

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 13-305 and 13-601 as follows:

6 (40 ILCS 5/13-305) (from Ch. 108 1/2, par. 13-305)

7 Sec. 13-305. Surviving spouse's annuity; eligibility. A  
8 surviving spouse who was married to an employee on the date of  
9 the employee's death while in service, or was married to an  
10 employee on the date of withdrawal from service and remained  
11 married to that employee until the employee's death, shall be  
12 entitled to a surviving spouse's annuity payable for life.  
13 However, the annuity shall not be payable to the surviving  
14 spouse of (1) an employee who withdraws from service before  
15 attaining the minimum retirement age unless the deceased  
16 employee had at least 10 years of service, or at least 5 years  
17 of service if the employee was eligible for an annuity upon  
18 attainment of age 62 pursuant to Section 13-301(b) or had been  
19 receiving a retirement annuity pursuant to Section 13-301(d),  
20 or (2) an employee not described in item (1) who first enters  
21 service on or after the effective date of this amendatory Act  
22 of 1997 and who has been employed as an employee for (i) less  
23 than 36 months from the date of the employee's original entry

1 into service or (ii) less than 12 months from the employee's  
2 date of latest re-entry into service; except as otherwise  
3 provided in Section 13-306(a) for an employee whose death  
4 arises out of or in the course of the employee's service to the  
5 employer.

6 Notwithstanding any other provision of this Section and  
7 notwithstanding the forfeiture of rights provisions under  
8 subsection (e) of Section 13-601, surviving spouse annuity  
9 eligibility or eligibility for alternative survivor's  
10 benefits, if applicable, shall be extended to the spouse or  
11 civil union partner of an annuitant who retired prior to June  
12 1, 2011 and received a refund of surviving spouse annuity  
13 contributions as provided in subsection (b) of Section 13-601  
14 if the annuitant (i) repaid the surviving spouse annuity  
15 contributions under subsection (b-5) of Section 13-601, (ii)  
16 could not enter into either a civil union or marriage  
17 recognized in the State of Illinois prior to that date, and  
18 (iii) became:

19 (A) a party to a civil union or a party to a legal  
20 relationship that is recognized as a civil union or  
21 marriage under the Illinois Religious Freedom Protection  
22 and Civil Union Act on or after June 1, 2011 and before  
23 July 1, 2016 and remains such a party;

24 (B) a party to a marriage under the Illinois Marriage  
25 and Dissolution of Marriage Act on or after February 26,  
26 2014 and before July 1, 2016 and remains such a party; or

1           (C) a party to a marriage, civil union, or other legal  
2           relationship that, at the time it was formed, was not  
3           legally recognized in Illinois but was subsequently  
4           recognized as a civil union or marriage under the Illinois  
5           Religious Freedom Protection and Civil Union Act on or  
6           after June 1, 2011 and before July 1, 2016, a marriage  
7           under the Illinois Marriage and Dissolution of Marriage Act  
8           on or after February 26, 2014 and before July 1, 2016, or  
9           both, and remains such a party.

10           A dissolution of marriage after retirement shall not divest  
11           the employee's spouse of the entitlement to a surviving  
12           spouse's annuity upon the subsequent death of the employee,  
13           provided that the surviving spouse and the deceased employee  
14           had been married to each other for a period of not less than 10  
15           continuous years on the date of retirement.

16           For purposes of Section 1-103.1, the changes made by this  
17           amendatory Act of the 100th General Assembly apply to persons  
18           not in service on or after the effective date of this  
19           amendatory Act of the 100th General Assembly.

20           (Source: P.A. 94-621, eff. 8-18-05.)

21           (40 ILCS 5/13-601) (from Ch. 108 1/2, par. 13-601)

22           Sec. 13-601. Refunds.

23           (a) Withdrawal from service. Upon withdrawal from service,  
24           an employee who first became a member before January 1, 2011,  
25           who is under age 55 (age 50 if the employee first entered

1 service before June 13, 1997), or an employee age 55 (age 50 if  
2 the employee first entered service before June 13, 1997) or  
3 over but less than age 60 having less than 20 years of service,  
4 or an employee age 60 or over having less than 5 years of  
5 service shall be entitled, upon application, to a refund of  
6 total contributions from salary deductions or amounts  
7 otherwise paid under this Article by the employee. An employee  
8 who first becomes a member on or after January 1, 2011, who  
9 withdraws before age 62 regardless of length of service, or who  
10 withdraws with less than 10 years of service regardless of age  
11 is entitled to a refund of total contributions from salary  
12 deductions or amounts otherwise paid under this Article by the  
13 employee. The refund shall not include interest credited to the  
14 contributions. The Board may, in its discretion, withhold  
15 payment of a refund for a period not to exceed one year from  
16 the date of filing an application for refund.

17 (b) Surviving spouse's annuity contributions. A refund of  
18 all amounts deducted from salary or otherwise contributed by an  
19 employee for the surviving spouse's annuity shall be paid upon  
20 retirement to any employee who on the date of retirement is  
21 either not married or is married but whose spouse is not  
22 eligible for a surviving spouse's annuity paid wholly or in  
23 part under this Article. The refund shall include interest on  
24 each contribution at the rate of 3% per annum compounded  
25 annually from the date of the contribution to the date of the  
26 refund.

1       (b-5) An annuitant who (i) retired prior to June 1, 2011,  
2       (ii) received a refund of surviving spouse's annuity  
3       contributions under subsection (b), and (iii) thereafter  
4       became and remains a party to a civil union or marriage, as  
5       described in Section 13-305, may, within a period of one year  
6       beginning 5 months after the effective date of this amendatory  
7       Act of the 100th General Assembly, and in accordance with any  
8       rules adopted by the Board and consents required by the Board,  
9       make an irrevocable election to re-establish rights to a  
10       surviving spouse annuity under Sections 13-305 and 13-306 or to  
11       alternative survivor's benefits under subsection (d) of  
12       Section 13-314, whichever is applicable, by paying to the Fund:  
13       (1) the total amount of the refund received for surviving  
14       spouse's annuity contributions; and (2) interest thereon at the  
15       actuarially assumed rate of return at the time of the election  
16       from the date of the refund to the date of repayment in full.  
17       Such election may only be made by the annuitant.

18       The Fund shall allow the annuitant to repay the total  
19       amount of the refund, plus interest, over a period not to  
20       exceed 24 months. To the extent permitted by the Internal  
21       Revenue Code of 1986, as amended, and for federal and State tax  
22       purposes, if a member pays in monthly installments by reducing  
23       the monthly annuity by the amount of the otherwise applicable  
24       contribution, the monthly amount by which the annuitant's  
25       benefit is reduced shall not be treated as a contribution by  
26       the annuitant, but rather as a reduction of the annuitant's

1 monthly annuity. In the event of the death of the annuitant  
2 prior to repayment of the total amount of the refund, plus  
3 interest, the amount owed as of the date of death shall be  
4 deducted from the spouse annuity by a reduction in the  
5 surviving spouse's monthly annuity. The death of the spouse or  
6 civil union partner prior to the annuitant's death shall not  
7 void the election.

8 (c) Payment of Refunds After Death. Whenever any refund is  
9 payable after the death of the employee or annuitant as  
10 provided for in this Article, the refund shall be paid as  
11 follows: to the employee's surviving spouse, but if there is no  
12 surviving spouse then in accordance with the employee's written  
13 designation of beneficiary filed with the Board on the  
14 prescribed form before the employee's death. If there is no  
15 such designation of beneficiary, then to the employee's  
16 surviving children in equal parts to each. If there are no such  
17 children, the refund shall be paid to the heirs of the employee  
18 according to the law of descent and distribution of the State  
19 of Illinois.

20 If a personal representative of the estate has not been  
21 appointed within 90 days from the date on which a refund became  
22 payable, the refund may be applied, in the discretion of the  
23 Board, toward the payment of the employee's or the surviving  
24 spouse's burial expenses. Any remaining balance shall be paid  
25 to the heirs of the employee according to the law of descent  
26 and distribution of the State of Illinois.

1           Whenever the total accumulations to the account of an  
2 employee from employee contributions other than the  
3 contribution for the cost of living increase, including  
4 interest to the employee's date of withdrawal, have not been  
5 paid to the employee and surviving spouse as a retirement or  
6 spouse's annuity before the death of the employee and spouse, a  
7 refund shall be paid as follows: an amount equal to the excess  
8 of such amounts over the amounts paid on such annuities without  
9 interest on either such amount.

10           If a reversionary annuity becomes payable under Section  
11 13-303, the refund provided in this section shall not be paid  
12 until the death of the reversionary annuitant and the refund  
13 otherwise payable under this section shall be then further  
14 reduced by the amount of the reversionary annuity paid.

15           (d) In lieu of annuity. Notwithstanding the provisions set  
16 forth in subsection (a) of this section, whenever an employee's  
17 or surviving spouse's annuity will be less than \$200 per month,  
18 the employee or surviving spouse, as the case may be, may elect  
19 to receive a refund of accumulated employee contributions;  
20 provided, however, that if the election is made by a surviving  
21 spouse the refund shall be reduced by any amounts theretofore  
22 paid to the employee in the form of an annuity.

23           (e) Forfeiture of rights. An employee or surviving spouse  
24 who receives a refund forfeits the right to receive an annuity  
25 or any other benefit payable under this Article except that if  
26 the refund is to a surviving spouse, any child or children of

1 the employee shall not be deprived of the right to receive a  
2 child's annuity as provided in Section 13-308 of this Article,  
3 and the payment of a child's annuity shall not reduce the  
4 amount refundable to the surviving spouse.

5 (Source: P.A. 95-586, eff. 8-31-07; 96-251, eff. 8-11-09;  
6 96-1490, eff. 1-1-11.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.