



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2440

by Rep. Robert Martwick

SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-107	from Ch. 108 1/2, par. 15-107
40 ILCS 5/15-110	from Ch. 108 1/2, par. 15-110
40 ILCS 5/15-145	from Ch. 108 1/2, par. 15-145

Amends the State Universities Article of the Illinois Pension Code. In the definition of "employee", adds a reference to certain persons employed by the Department of Innovation and Technology. Provides that "basic compensation" includes the amount of any elective deferral to a deferred compensation plan established under the Article. In a provision concerning survivor's annuities, removes a reference to a person who has a disability that began prior to the date the child attained age 22 if the child was a full-time student. Effective immediately.

LRB101 07894 RPS 52949 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

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 15-107, 15-110, and 15-145 as follows:

6 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

7 Sec. 15-107. Employee.

8 (a) "Employee" means any member of the educational,
9 administrative, secretarial, clerical, mechanical, labor or
10 other staff of an employer whose employment is permanent and
11 continuous or who is employed in a position in which services
12 are expected to be rendered on a continuous basis for at least
13 4 months or one academic term, whichever is less, who (A)
14 receives payment for personal services on a warrant issued
15 pursuant to a payroll voucher certified by an employer and
16 drawn by the State Comptroller upon the State Treasurer or by
17 an employer upon trust, federal or other funds, or (B) is on a
18 leave of absence without pay. Employment which is irregular,
19 intermittent or temporary shall not be considered continuous
20 for purposes of this paragraph.

21 However, a person is not an "employee" if he or she:

22 (1) is a student enrolled in and regularly attending
23 classes in a college or university which is an employer,

1 and is employed on a temporary basis at less than full
2 time;

3 (2) is currently receiving a retirement annuity or a
4 disability retirement annuity under Section 15-153.2 from
5 this System;

6 (3) is on a military leave of absence;

7 (4) is eligible to participate in the Federal Civil
8 Service Retirement System and is currently making
9 contributions to that system based upon earnings paid by an
10 employer;

11 (5) is on leave of absence without pay for more than 60
12 days immediately following termination of disability
13 benefits under this Article;

14 (6) is hired after June 30, 1979 as a public service
15 employment program participant under the Federal
16 Comprehensive Employment and Training Act and receives
17 earnings in whole or in part from funds provided under that
18 Act; or

19 (7) is employed on or after July 1, 1991 to perform
20 services that are excluded by subdivision (a)(7)(f) or
21 (a)(19) of Section 210 of the federal Social Security Act
22 from the definition of employment given in that Section (42
23 U.S.C. 410).

24 (b) Any employer may, by filing a written notice with the
25 board, exclude from the definition of "employee" all persons
26 employed pursuant to a federally funded contract entered into

1 after July 1, 1982 with a federal military department in a
2 program providing training in military courses to federal
3 military personnel on a military site owned by the United
4 States Government, if this exclusion is not prohibited by the
5 federally funded contract or federal laws or rules governing
6 the administration of the contract.

7 (c) Any person appointed by the Governor under the Civil
8 Administrative Code of Illinois ~~the State~~ is an employee, if he
9 or she is a participant in this system on the effective date of
10 the appointment.

11 (d) A participant on lay-off status under civil service
12 rules is considered an employee for not more than 120 days from
13 the date of the lay-off.

14 (e) A participant is considered an employee during (1) the
15 first 60 days of disability leave, (2) the period, not to
16 exceed one year, in which his or her eligibility for disability
17 benefits is being considered by the board or reviewed by the
18 courts, and (3) the period he or she receives disability
19 benefits under the provisions of Section 15-152, workers'
20 compensation or occupational disease benefits, or disability
21 income under an insurance contract financed wholly or partially
22 by the employer.

23 (f) Absences without pay, other than formal leaves of
24 absence, of less than 30 calendar days, are not considered as
25 an interruption of a person's status as an employee. If such
26 absences during any period of 12 months exceed 30 work days,

1 the employee status of the person is considered as interrupted
2 as of the 31st work day.

3 (g) A staff member whose employment contract requires
4 services during an academic term is to be considered an
5 employee during the summer and other vacation periods, unless
6 he or she declines an employment contract for the succeeding
7 academic term or his or her employment status is otherwise
8 terminated, and he or she receives no earnings during these
9 periods.

10 (h) An individual who was a participating employee employed
11 in the fire department of the University of Illinois's
12 Champaign-Urbana campus immediately prior to the elimination
13 of that fire department and who immediately after the
14 elimination of that fire department became employed by the fire
15 department of the City of Urbana or the City of Champaign shall
16 continue to be considered as an employee for purposes of this
17 Article for so long as the individual remains employed as a
18 firefighter by the City of Urbana or the City of Champaign. The
19 individual shall cease to be considered an employee under this
20 subsection (h) upon the first termination of the individual's
21 employment as a firefighter by the City of Urbana or the City
22 of Champaign.

23 (i) An individual who is employed on a full-time basis as
24 an officer or employee of a statewide teacher organization that
25 serves System participants or an officer of a national teacher
26 organization that serves System participants may participate

1 in the System and shall be deemed an employee, provided that
2 (1) the individual has previously earned creditable service
3 under this Article, (2) the individual files with the System an
4 irrevocable election to become a participant before January 5,
5 2012 (the effective date of Public Act 97-651) ~~this amendatory~~
6 ~~Act of the 97th General Assembly~~, (3) the individual does not
7 receive credit for that employment under any other Article of
8 this Code, and (4) the individual first became a full-time
9 employee of the teacher organization and becomes a participant
10 before January 5, 2012 (the effective date of Public Act
11 97-651) ~~this amendatory Act of the 97th General Assembly~~. An
12 employee under this subsection (i) is responsible for paying to
13 the System both (A) employee contributions based on the actual
14 compensation received for service with the teacher
15 organization and (B) employer contributions equal to the normal
16 costs (as defined in Section 15-155) resulting from that
17 service; all or any part of these contributions may be paid on
18 the employee's behalf or picked up for tax purposes (if
19 authorized under federal law) by the teacher organization.

20 A person who is an employee as defined in this subsection
21 (i) may establish service credit for similar employment prior
22 to becoming an employee under this subsection by paying to the
23 System for that employment the contributions specified in this
24 subsection, plus interest at the effective rate from the date
25 of service to the date of payment. However, credit shall not be
26 granted under this subsection for any such prior employment for

1 which the applicant received credit under any other provision
2 of this Code, or during which the applicant was on a leave of
3 absence under Section 15-113.2.

4 (j) A person employed by the State Board of Higher
5 Education in a position with the Illinois Century Network as of
6 June 30, 2004 shall be considered to be an employee for so long
7 as he or she remains continuously employed after that date by
8 the Department of Central Management Services in a position
9 with the Illinois Century Network, the Bureau of Communication
10 and Computer Services, or, if applicable, any successor bureau
11 or the Department of Innovation and Technology and meets the
12 requirements of subsection (a).

13 (k) The Board shall promulgate rules with respect to
14 determining whether any person is an employee within the
15 meaning of this Section. In the case of doubt as to whether any
16 person is an employee within the meaning of this Section or any
17 rule adopted by the Board, the decision of the Board shall be
18 final.

19 (Source: P.A. 99-830, eff. 1-1-17; 99-897, eff. 1-1-17; revised
20 9-27-18.)

21 (40 ILCS 5/15-110) (from Ch. 108 1/2, par. 15-110)

22 Sec. 15-110. Basic compensation. "Basic compensation":
23 Subject to Section 15-111.5, the gross basic rate of salary or
24 wages payable by an employer, including:

25 (1) the value of maintenance, board, living quarters,

1 personal laundry, or other allowances furnished in lieu of
2 salary which are considered gross income under the federal
3 Internal Revenue Code of 1986, as amended;

4 (2) the employee contributions required under Section
5 15-157;

6 (3) the amount paid by any employer to a custodial
7 account for investment in regulated investment company
8 stocks for the benefit of the employee pursuant to the
9 University Employees Custodial Accounts Act;

10 (4) the amount of the premium payable by any employer
11 to an insurance company or companies on an annuity
12 contract, pursuant to the employee's election to accept a
13 reduction in earnings or forego an increase in earnings
14 under Section 30c of the State Finance Act, or a
15 tax-sheltered annuity plan approved by any employer; and

16 (5) the amount of any elective deferral to a deferred
17 compensation plan established under this Article or
18 Article 24 of this Code pursuant to Section 457(b) of the
19 federal Internal Revenue Code of 1986, as amended.

20 Basic compensation does not include (1) salary or wages for
21 overtime or other extra service; (2) prospective salary or
22 wages under a summer teaching contract not yet entered upon;
23 and (3) overseas differential allowances, quarters allowances,
24 post allowances, educational allowances and transportation
25 allowances paid by an employer under a contract with the
26 federal government or its agencies for services rendered in

1 other countries. If an employee elects to receive in lieu of
2 cash salary or wages, fringe benefits which are not taxable
3 under the federal Internal Revenue Code of 1986, as amended,
4 the amount of the cash salary or wages which is waived shall be
5 included in determining basic compensation.

6 (Source: P.A. 99-897, eff. 1-1-17.)

7 (40 ILCS 5/15-145) (from Ch. 108 1/2, par. 15-145)

8 Sec. 15-145. Survivors insurance benefits; conditions and
9 amounts.

10 (a) The survivors insurance benefits provided under this
11 Section shall be payable to the eligible survivors of a Tier 1
12 member covered under the traditional benefit package upon the
13 death of (1) a participating employee with at least 1 1/2 years
14 of service, (2) a participant who terminated employment with at
15 least 10 years of service, and (3) an annuitant in receipt of a
16 retirement annuity or disability retirement annuity under this
17 Article.

18 Service under the State Employees' Retirement System of
19 Illinois, the Teachers' Retirement System of the State of
20 Illinois and the Public School Teachers' Pension and Retirement
21 Fund of Chicago shall be considered in determining eligibility
22 for survivors benefits under this Section.

23 If by law, a function of a governmental unit, as defined by
24 Section 20-107, is transferred in whole or in part to an
25 employer, and an employee transfers employment from this

1 governmental unit to such employer within 6 months after the
2 transfer of this function, the service credits in the
3 governmental unit's retirement system which have been
4 validated under Section 20-109 shall be considered in
5 determining eligibility for survivors benefits under this
6 Section.

7 (b) A surviving spouse of a deceased participant, or of a
8 deceased annuitant who did not take a refund or additional
9 annuity consisting of accumulated survivors insurance
10 contributions or who repaid the refund or additional annuity,
11 shall receive a survivors annuity of 30% of the final rate of
12 earnings. Payments shall begin on the day following the
13 participant's or annuitant's death or the date the surviving
14 spouse attains age 50, whichever is later, and continue until
15 the death of the surviving spouse. The annuity shall be payable
16 to the surviving spouse prior to attainment of age 50 if the
17 surviving spouse has in his or her care a deceased
18 participant's or annuitant's dependent unmarried child under
19 age 18 (under age 22 if a full-time student) who is eligible
20 for a survivors annuity.

21 Remarriage of a surviving spouse prior to attainment of age
22 55 that occurs before the effective date of this amendatory Act
23 of the 91st General Assembly shall disqualify him or her for
24 the receipt of a survivors annuity until July 6, 2000.

25 A surviving spouse whose survivors annuity has been
26 terminated due to remarriage may apply for reinstatement of

1 that annuity. The reinstated annuity shall begin to accrue on
2 July 6, 2000, except that if, on July 6, 2000, the annuity is
3 payable to an eligible surviving child or parent, payment of
4 the annuity to the surviving spouse shall not be reinstated
5 until the annuity is no longer payable to any eligible
6 surviving child or parent. The reinstated annuity shall include
7 any one-time or annual increases received prior to the date of
8 termination, as well as any increases that would otherwise have
9 accrued from the date of termination to the date of
10 reinstatement. An eligible surviving spouse whose expectation
11 of receiving a survivors annuity was lost due to remarriage
12 before attainment of age 50 shall also be entitled to
13 reinstatement under this subsection, but the resulting
14 survivors annuity shall not begin to accrue sooner than upon
15 the surviving spouse's attainment of age 50.

16 The changes made to this subsection by this amendatory Act
17 of the 92nd General Assembly (pertaining to remarriage prior to
18 age 55 or 50) apply without regard to whether the deceased
19 participant or annuitant was in service on or after the
20 effective date of this amendatory Act.

21 (c) Each dependent unmarried child under age 18 (under age
22 22 if a full-time student) of a deceased participant, or of a
23 deceased annuitant who did not take a refund or additional
24 annuity consisting of accumulated survivors insurance
25 contributions or who repaid the refund or additional annuity,
26 shall receive a survivors annuity equal to the sum of (1) 20%

1 of the final rate of earnings, and (2) 10% of the final rate of
2 earnings divided by the number of children entitled to this
3 benefit. Payments shall begin on the day following the
4 participant's or annuitant's death and continue until the child
5 marries, dies, or attains age 18 (age 22 if a full-time
6 student). If the child is in the care of a surviving spouse who
7 is eligible for survivors insurance benefits, the child's
8 benefit shall be paid to the surviving spouse.

9 Each unmarried child over age 18 of a deceased participant
10 or of a deceased annuitant who had a survivor's insurance
11 beneficiary at the time of his or her retirement, and who was
12 dependent upon the participant or annuitant by reason of a
13 physical or mental disability which began prior to the date the
14 child attained age 18 ~~(age 22 if a full-time student)~~, shall
15 receive a survivor's annuity equal to the sum of (1) 20% of the
16 final rate of earnings, and (2) 10% of the final rate of
17 earnings divided by the number of children entitled to
18 survivors benefits. Payments shall begin on the day following
19 the participant's or annuitant's death and continue until the
20 child marries, dies, or is no longer disabled. If the child is
21 in the care of a surviving spouse who is eligible for survivors
22 insurance benefits, the child's benefit may be paid to the
23 surviving spouse. For the purposes of this Section, disability
24 means inability to engage in any substantial gainful activity
25 by reason of any medically determinable physical or mental
26 impairment that can be expected to result in death or that has

1 lasted or can be expected to last for a continuous period of at
2 least one year.

3 (d) Each dependent parent of a deceased participant, or of
4 a deceased annuitant who did not take a refund or additional
5 annuity consisting of accumulated survivors insurance
6 contributions or who repaid the refund or additional annuity,
7 shall receive a survivors annuity equal to the sum of (1) 20%
8 of final rate of earnings, and (2) 10% of final rate of
9 earnings divided by the number of parents who qualify for the
10 benefit. Payments shall begin when the parent reaches age 55 or
11 the day following the participant's or annuitant's death,
12 whichever is later, and continue until the parent dies.
13 Remarriage of a parent prior to attainment of age 55 shall
14 disqualify the parent for the receipt of a survivors annuity.

15 (e) In addition to the survivors annuity provided above,
16 each survivors insurance beneficiary shall, upon death of the
17 participant or annuitant, receive a lump sum payment of \$1,000
18 divided by the number of such beneficiaries.

19 (f) The changes made in this Section by Public Act 81-712
20 pertaining to survivors annuities in cases of remarriage prior
21 to age 55 shall apply to each survivors insurance beneficiary
22 who remarries after June 30, 1979, regardless of the date that
23 the participant or annuitant terminated his employment or died.

24 The change made to this Section by this amendatory Act of
25 the 91st General Assembly, pertaining to remarriage prior to
26 age 55, applies without regard to whether the deceased

1 participant or annuitant was in service on or after the
2 effective date of this amendatory Act of the 91st General
3 Assembly.

4 (g) On January 1, 1981, any person who was receiving a
5 survivors annuity on or before January 1, 1971 shall have the
6 survivors annuity then being paid increased by 1% for each full
7 year which has elapsed from the date the annuity began. On
8 January 1, 1982, any survivor whose annuity began after January
9 1, 1971, but before January 1, 1981, shall have the survivor's
10 annuity then being paid increased by 1% for each year which has
11 elapsed from the date the survivor's annuity began. On January
12 1, 1987, any survivor who began receiving a survivor's annuity
13 on or before January 1, 1977, shall have the monthly survivor's
14 annuity increased by \$1 for each full year which has elapsed
15 since the date the survivor's annuity began.

16 (h) If the sum of the lump sum and total monthly survivor
17 benefits payable under this Section upon the death of a
18 participant amounts to less than the sum of the death benefits
19 payable under items (2) and (3) of Section 15-141, the
20 difference shall be paid in a lump sum to the beneficiary of
21 the participant who is living on the date that this additional
22 amount becomes payable.

23 (i) If the sum of the lump sum and total monthly survivor
24 benefits payable under this Section upon the death of an
25 annuitant receiving a retirement annuity or disability
26 retirement annuity amounts to less than the death benefit

1 payable under Section 15-142, the difference shall be paid to
2 the beneficiary of the annuitant who is living on the date that
3 this additional amount becomes payable.

4 (j) Effective on the later of (1) January 1, 1990, or (2)
5 the January 1 on or next after the date on which the survivor
6 annuity begins, if the deceased member died while receiving a
7 retirement annuity, or in all other cases the January 1 nearest
8 the first anniversary of the date the survivor annuity payments
9 begin, every survivors insurance beneficiary shall receive an
10 increase in his or her monthly survivors annuity of 3%. On each
11 January 1 after the initial increase, the monthly survivors
12 annuity shall be increased by 3% of the total survivors annuity
13 provided under this Article, including previous increases
14 provided by this subsection. Such increases shall apply to the
15 survivors insurance beneficiaries of each participant and
16 annuitant, whether or not the employment status of the
17 participant or annuitant terminates before the effective date
18 of this amendatory Act of 1990. This subsection (j) also
19 applies to persons receiving a survivor annuity under the
20 portable benefit package.

21 (k) If the Internal Revenue Code of 1986, as amended,
22 requires that the survivors benefits be payable at an age
23 earlier than that specified in this Section the benefits shall
24 begin at the earlier age, in which event, the survivor's
25 beneficiary shall be entitled only to that amount which is
26 equal to the actuarial equivalent of the benefits provided by

1 this Section.

2 (1) The changes made to this Section and Section 15-131 by
3 this amendatory Act of 1997, relating to benefits for certain
4 unmarried children who are full-time students under age 22,
5 apply without regard to whether the deceased member was in
6 service on or after the effective date of this amendatory Act
7 of 1997. These changes do not authorize the repayment of a
8 refund or a re-election of benefits, and any benefit or
9 increase in benefits resulting from these changes is not
10 payable retroactively for any period before the effective date
11 of this amendatory Act of 1997.

12 (Source: P.A. 98-92, eff. 7-16-13; 99-682, eff. 7-29-16.)

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