



Rep. Gregory Harris

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LRB100 02315 RPS 23813 a

1 AMENDMENT TO HOUSE BILL 164

2 AMENDMENT NO. _____. Amend House Bill 164 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing 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

1 of service if the employee was eligible for an annuity upon
2 attainment of age 62 pursuant to Section 13-301(b) or had been
3 receiving a retirement annuity pursuant to Section 13-301(d),
4 or (2) an employee not described in item (1) who first enters
5 service on or after the effective date of this amendatory Act
6 of 1997 and who has been employed as an employee for (i) less
7 than 36 months from the date of the employee's original entry
8 into service or (ii) less than 12 months from the employee's
9 date of latest re-entry into service; except as otherwise
10 provided in Section 13-306(a) for an employee whose death
11 arises out of or in the course of the employee's service to the
12 employer.

13 Notwithstanding any other provision of this Section and
14 notwithstanding the forfeiture of rights provisions under
15 subsection (e) of Section 13-601, surviving spouse annuity
16 eligibility or eligibility for alternative survivor's
17 benefits, if applicable, shall be extended to the spouse or
18 civil union partner of an annuitant who retired prior to June
19 1, 2011 and received a refund of surviving spouse annuity
20 contributions as provided in subsection (b) of Section 13-601
21 if the annuitant (i) repaid the surviving spouse annuity
22 contributions under subsection (b-5) of Section 13-601, (ii)
23 could not enter into either a civil union or marriage
24 recognized in the State of Illinois prior to that date, and
25 (iii) became:

26 (A) a party to a civil union or a party to a legal

1 relationship that is recognized as a civil union or
2 marriage under the Illinois Religious Freedom Protection
3 and Civil Union Act on or after June 1, 2011 and before
4 July 1, 2016 and remains such a party;

5 (B) a party to a marriage under the Illinois Marriage
6 and Dissolution of Marriage Act on or after February 26,
7 2014 and before July 1, 2016 and remains such a party; or

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

17 A dissolution of marriage after retirement shall not divest
18 the employee's spouse of the entitlement to a surviving
19 spouse's annuity upon the subsequent death of the employee,
20 provided that the surviving spouse and the deceased employee
21 had been married to each other for a period of not less than 10
22 continuous years on the date of retirement.

23 For purposes of Section 1-103.1, the changes made by this
24 amendatory Act of the 100th General Assembly apply to persons
25 not in service on or after the effective date of this
26 amendatory Act of the 100th General Assembly.

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

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

3 Sec. 13-601. Refunds.

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

23 (b) Surviving spouse's annuity contributions. A refund of
24 all amounts deducted from salary or otherwise contributed by an
25 employee for the surviving spouse's annuity shall be paid upon

1 retirement to any employee who on the date of retirement is
2 either not married or is married but whose spouse is not
3 eligible for a surviving spouse's annuity paid wholly or in
4 part under this Article. The refund shall include interest on
5 each contribution at the rate of 3% per annum compounded
6 annually from the date of the contribution to the date of the
7 refund.

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

25 The Fund shall allow the annuitant to repay the total
26 amount of the refund, plus interest, over a period not to

1 exceed 24 months. To the extent permitted by the Internal
2 Revenue Code of 1986, as amended, and for federal and State tax
3 purposes, if a member pays in monthly installments by reducing
4 the monthly annuity by the amount of the otherwise applicable
5 contribution, the monthly amount by which the annuitant's
6 benefit is reduced shall not be treated as a contribution by
7 the annuitant, but rather as a reduction of the annuitant's
8 monthly annuity. In the event of the death of the annuitant
9 prior to repayment of the total amount of the refund, plus
10 interest, the amount owed as of the date of death shall be
11 deducted from the spouse annuity by a reduction in the
12 surviving spouse's monthly annuity. The death of the spouse or
13 civil union partner prior to the annuitant's death shall not
14 void the election.

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

1 If a personal representative of the estate has not been
2 appointed within 90 days from the date on which a refund became
3 payable, the refund may be applied, in the discretion of the
4 Board, toward the payment of the employee's or the surviving
5 spouse's burial expenses. Any remaining balance shall be paid
6 to the heirs of the employee according to the law of descent
7 and distribution of the State of Illinois.

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

17 If a reversionary annuity becomes payable under Section
18 13-303, the refund provided in this section shall not be paid
19 until the death of the reversionary annuitant and the refund
20 otherwise payable under this section shall be then further
21 reduced by the amount of the reversionary annuity paid.

22 (d) In lieu of annuity. Notwithstanding the provisions set
23 forth in subsection (a) of this section, whenever an employee's
24 or surviving spouse's annuity will be less than \$200 per month,
25 the employee or surviving spouse, as the case may be, may elect
26 to receive a refund of accumulated employee contributions;

1 provided, however, that if the election is made by a surviving
2 spouse the refund shall be reduced by any amounts theretofore
3 paid to the employee in the form of an annuity.

4 (e) Forfeiture of rights. An employee or surviving spouse
5 who receives a refund forfeits the right to receive an annuity
6 or any other benefit payable under this Article except that if
7 the refund is to a surviving spouse, any child or children of
8 the employee shall not be deprived of the right to receive a
9 child's annuity as provided in Section 13-308 of this Article,
10 and the payment of a child's annuity shall not reduce the
11 amount refundable to the surviving spouse.

12 (Source: P.A. 95-586, eff. 8-31-07; 96-251, eff. 8-11-09;
13 96-1490, eff. 1-1-11.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.".