less than one complete academic year and the earnings increase as a result of the promotion is an increase that results in an amount no greater than the average salary paid for other similar positions. The certification shall be in the form adopted by SURS and be signed by a duly authorized representative of the employer. The certification must be accompanied by supporting documentation as required by the form.

D) The phrase "an amount no greater than the average salary paid for other similar positions" shall mean the midpoint of the salary range for the position or similar positions as most recently approved by the Merit Board of the State Universities Civil Service System or the current average salary paid for tenured or tenure-track faculty positions in the same department, as the case may be.

d) Exclusions for earnings increases described in Section 15-155(h) of the Code paid on or after July 1, 2011, but before July 1, 2014, under a contract or collective bargaining agreement entered into, amended, or renewed on or after June 1, 2005, but before July 1, 2011, under Section 15-155(i). For the purpose of Section 15-155(i), a contract or collective bargaining agreement is "entered into, amended or renewed" on the earliest of the following:

1) the date the governing body of the employer voted to accept the contract or collective bargaining agreement;

2) the date the contract or collective bargaining agreement was executed in final form by the parties; or

3) the date the parties to the contract or collective bargaining agreement reached a tentative agreement regarding the terms of the contract or collective bargaining agreement, provided that the tentative agreement is subsequently approved by the governing body of the employer on or after July 1, 2011 without any changes to the terms that have the effect of extending the expiration date.

e) The exclusions under subsections (c) and (d) shall not apply to earnings increases paid after June 30, 2014.

(Source: Amended at 42 Ill. Reg. 19078, effective October 5, 2018)