LRB101 16191 RPS 65563 b

101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2533

Introduced 1/28/2020, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

See Index

Amends the General Provisions and Illinois Municipal Retirement Fund (IMRF) Articles of the Illinois Pension Code. Except for persons who elected to establish certain alternative credits, moves provisions concerning Tier 2 members of IMRF from the General Provisions Article to the IMRF Article. Defines Tier 1 regular employee and Tier 2 regular employee. Provides that the increase to the retirement annuity of a Tier 1 regular employee shall be computed from the effective date of the retirement annuity, the first increase being 0.25% (instead of .167%) of the monthly amount times the number of months from the effective date to January 1. Provides that if the employee was a Tier 1 regular employee, the surviving spouse annuity shall be increased by an amount equal to (i) 3% of the original amount thereof if the deceased employee was receiving a retirement annuity at the time of his or her death; otherwise (ii) 0.25% (instead of 0.167%) of the original amount thereof for each complete month that has elapsed since the date the annuity began. Makes other changes. Amends the State Mandates Act to require implementation without reimbursement.

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FISCAL NOTE ACT MAY APPLY	PENSION IMPACT NOTE ACT MAY APPLY	STATE MANDATES ACT MAY REQUIRE REIMBURSEMENT

A BILL FOR

AN ACT concerning public employee benefits.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Pension Code is amended by changing Sections 1-160, 7-114, 7-116, 7-141, 7-141.1, 7-142, 7-144, and 7-156 and by adding Sections 7-109.4 and 7-109.5 as follows:

(40 ILCS 5/1-160)

Sec. 1-160. Provisions applicable to new hires.

(a) The provisions of this Section apply to a person who, on or after January 1, 2011, first becomes a member or a participant under any reciprocal retirement system or pension fund established under this Code, other than a retirement system or pension fund established under Article 2, 3, 4, 5, 6, 7, 15, or 18 of this Code, notwithstanding any other provision of this Code to the contrary, but do not apply to any self-managed plan established under this Code~~, to any person with respect to service as a sheriff's law enforcement employee under Article 7,~~ or to any participant of the retirement plan established under Section 22-101; except that this Section applies to a person who elected to establish alternative credits by electing in writing after January 1, 2011, but before August 8, 2011, under Section 7-145.1 of this Code. Notwithstanding anything to the contrary in this Section, for purposes of this Section, a person who is a Tier 1 regular employee as defined in Section 7-109.4 of this Code or who participated in a retirement system under Article 15 prior to January 1, 2011 shall be deemed a person who first became a member or participant prior to January 1, 2011 under any retirement system or pension fund subject to this Section. The changes made to this Section by Public Act 98-596 are a clarification of existing law and are intended to be retroactive to January 1, 2011 (the effective date of Public Act 96-889), notwithstanding the provisions of Section 1-103.1 of this Code.

This Section does not apply to a person who first becomes a noncovered employee under Article 14 on or after the implementation date of the plan created under Section 1-161 for that Article, unless that person elects under subsection (b) of Section 1-161 to instead receive the benefits provided under this Section and the applicable provisions of that Article.

This Section does not apply to a person who first becomes a member or participant under Article 16 on or after the implementation date of the plan created under Section 1-161 for that Article, unless that person elects under subsection (b) of Section 1-161 to instead receive the benefits provided under this Section and the applicable provisions of that Article.

This Section does not apply to a person who elects under subsection (c-5) of Section 1-161 to receive the benefits under Section 1-161.

This Section does not apply to a person who first becomes a member or participant of an affected pension fund on or after 6 months after the resolution or ordinance date, as defined in Section 1-162, unless that person elects under subsection (c) of Section 1-162 to receive the benefits provided under this Section and the applicable provisions of the Article under which he or she is a member or participant.

(b) "Final average salary" means the average monthly (or annual) salary obtained by dividing the total salary or earnings calculated under the Article applicable to the member or participant during the 96 consecutive months (or 8 consecutive years) of service within the last 120 months (or 10 years) of service in which the total salary or earnings calculated under the applicable Article was the highest by the number of months (or years) of service in that period. For the purposes of a person who first becomes a member or participant of any retirement system or pension fund to which this Section applies on or after January 1, 2011, in this Code, "final average salary" shall be substituted for the following:

(1) (Blank). ~~In Article 7 (except for service as sheriff's law enforcement employees), "final rate of earnings".~~

(2) In Articles 8, 9, 10, 11, and 12, "highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal".

(3) In Article 13, "average final salary".

(4) In Article 14, "final average compensation".

(5) In Article 17, "average salary".

(6) In Section 22-207, "wages or salary received by him at the date of retirement or discharge".

(b-5) Beginning on January 1, 2011, for all purposes under this Code (including without limitation the calculation of benefits and employee contributions), the annual earnings, salary, or wages (based on the plan year) of a member or participant to whom this Section applies shall not exceed $106,800; however, that amount shall annually thereafter be increased by the lesser of (i) 3% of that amount, including all previous adjustments, or (ii) one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, including all previous adjustments.

For the purposes of this Section, "consumer price index-u" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance and made available to the boards of the retirement systems and pension funds by November 1 of each year.

(c) A member or participant is entitled to a retirement annuity upon written application if he or she has attained age 67 (beginning January 1, 2015, age 65 with respect to service under Article 12 of this Code that is subject to this Section) and has at least 10 years of service credit and is otherwise eligible under the requirements of the applicable Article.

A member or participant who has attained age 62 (beginning January 1, 2015, age 60 with respect to service under Article 12 of this Code that is subject to this Section) and has at least 10 years of service credit and is otherwise eligible under the requirements of the applicable Article may elect to receive the lower retirement annuity provided in subsection (d) of this Section.

(c-5) A person who first becomes a member or a participant subject to this Section on or after July 6, 2017 (the effective date of Public Act 100-23), notwithstanding any other provision of this Code to the contrary, is entitled to a retirement annuity under Article 8 or Article 11 upon written application if he or she has attained age 65 and has at least 10 years of service credit and is otherwise eligible under the requirements of Article 8 or Article 11 of this Code, whichever is applicable.

(d) The retirement annuity of a member or participant who is retiring after attaining age 62 (beginning January 1, 2015, age 60 with respect to service under Article 12 of this Code that is subject to this Section) with at least 10 years of service credit shall be reduced by one-half of 1% for each full month that the member's age is under age 67 (beginning January 1, 2015, age 65 with respect to service under Article 12 of this Code that is subject to this Section).

(d-5) The retirement annuity payable under Article 8 or Article 11 to an eligible person subject to subsection (c-5) of this Section who is retiring at age 60 with at least 10 years of service credit shall be reduced by one-half of 1% for each full month that the member's age is under age 65.

(d-10) Each person who first became a member or participant under Article 8 or Article 11 of this Code on or after January 1, 2011 and prior to the effective date of this amendatory Act of the 100th General Assembly shall make an irrevocable election either:

(i) to be eligible for the reduced retirement age provided in subsections (c-5) and (d-5) of this Section, the eligibility for which is conditioned upon the member or participant agreeing to the increases in employee contributions for age and service annuities provided in subsection (a-5) of Section 8-174 of this Code (for service under Article 8) or subsection (a-5) of Section 11-170 of this Code (for service under Article 11); or

(ii) to not agree to item (i) of this subsection (d-10), in which case the member or participant shall continue to be subject to the retirement age provisions in subsections (c) and (d) of this Section and the employee contributions for age and service annuity as provided in subsection (a) of Section 8-174 of this Code (for service under Article 8) or subsection (a) of Section 11-170 of this Code (for service under Article 11).

The election provided for in this subsection shall be made between October 1, 2017 and November 15, 2017. A person subject to this subsection who makes the required election shall remain bound by that election. A person subject to this subsection who fails for any reason to make the required election within the time specified in this subsection shall be deemed to have made the election under item (ii).

(e) Any retirement annuity or supplemental annuity shall be subject to annual increases on the January 1 occurring either on or after the attainment of age 67 (beginning January 1, 2015, age 65 with respect to service under Article 12 of this Code that is subject to this Section and beginning on the effective date of this amendatory Act of the 100th General Assembly, age 65 with respect to service under Article 8 or Article 11 for eligible persons who: (i) are subject to subsection (c-5) of this Section; or (ii) made the election under item (i) of subsection (d-10) of this Section) or the first anniversary of the annuity start date, whichever is later. Each annual increase shall be calculated at 3% or one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, whichever is less, of the originally granted retirement annuity. If the annual unadjusted percentage change in the consumer price index-u for the 12 months ending with the September preceding each November 1 is zero or there is a decrease, then the annuity shall not be increased.

For the purposes of Section 1-103.1 of this Code, the changes made to this Section by this amendatory Act of the 100th General Assembly are applicable without regard to whether the employee was in active service on or after the effective date of this amendatory Act of the 100th General Assembly.

(f) The initial survivor's or widow's annuity of an otherwise eligible survivor or widow of a retired member or participant who first became a member or participant on or after January 1, 2011 shall be in the amount of 66 2/3% of the retired member's or participant's retirement annuity at the date of death. In the case of the death of a member or participant who has not retired and who first became a member or participant on or after January 1, 2011, eligibility for a survivor's or widow's annuity shall be determined by the applicable Article of this Code. The initial benefit shall be 66 2/3% of the earned annuity without a reduction due to age. A child's annuity of an otherwise eligible child shall be in the amount prescribed under each Article if applicable. Any survivor's or widow's annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity or (2) in other cases, on each January 1 occurring after the first anniversary of the commencement of the annuity. Each annual increase shall be calculated at 3% or one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, whichever is less, of the originally granted survivor's annuity. If the annual unadjusted percentage change in the consumer price index-u for the 12 months ending with the September preceding each November 1 is zero or there is a decrease, then the annuity shall not be increased.

(g) The benefits in Section 14-110 apply only if the person is a State policeman, a fire fighter in the fire protection service of a department, a conservation police officer, an investigator for the Secretary of State, an arson investigator, a Commerce Commission police officer, investigator for the Department of Revenue or the Illinois Gaming Board, a security employee of the Department of Corrections or the Department of Juvenile Justice, or a security employee of the Department of Innovation and Technology, as those terms are defined in subsection (b) and subsection (c) of Section 14-110. A person who meets the requirements of this Section is entitled to an annuity calculated under the provisions of Section 14-110, in lieu of the regular or minimum retirement annuity, only if the person has withdrawn from service with not less than 20 years of eligible creditable service and has attained age 60, regardless of whether the attainment of age 60 occurs while the person is still in service.

(h) If a person who first becomes a member or a participant of a retirement system or pension fund subject to this Section on or after January 1, 2011 is receiving a retirement annuity or retirement pension under that system or fund and becomes a member or participant under any other system or fund created by this Code and is employed on a full-time basis, except for those members or participants exempted from the provisions of this Section under subsection (a) of this Section, then the person's retirement annuity or retirement pension under that system or fund shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity or retirement pension payments shall resume and be recalculated if recalculation is provided for under the applicable Article of this Code.

If a person who first becomes a member of a retirement system or pension fund subject to this Section on or after January 1, 2012 and is receiving a retirement annuity or retirement pension under that system or fund and accepts on a contractual basis a position to provide services to a governmental entity from which he or she has retired, then that person's annuity or retirement pension earned as an active employee of the employer shall be suspended during that contractual service. A person receiving an annuity or retirement pension under this Code shall notify the pension fund or retirement system from which he or she is receiving an annuity or retirement pension, as well as his or her contractual employer, of his or her retirement status before accepting contractual employment. A person who fails to submit such notification shall be guilty of a Class A misdemeanor and required to pay a fine of $1,000. Upon termination of that contractual employment, the person's retirement annuity or retirement pension payments shall resume and, if appropriate, be recalculated under the applicable provisions of this Code.

(i) (Blank).

(j) In the case of a conflict between the provisions of this Section and any other provision of this Code, the provisions of this Section shall control.

(Source: P.A. 100-23, eff. 7-6-17; 100-201, eff. 8-18-17; 100-563, eff. 12-8-17; 100-611, eff. 7-20-18; 100-1166, eff. 1-4-19; 101-610, eff. 1-1-20.)

(40 ILCS 5/7-109.4 new)

Sec. 7-109.4. Tier 1 regular employee. "Tier 1 regular employee" means a participant or an annuitant under this Article who first became a participant or member before January 1, 2011 under any retirement system or pension fund under this Code, other than a retirement system or pension fund established under Articles 2, 3, 4, 5, 6, or 18 or in any self-managed plan established under this Code, or the retirement plan established under Section 22-101.

"Tier 1 regular employee" includes a person who received a separation benefit but is otherwise qualified under this Section and subsequently becomes a participating employee on or after January 1, 2011.

"Tier 1 regular employee" includes a former participating employee who received a separation benefit under Section 7-167 for service earned prior to January 1, 2011 who returns to a qualifying position after January 1, 2011.

"Tier 1 regular employee" includes a participating employee who has omitted service as defined in Section 7-111.5 that includes any period prior to January 1, 2011 only if he or she establishes sufficient service credit under item (12) of subsection (a) of Section 7-139 to include service prior to January 1, 2011.

Notwithstanding anything contrary in this Section, "Tier 1 regular employee" does not include a participant or annuitant who is eligible to have his or her annuity calculated under Section 7-142.1 or a person who elected to establish alternative credits under Section 7-145.1.

(40 ILCS 5/7-109.5 new)

Sec. 7-109.5. Tier 2 regular employee. "Tier 2 regular employee" means a person who first becomes a participant under this Article on or after January 1, 2011 and is not a Tier 1 regular employee.

Notwithstanding anything contrary in this Section, "Tier 2 regular employee" does not include a participant or annuitant who is eligible to have his or her annuity calculated under Section 7-142.1 or a person who elected to establish alternative credits by electing in writing after January 1, 2011, but before August 8, 2011, under Section 7-145.1 of this Code.

(40 ILCS 5/7-114) (from Ch. 108 1/2, par. 7-114)

Sec. 7-114. Earnings. "Earnings":

(a) An amount to be determined by the board, equal to the sum of:

1. The total amount of money paid to an employee for personal services or official duties as an employee (except those employed as independent contractors) paid out of the general fund, or out of any special funds controlled by the municipality, or by any instrumentality thereof, or participating instrumentality, including compensation, fees, allowances (but not including amounts associated with a vehicle allowance payable to an employee who first becomes a participating employee on or after the effective date of this amendatory Act of the 100th General Assembly), or other emolument paid for official duties (but not including automobile maintenance, travel expense, or reimbursements for expenditures incurred in the performance of duties) and, for fee offices, the fees or earnings of the offices to the extent such fees are paid out of funds controlled by the municipality, or

instrumentality or participating instrumentality; and

2. The money value, as determined by rules prescribed by the governing body of the municipality, or instrumentality thereof, of any board, lodging, fuel, laundry, and other allowances provided an employee in lieu of money.

(b) For purposes of determining benefits payable under this fund payments to a person who is engaged in an independently established trade, occupation, profession or business and who is paid for his service on a basis other than a monthly or other regular salary, are not earnings.

(c) If a disabled participating employee is eligible to receive Workers' Compensation for an accidental injury and the participating municipality or instrumentality which employed the participating employee when injured continues to pay the participating employee regular salary or other compensation or pays the employee an amount in excess of the Workers' Compensation amount, then earnings shall be deemed to be the total payments, including an amount equal to the Workers' Compensation payments. These payments shall be subject to employee contributions and allocated as if paid to the participating employee when the regular payroll amounts would have been paid if the participating employee had continued working, and creditable service shall be awarded for this period.

(d) If an elected official who is a participating employee becomes disabled but does not resign and is not removed from office, then earnings shall include all salary payments made for the remainder of that term of office and the official shall be awarded creditable service for the term of office.

(e) If a participating employee is paid pursuant to "An Act to provide for the continuation of compensation for law enforcement officers, correctional officers and firemen who suffer disabling injury in the line of duty", approved September 6, 1973, as amended, the payments shall be deemed earnings, and the participating employee shall be awarded creditable service for this period.

(f) Additional compensation received by a person while serving as a supervisor of assessments, assessor, deputy assessor or member of a board of review from the State of Illinois pursuant to Section 4-10 or 4-15 of the Property Tax Code shall not be earnings for purposes of this Article and shall not be included in the contribution formula or calculation of benefits for such person pursuant to this Article.

(g) Notwithstanding any other provision of this Article, calendar year earnings for Tier 2 regular employees to whom this Section applies shall not exceed the amount determined by the Public Pension Division of the Department of Insurance as required in this subsection; however, that amount shall annually thereafter be increased by the lesser of (i) 3% of that amount, including all previous adjustments, or (ii) one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, including all previous adjustments.

For the purposes of this Section, "consumer price index-u" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance and made available to the Fund by November 1 of each year.

(Source: P.A. 100-411, eff. 8-25-17.)

(40 ILCS 5/7-116) (from Ch. 108 1/2, par. 7-116)

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

Sec. 7-116. "Final rate of earnings":

(a) For retirement and survivor annuities, the monthly earnings obtained by dividing the total earnings received by the employee during the period of either (1) for Tier 1 regular employees, the 48 consecutive months of service within the last 120 months of service in which his total earnings were the highest, (2) for Tier 2 regular employees, the 96 consecutive months of service within the last 120 months of service in which his total earnings were the highest, or (3) ~~or (2)~~ the employee's total period of service, by the number of months of service in such period.

(b) For death benefits, the higher of the rate determined under paragraph (a) of this Section or total earnings received in the last 12 months of service divided by twelve. If the deceased employee has less than 12 months of service, the monthly final rate shall be the monthly rate of pay the employee was receiving when he began service.

(c) For disability benefits, the total earnings of a participating employee in the last 12 calendar months of service prior to the date he becomes disabled divided by 12.

(d) In computing the final rate of earnings: (1) the earnings rate for all periods of prior service shall be considered equal to the average earnings rate for the last 3 calendar years of prior service for which creditable service is received under Section 7-139 or, if there is less than 3 years of creditable prior service, the average for the total prior service period for which creditable service is received under Section 7-139; (2) for out of state service and authorized leave, the earnings rate shall be the rate upon which service credits are granted; (3) periods of military leave shall not be considered; (4) the earnings rate for all periods of disability shall be considered equal to the rate of earnings upon which the employee's disability benefits are computed for such periods; (5) the earnings to be considered for each of the final three months of the final earnings period for persons who first became participants before January 1, 2012 and the earnings to be considered for each of the final 24 months for participants who first become participants on or after January 1, 2012 shall not exceed 125% of the highest earnings of any other month in the final earnings period; and (6) the annual amount of final rate of earnings shall be the monthly amount multiplied by the number of months of service normally required by the position in a year.

(Source: P.A. 97-609, eff. 1-1-12.)

(40 ILCS 5/7-141) (from Ch. 108 1/2, par. 7-141)

Sec. 7-141. Retirement annuities - Conditions. Retirement annuities shall be payable as hereinafter set forth:

(a) A participating employee who, regardless of cause, is separated from the service of all participating municipalities and instrumentalities thereof and participating instrumentalities shall be entitled to a retirement annuity provided:

1. He is at least age 55 <u>if he is a Tier 1 regular employee, he is age 62 if he is a Tier 2 regular employee</u>, or<u>,</u> in the case of a person who is eligible to have his annuity calculated under Section 7-142.1, he is at least age 50;

2. He is not entitled to receive earnings for employment in a position requiring him, or entitling him to

elect, to be a participating employee;

3. The amount of his annuity, before the application of paragraph (b) of Section 7-142 is at least $10 per month;

4. If he first became a participating employee after December 31, 1961 <u>and is a Tier 1 regular employee</u>, he has at least 8 years of service<u>, or, if he is a Tier 2 regular member, he has at least 10 years of service</u>. This service requirement shall not apply to any participating employee, regardless of participation date, if the General Assembly terminates the Fund.

(b) Retirement annuities shall be payable:

1. As provided in Section 7-119;

2. Except as provided in item 3, upon receipt by the fund of a written application. The effective date may be not more than one year prior to the date of the receipt by the fund of the application;

3. Upon attainment of age 70 1/2 if the member (i) is no longer in service, and (ii) is otherwise entitled to an annuity under this Article;

4. To the beneficiary of the deceased annuitant for the unpaid amount accrued to date of death, if any.

(Source: P.A. 97-328, eff. 8-12-11; 97-609, eff. 1-1-12.)

(40 ILCS 5/7-141.1)

Sec. 7-141.1. Early retirement incentive.

(a) The General Assembly finds and declares that:

(1) Units of local government across the State have been functioning under a financial crisis.

(2) This financial crisis is expected to continue.

(3) Units of local government must depend on additional sources of revenue and, when those sources are not forthcoming, must establish cost-saving programs.

(4) An early retirement incentive designed specifically to target highly-paid senior employees could result in significant annual cost savings.

(5) The early retirement incentive should be made available only to those units of local government that determine that an early retirement incentive is in their best interest.

(6) A unit of local government adopting a program of early retirement incentives under this Section is encouraged to implement personnel procedures to prohibit, for at least 5 years, the rehiring (whether on payroll or by independent contract) of employees who receive early retirement incentives.

(7) A unit of local government adopting a program of early retirement incentives under this Section is also encouraged to replace as few of the participating employees as possible and to hire replacement employees for salaries totaling no more than 80% of the total salaries formerly paid to the employees who participate in the early retirement program.

It is the primary purpose of this Section to encourage units of local government that can realize true cost savings, or have determined that an early retirement program is in their best interest, to implement an early retirement program.

(b) Until June 27, 1997 (the effective date of Public Act 90-32) ~~this amendatory Act of 1997~~, this Section does not apply to any employer that is a city, village, or incorporated town, nor to the employees of any such employer. Beginning on June 27, 1997 (the effective date of Public Act 90-32) ~~this amendatory Act of 1997~~, any employer under this Article, including an employer that is a city, village, or incorporated town, may establish an early retirement incentive program for its employees under this Section. The decision of a city, village, or incorporated town to consider or establish an early retirement program is at the sole discretion of that city, village, or incorporated town, and nothing in Public Act 90-32 ~~this amendatory Act of 1997~~ limits or otherwise diminishes this discretion. Nothing contained in this Section shall be construed to require a city, village, or incorporated town to establish an early retirement program and no city, village, or incorporated town may be compelled to implement such a program.

The benefits provided in this Section are available only to members employed by a participating employer that has filed with the Board of the Fund a resolution or ordinance expressly providing for the creation of an early retirement incentive program under this Section for its employees and specifying the effective date of the early retirement incentive program. Subject to the limitation in subsection (h), an employer may adopt a resolution or ordinance providing a program of early retirement incentives under this Section at any time.

The resolution or ordinance shall be in substantially the following form:

RESOLUTION (ORDINANCE) NO. ....

A RESOLUTION (ORDINANCE) ADOPTING AN EARLY
RETIREMENT INCENTIVE PROGRAM FOR EMPLOYEES
IN THE ILLINOIS MUNICIPAL RETIREMENT FUND

WHEREAS, Section 7-141.1 of the Illinois Pension Code provides that a participating employer may elect to adopt an early retirement incentive program offered by the Illinois Municipal Retirement Fund by adopting a resolution or ordinance; and

WHEREAS, The goal of adopting an early retirement program is to realize a substantial savings in personnel costs by offering early retirement incentives to employees who have accumulated many years of service credit; and

WHEREAS, Implementation of the early retirement program will provide a budgeting tool to aid in controlling payroll costs; and

WHEREAS, The (name of governing body) has determined that the adoption of an early retirement incentive program is in the best interests of the (name of participating employer);

therefore be it

RESOLVED (ORDAINED) by the (name of governing body) of (name of participating employer) that:

(1) The (name of participating employer) does hereby adopt the Illinois Municipal Retirement Fund early retirement incentive program as provided in Section 7-141.1 of the Illinois Pension Code. The early retirement incentive program shall take effect on (date).

(2) In order to help achieve a true cost savings, a person who retires under the early retirement incentive program shall lose those incentives if he or she later accepts employment with any IMRF employer in a position for which participation in IMRF is required or is elected by the employee.

(3) In order to utilize an early retirement incentive as a budgeting tool, the (name of participating employer) will use its best efforts either to limit the number of employees who replace the employees who retire under the early retirement program or to limit the salaries paid to the employees who replace the employees who retire under the early retirement program.

(4) The effective date of each employee's retirement under this early retirement program shall be set by (name of employer) and shall be no earlier than the effective date of the program and no later than one year after that effective date; except that the employee may require that the retirement date set by the employer be no later than the June 30 next

occurring after the effective date of the program and no earlier than the date upon which the employee qualifies for retirement.

(5) To be eligible for the early retirement incentive under this Section, the employee must have attained age 50 and have at least 20 years of creditable service by his or her retirement date.

(6) The (clerk or secretary) shall promptly file a certified copy of this resolution (ordinance) with the Board of Trustees of the Illinois Municipal Retirement Fund.

CERTIFICATION

I, (name), the (clerk or secretary) of the (name of participating employer) of the County of (name), State of Illinois, do hereby certify that I am the keeper of the books and records of the (name of employer) and that the foregoing is a true and correct copy of a resolution (ordinance) duly adopted by the (governing body) at a meeting duly convened and held on (date).

SEAL

(Signature of clerk or secretary)

(c) To be eligible for the benefits provided under an early retirement incentive program adopted under this Section, a member must:

(1) be a participating employee of this Fund who, on the effective date of the program, (i) is in active payroll

status as an employee of a participating employer that has filed the required ordinance or resolution with the Board, (ii) is on layoff status from such a position with a right of re-employment or recall to service, (iii) is on a leave of absence from such a position, or (iv) is on disability but has not been receiving benefits under Section 7-146 or 7-150 for a period of more than 2 years from the date of application;

(2) have never previously received a retirement annuity under this Article or under the Retirement Systems Reciprocal Act using service credit established under this Article;

(3) (blank);

(4) have at least 20 years of creditable service in the Fund by the date of retirement, without the use of any creditable service established under this Section;

(5) have attained age 50 by the date of retirement if he or she is a Tier 1 regular employee or age 57 if he or she is a Tier 2 regular employee, without the use of any age enhancement received under this Section; and

(6) be eligible to receive a retirement annuity under this Article by the date of retirement, for which purpose the age enhancement and creditable service established under this Section may be considered.

(d) The employer shall determine the retirement date for each employee participating in the early retirement program adopted under this Section. The retirement date shall be no earlier than the effective date of the program and no later than one year after that effective date, except that the employee may require that the retirement date set by the employer be no later than the June 30 next occurring after the effective date of the program and no earlier than the date upon which the employee qualifies for retirement. The employer shall give each employee participating in the early retirement program at least 30 days written notice of the employee's designated retirement date, unless the employee waives this notice requirement.

(e) An eligible person may establish up to 5 years of creditable service under this Section. In addition, for each period of creditable service established under this Section, a person shall have his or her age at retirement deemed enhanced by an equivalent period.

The creditable service established under this Section may be used for all purposes under this Article and the Retirement Systems Reciprocal Act, except for the computation of final rate of earnings and the determination of earnings, salary, or compensation under this or any other Article of the Code.

The age enhancement established under this Section may be used for all purposes under this Article (including calculation of the reduction imposed under subdivision (a)1b(iv) of Section 7-142), except for purposes of a reversionary annuity under Section 7-145 and any distributions required because of age.

The age enhancement established under this Section may be used in calculating a proportionate annuity payable by this Fund under the Retirement Systems Reciprocal Act, but shall not be used in determining benefits payable under other Articles of this Code under the Retirement Systems Reciprocal Act.

(f) For all creditable service established under this Section, the member must pay to the Fund an employee contribution consisting of the total employee contribution rate in effect at the time the member purchases the service for the plan in which the member was participating with the employer at that time multiplied by the member's highest annual salary rate used in the determination of the final rate of earnings for retirement annuity purposes for each year of creditable service granted under this Section. Contributions for fractions of a year of service shall be prorated. Any amounts that are disregarded in determining the final rate of earnings under subdivision (d)(5) of Section 7-116 (the 125% rule) shall also be disregarded in determining the required contribution under this subsection (f).

The employee contribution shall be paid to the Fund as follows: If the member is entitled to a lump sum payment for accumulated vacation, sick leave, or personal leave upon withdrawal from service, the employer shall deduct the employee contribution from that lump sum and pay the deducted amount directly to the Fund. If there is no such lump sum payment or the required employee contribution exceeds the net amount of the lump sum payment, then the remaining amount due, at the option of the employee, may either be paid to the Fund before the annuity commences or deducted from the retirement annuity in 24 equal monthly installments.

(g) An annuitant who has received any age enhancement or creditable service under this Section and thereafter accepts employment with or enters into a personal services contract with an employer under this Article thereby forfeits that age enhancement and creditable service; except that this restriction does not apply to (1) service in an elective office, so long as the annuitant does not participate in this Fund with respect to that office, (2) a person appointed as an officer under subsection (f) of Section 3-109 of this Code, and (3) a person appointed as an auxiliary police officer pursuant to Section 3.1-30-5 of the Illinois Municipal Code. A person forfeiting early retirement incentives under this subsection (i) must repay to the Fund that portion of the retirement annuity already received which is attributable to the early retirement incentives that are being forfeited, (ii) shall not be eligible to participate in any future early retirement program adopted under this Section, and (iii) is entitled to a refund of the employee contribution paid under subsection (f). The Board shall deduct the required repayment from the refund and may impose a reasonable payment schedule for repaying the amount, if any, by which the required repayment exceeds the refund amount.

(h) The additional unfunded liability accruing as a result of the adoption of a program of early retirement incentives under this Section by an employer shall be amortized over a period of 10 years beginning on January 1 of the second calendar year following the calendar year in which the latest date for beginning to receive a retirement annuity under the program (as determined by the employer under subsection (d) of this Section) occurs; except that the employer may provide for a shorter amortization period (of no less than 5 years) by adopting an ordinance or resolution specifying the length of the amortization period and submitting a certified copy of the ordinance or resolution to the Fund no later than 6 months after the effective date of the program. An employer, at its discretion, may accelerate payments to the Fund.

An employer may provide more than one early retirement incentive program for its employees under this Section. However, an employer that has provided an early retirement incentive program for its employees under this Section may not provide another early retirement incentive program under this Section until the liability arising from the earlier program has been fully paid to the Fund.

(Source: P.A. 99-382, eff. 8-17-15.)

(40 ILCS 5/7-142) (from Ch. 108 1/2, par. 7-142)

Sec. 7-142. Retirement annuities - Amount.

(a) The amount of a retirement annuity shall be the sum of the following, determined in accordance with the actuarial tables in effect at the time of the grant of the annuity:

1. For Tier 1 regular employees with 8 or more years of service or for Tier 2 regular employees, an annuity computed pursuant to subparagraphs a or b of this subparagraph 1, whichever is the higher, and for employees with less than 8 or 10 years of service, respectively, the annuity computed pursuant to subparagraph a:

a. The monthly annuity which can be provided from the total accumulated normal, municipality and prior service credits, as of the attained age of the employee on the date the annuity begins provided that such annuity shall not exceed 75% of the final rate of earnings of the employee.

b. (i) The monthly annuity amount determined as follows by multiplying (a) 1 2/3% for annuitants with not more than 15 years or (b) 1 2/3% for the first 15 years and 2% for each year in excess of 15 years for annuitants with more than 15 years by the number of years plus fractional years, prorated on a basis of months, of creditable service and multiply the product thereof by the employee's final rate of earnings.

(ii) For the sole purpose of computing the formula (and not for the purposes of the limitations hereinafter stated) $125 shall be considered the final rate of earnings in all cases where the final rate of earnings is less than such amount.

(iii) The monthly annuity computed in accordance with this subparagraph b, shall not exceed an amount equal to 75% of the final rate of earnings.

(iv) For employees who have less than 35 years of service, the annuity computed in accordance with this subparagraph b (as reduced by application of subparagraph (iii) above) shall be reduced by 0.25% thereof (0.5% if service was terminated before January 1, 1988 or if the employee is a Tier 2 regular employee) for each month or fraction thereof (1) that the employee's age is less than 60 years for Tier 1 regular employees, ~~or~~ (2) that the employee's age is less than 67 years for Tier 2 regular employees, or (3) if the employee has at least 30 years of service credit, that the employee's service credit is less than 35 years, whichever is less, on the date the annuity begins.

2. The annuity which can be provided from the total accumulated additional credits as of the attained age of the employee on the date the annuity begins.

(b) If payment of an annuity begins prior to the earliest age at which the employee will become eligible for an old age insurance benefit under the Federal Social Security Act, he may elect that the annuity payments from this fund shall exceed those payable after his attaining such age by an amount, computed as determined by rules of the Board, but not in excess of his estimated Social Security Benefit, determined as of the effective date of the annuity, provided that in no case shall the total annuity payments made by this fund exceed in actuarial value the annuity which would have been payable had no such election been made.

(c) ~~The retirement annuity shall be increased each year by 2%, not compounded, of the monthly amount of annuity, taking into consideration any adjustment under paragraph (b) of this Section. This increase shall be effective each January 1 and computed from the effective date of the retirement annuity, the first increase being .167% of the monthly amount times the number of months from the effective date to January 1.~~ Beginning January 1, 1984 and each January 1 thereafter, the retirement annuity of a Tier 1 regular employee shall be increased by 3% each year, not compounded. This increase shall be computed from the effective date of the retirement annuity, the first increase being 0.25% of the monthly amount times the number of months from the effective date to January 1. This increase shall not be applicable to annuitants who are not in service on or after September 8, 1971.

A retirement annuity of a Tier 2 regular employee shall receive annual increases on the January 1 occurring either on or after the attainment of age 67 or the first anniversary of the annuity start date, whichever is later. Each annual increase shall be calculated at the lesser of 3% or one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1 of the originally granted retirement annuity. If the annual unadjusted percentage change in the consumer price index-u for the 12 months ending with the September preceding each November 1 is zero or there is a decrease, then the annuity shall not be increased.

(d) Any elected county officer who was entitled to receive a stipend from the State on or after July 1, 2009 and on or before June 30, 2010 may establish earnings credit for the amount of stipend not received, if the elected county official applies in writing to the fund within 6 months after the effective date of this amendatory Act of the 96th General Assembly and pays to the fund an amount equal to (i) employee contributions on the amount of stipend not received, (ii) employer contributions determined by the Board equal to the employer's normal cost of the benefit on the amount of stipend not received, plus (iii) interest on items (i) and (ii) at the actuarially assumed rate.

(Source: P.A. 96-961, eff. 7-2-10.)

(40 ILCS 5/7-144) (from Ch. 108 1/2, par. 7-144)

Sec. 7-144. Retirement annuities - suspended during employment.

(a) If any person receiving any annuity again becomes an employee and receives earnings from employment in a position requiring him, or entitling him to elect, to become a participating employee, then the annuity payable to such employee shall be suspended as of the 1st day of the month coincidental with or next following the date upon which such person becomes such an employee, unless the person is authorized under subsection (b) of Section 7-137.1 of this Code to continue receiving a retirement annuity during that period. Upon proper qualification of the participating employee payment of such annuity may be resumed on the 1st day of the month following such qualification and upon proper application therefor. The participating employee in such case shall be entitled to a supplemental annuity arising from service and credits earned subsequent to such re-entry as a participating employee.

Notwithstanding any other provision of this Article, an annuitant shall be considered a participating employee if he or she returns to work as an employee with a participating employer and works more than 599 hours annually (or 999 hours annually with a participating employer that has adopted a resolution pursuant to subsection (e) of Section 7-137 of this Code). Each of these annual periods shall commence on the month and day upon which the annuitant is first employed with the participating employer following the effective date of the annuity.

(a-5) If any annuitant under this Article must be considered a participating employee per the provisions of subsection (a) of this Section, and the participating municipality or participating instrumentality that employs or re-employs that annuitant knowingly fails to notify the Board to suspend the annuity, the participating municipality or participating instrumentality may be required to reimburse the Fund for an amount up to one-half of the total of any annuity payments made to the annuitant after the date the annuity should have been suspended, as determined by the Board. In no case shall the total amount repaid by the annuitant plus any amount reimbursed by the employer to the Fund be more than the total of all annuity payments made to the annuitant after the date the annuity should have been suspended. This subsection shall not apply if the annuitant returned to work for the employer for less than 12 months.

The Fund shall notify all annuitants that they must notify the Fund immediately if they return to work for any participating employer. The notification by the Fund shall occur upon retirement and no less than annually thereafter in a format determined by the Fund. The Fund shall also develop and maintain a system to track annuitants who have returned to work and notify the participating employer and annuitant at least annually of the limitations on returning to work under this Section.

(b) Supplemental annuities to persons who return to service for less than 48 months shall be computed under the provisions of Sections 7-141, 7-142 and 7-143. In determining whether an employee is eligible for an annuity which requires a minimum period of service, his entire period of service shall be taken into consideration but the supplemental annuity shall be based on earnings and service in the supplemental period only. The effective date of the suspended and supplemental annuity for the purpose of increases after retirement shall be considered to be the effective date of the suspended annuity.

(c) Supplemental annuities to persons who return to service for 48 months or more shall be a monthly amount determined as follows:

(1) An amount shall be computed under subparagraph b of paragraph (1) of subsection (a) of Section 7-142, considering all of the service credits of the employee;

(2) The actuarial value in monthly payments for life of the annuity payments made before suspension shall be determined and subtracted from the amount determined in (1) above;

(3) The monthly amount of the suspended annuity, with any applicable increases after retirement computed from the effective date to the date of reinstatement, shall be subtracted from the amount determined in (2) above and the remainder shall be the amount of the supplemental annuity provided that this amount shall not be less than the amount computed under subsection (b) of this Section.

(4) The suspended annuity shall be reinstated at an

amount including any increases after retirement from the effective date to date of reinstatement.

(5) The effective date of the combined suspended and supplemental annuities for the purposes of increases after retirement shall be considered to be the effective date of the supplemental annuity.

(d) If a Tier 2 regular employee becomes a member or participant under any other system or fund created by this Code and is employed on a full-time basis, except for those members or participants exempted from the provisions of subsection (a) of Section 1-160 of this Code (other than a participating employee under this Article), then the person's retirement annuity shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity shall resume and be recalculated as required by this Section.

(e) If a Tier 2 regular employee first began participation on or after January 1, 2012 and is receiving a retirement annuity and accepts on a contractual basis a position to provide services to a governmental entity from which he or she has retired, then that person's annuity or retirement pension shall be suspended during that contractual service, notwithstanding the provisions of any other Section in this Article. Such annuitant shall notify the Fund, as well as his or her contractual employer, of his or her retirement status before accepting contractual employment. A person who fails to submit such notification shall be guilty of a Class A misdemeanor and required to pay a fine of $1,000. Upon termination of that contractual employment, the person's retirement annuity shall resume and be recalculated as required by this Section.

(Source: P.A. 98-389, eff. 8-16-13; 99-745, eff. 8-5-16.)

(40 ILCS 5/7-156) (from Ch. 108 1/2, par. 7-156)

Sec. 7-156. Surviving spouse annuities - amount.

(a) The amount of surviving spouse annuity shall be:

1. Upon the death of an employee annuitant or such person entitled, upon application, to a retirement annuity at date of death, (i) an amount equal to ~~1/2~~ 50% for a Tier 1 regular employee or 66 2/3% for a Tier 2 regular employee of the retirement annuity which was or would have been payable exclusive of the amount so payable which was provided from additional credits, and disregarding any election made under paragraph (b) of Section 7-142, plus (ii) an annuity which could be provided at the then attained age of the surviving spouse and under actuarial tables then in effect, from the excess of the additional credits, (excluding any such credits used to create a reversionary annuity) used to provide the annuity granted pursuant to paragraph (a) (2) of Section 7-142 of this article over the total annuity payments made pursuant thereto.

2. Upon the death of a participating employee on or after

attainment of age 55, an amount equal to ~~1/2~~ 50% for a Tier 1 regular employee or 66 2/3% for a Tier 2 regular employee of the retirement annuity which he could have had as of the date of death had he then retired and applied for annuity, exclusive of the portion thereof which could have been provided from additional credits, and disregarding paragraph (b) of Section 7-142, plus an amount equal to the annuity which could be provided from the total of his accumulated additional credits at date of death, on the basis of the attained age of the surviving spouse on such date.

3. Upon the death of a participating employee before age 55, an amount equal to ~~1/2~~ 50% for a Tier 1 regular employee or 66 2/3% for a Tier 2 regular employee of the retirement annuity which he could have had as of his attained age on the date of death, had he then retired and applied for annuity, and the provisions of this Article that no such annuity shall begin until the employee has attained at least age 55 were not applicable, exclusive of the portion thereof which could have been provided from additional credits and disregarding paragraph (b) of Section 7-142, plus an amount equal to the annuity which could be provided from the total of his accumulated additional credits at date of death, on the basis of the attained age of the surviving spouse on such date.

In the case of the surviving spouse of a person who dies before June 1, 2006 (the effective date of Public Act 94-712) ~~this amendatory Act of the 94th General Assembly~~, if the surviving spouse is more than 5 years younger than the deceased, that portion of the annuity which is not based on additional credits shall be reduced in the ratio of the value of a life annuity of $1 per year at an age of 5 years less than the attained age of the deceased, at the earlier of the date of the death or the date his retirement annuity begins, to the value of a life annuity of $1 per year at the attained age of the surviving spouse on such date, according to actuarial tables approved by the Board. This reduction does not apply to the surviving spouse of a person who dies on or after June 1, 2006 (the effective date of Public Act 94-712) ~~this amendatory Act of the 94th General Assembly~~.

In computing the amount of a surviving spouse annuity, incremental increases of retirement annuities to the date of death of the employee annuitant shall be considered.

(b) If the employee was a Tier 1 regular employee, each ~~Each~~ surviving spouse annuity payable on January 1, 1988 shall be increased on that date by 3% of the original amount of the annuity. Each surviving spouse annuity that begins after January 1, 1988 shall be increased on the January 1 next occurring after the annuity begins, by an amount equal to (i) 3% of the original amount thereof if the deceased employee was receiving a retirement annuity at the time of his death; otherwise (ii) 0.25% ~~0.167%~~ of the original amount thereof for each complete month which has elapsed since the date the annuity began.

On each January 1 after the date of the initial increase under this subsection, each surviving spouse annuity shall be increased by 3% of the originally granted amount of the annuity.

(c) If the participating employee was a Tier 2 regular employee, each surviving spouse annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity or (2) in other cases, on each January 1 occurring after the first anniversary of the commencement of the annuity. Such annual increase shall be calculated at 3% or one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, whichever is less, of the originally granted surviving spouse annuity. If the annual unadjusted percentage change in the consumer price index-u for the 12 months ending with the September preceding each November 1 is zero or there is a decrease, then the annuity shall not be increased.

(Source: P.A. 94-712, eff. 6-1-06.)

Section 90. The State Mandates Act is amended by adding Section 8.44 as follows:

(30 ILCS 805/8.44 new)

Sec. 8.44. Exempt mandate. Notwithstanding Sections 6 and 8

<u>of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 101st General Assembly.</u>

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Statutes amended in order of appearance