



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB4408

Introduced 2/3/2004, by Angelo Saviano

SYNOPSIS AS INTRODUCED:

40 ILCS 5/17-121	from Ch. 108 1/2, par. 17-121
40 ILCS 5/17-122	from Ch. 108 1/2, par. 17-122
40 ILCS 5/17-124	from Ch. 108 1/2, par. 17-124
40 ILCS 5/17-125	from Ch. 108 1/2, par. 17-125
30 ILCS 805/8.28 new	

Amends the Chicago Teachers Article of the Illinois Pension Code. Provides that attainment of age 18 does not terminate the children's pension of a child who is disabled and was dependent upon a deceased teacher at the time of his or her death. Provides that, if there is no eligible surviving spouse or eligible child of a deceased teacher, his or her parent is entitled to a survivor's pension if he or she was dependent upon the deceased teacher at the time of his or her death. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB093 14990 LRD 40559 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT in relation to 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 17-121, 17-122, 17-124, and 17-125 as follows:

6 (40 ILCS 5/17-121) (from Ch. 108 1/2, par. 17-121)

7 Sec. 17-121. Survivor's pensions - Eligibility.

8 (a) A surviving spouse of a teacher shall be entitled to a
9 survivor's pension only if the surviving spouse was married to
10 the teacher for at least one year immediately prior to the
11 teacher's death.

12 The changes made to this subsection (a) by this amendatory
13 Act of the 92nd General Assembly apply (i) only to the
14 surviving spouse of a person who dies on or after the effective
15 date of this amendatory Act, and only if the amount of any
16 refund of contributions for survivor's pension is repaid with
17 interest in accordance with subsection (f), and (ii)
18 notwithstanding Section 17-157 and without regard to whether
19 the deceased person was in service on or after the effective
20 date of this amendatory Act.

21 (b) If the surviving spouse is under age 50 and there are
22 no eligible ~~minor~~ children born to or legally adopted by the
23 contributor and his or her surviving spouse, payment of the
24 survivor's pension shall begin when the surviving spouse
25 attains age 50.

26 (c) Beginning January 1, 2003, the remarriage of a
27 surviving spouse at any age does not terminate his or her
28 survivor's pension.

29 A surviving spouse whose survivor's pension (or
30 expectation of a survivor's pension upon attainment of age 50)
31 was terminated before January 1, 2003 due to remarriage and who
32 applies for reinstatement of that pension and repays the amount

1 of any refund of contributions for survivor's pension with
2 interest in accordance with subsection (f) shall be entitled to
3 have the survivor's pension (or expectation of a survivor's
4 pension upon attainment of age 50) reinstated. The reinstated
5 pension shall begin to accrue on the first day of the month
6 following the month in which the application and repayment, if
7 any, are received by the Fund, but in no event sooner than
8 January 1, 2003 and, if subsection (b) applies, no sooner than
9 upon attainment of age 50. The reinstated pension shall include
10 any one-time or annual increases in the survivor's pension
11 received prior to the date of termination, but not any
12 increases that would otherwise have accrued from the date of
13 termination to the date of reinstatement.

14 This subsection (c) applies notwithstanding Section 17-157
15 and without regard to whether the deceased teacher was in
16 service on or after the effective date of this amendatory Act
17 of the 92nd General Assembly.

18 (d) Except as provided in subsection (c), remarriage of the
19 surviving spouse prior to September 1, 1983 while in receipt of
20 a survivor's pension shall permanently terminate payment
21 thereof, regardless of any subsequent change in marital status;
22 however, beginning September 1, 1983, remarriage of a surviving
23 spouse after attainment of age 55 shall not terminate the
24 survivor's pension.

25 A surviving spouse whose pension was terminated on or after
26 September 1, 1983 due to remarriage after attainment of age 55,
27 and who applies for reinstatement of that pension before
28 January 1, 1990, shall be entitled to have the pension
29 reinstated effective January 1, 1990.

30 (e) A surviving spouse of a member or annuitant under this
31 Fund who is also a dependent beneficiary under the provisions
32 of Section 16-140 is eligible for a reciprocal survivor's
33 pension, provided that any refund of survivor's pension
34 contributions is repaid to the Fund and application is made
35 within 30 days after the effective date of this amendatory Act
36 of the 92nd General Assembly.

1 (f) If a refund of contributions for survivor's pension has
2 been paid, a person choosing to establish or reestablish the
3 right to receive a survivor's pension pursuant to the changes
4 made to this Section by this amendatory Act of the 92nd General
5 Assembly must first repay to the Fund the amount of the refund
6 of contributions for survivor's pension, together with
7 interest thereon at the rate of 5% per year, compounded
8 annually, from the date of the refund to the date of repayment.

9 (Source: P.A. 92-416, eff. 8-17-01; 92-599, eff. 6-28-02.)

10 (40 ILCS 5/17-122) (from Ch. 108 1/2, par. 17-122)

11 Sec. 17-122. Survivor's and children's pensions - Amount.
12 Upon the death of a teacher who has completed at least 1 1/2
13 years of contributing service with either this Fund or the
14 State Universities Retirement System or the Teachers'
15 Retirement System of the State of Illinois, provided his death
16 occurred while (a) in active service covered by the Fund or
17 during his first 18 months of continuous employment without a
18 break in service under any other participating system as
19 defined in the Illinois Retirement Systems Reciprocal Act
20 except the State Universities Retirement System and the
21 Teachers' Retirement System of the State of Illinois, (b) on a
22 creditable leave of absence, (c) on a noncreditable leave of
23 absence of no more than one year, or (d) a pension was deferred
24 or pending provided the teacher had at least 10 years of
25 validated service credit, or upon the death of a pensioner
26 otherwise qualified for such benefit, the surviving spouse,
27 eligible and unmarried minor children of the deceased teacher
28 under age 18, and dependent parents of the deceased teacher
29 shall be entitled to pensions, under the conditions stated
30 hereinafter. Such ~~survivor's and children's~~ pensions shall be
31 based on the average of the 4 highest consecutive years of
32 salary in the last 10 years of service or on the average salary
33 for total service, if total service has been less than 4 years,
34 according to the following percentages:

35 30% of average salary or 50% of the retirement pension

1 earned by the teacher, whichever is larger, subject to the
2 prescribed maximum monthly payment, for a surviving spouse
3 alone on attainment of age 50;

4 60% of average salary for a surviving spouse and eligible
5 ~~minor~~ children of the deceased teacher.

6 If no eligible spouse survives, or the surviving spouse
7 remarries, or the parent of the children of the deceased member
8 is otherwise ineligible for a survivor's pension, a children's
9 pension for eligible ~~minor~~ children ~~under age 18~~ shall be paid
10 to their parent or legal guardian for their benefit according
11 to the following percentages:

12 30% of average salary for one child;

13 60% of average salary for 2 or more children.

14 A disabled child who was dependent upon a deceased teacher
15 at the time of his or her death whose children's pension was
16 terminated due to attainment of age 18 may apply to the Fund
17 for reinstatement of that pension. An application for
18 reinstatement shall be accompanied by the payment of an amount
19 equal to (1) the amount of any refund received by the deceased
20 teacher under Section 17-125 and (2) interest thereon from the
21 date of the payment of the refund to the date of application
22 for reinstatement at the rate of 5% per year. The reinstated
23 pension shall begin to accrue on the first day of the month
24 following the month the application is received by the Fund,
25 but in no event sooner than January 1, 2005. However, if the
26 pension is payable to anyone else, the pension shall not be
27 reinstated until the pension is no longer payable to any
28 eligible surviving spouse or other eligible children. A
29 reinstated annuity shall include any one-time or annual
30 increases received prior to the date of termination, as well as
31 any increases that would otherwise have accrued from the date
32 of termination to the date of reinstatement.

33 The changes made to this Section by this amendatory Act of
34 the 93rd General Assembly pertaining to reinstatement of a
35 children's pension apply notwithstanding Section 17-157 and
36 without regard to whether the deceased teacher was in service

1 on or after the effective date of this amendatory Act.

2 If there is no eligible spouse and no eligible child, then
3 a pension shall be paid to the eligible parents of the deceased
4 teacher, if any, according to the following percentages:

5 30% of average salary for one eligible parent;

6 60% of average salary for 2 eligible parents.

7 On January 1, 1981, any survivor or child who was receiving
8 a survivor's or children's pension on or before January 1,
9 1971, shall have his survivor's or children's pension then
10 being paid increased by 1% for each full year which has elapsed
11 from the date the pension began. On January 1, 1982, any
12 survivor or child whose pension began after January 1, 1971,
13 but before January 1, 1981, shall have his survivor's or
14 children's pension then being paid increased 1% for each full
15 year which has elapsed from the date the pension began. On
16 January 1, 1987, any survivor or child whose pension began on
17 or before January 1, 1977, shall have the monthly survivor's or
18 children's pension increased by \$1 for each full year which has
19 elapsed since the pension began.

20 Beginning January 1, 1990, every survivor's and children's
21 pension shall be increased (1) on each January 1 occurring on
22 or after the commencement of the pension if the deceased
23 teacher died while receiving a retirement pension, or (2) in
24 other cases, on each January 1 occurring on or after the first
25 anniversary of the commencement of the pension, by an amount
26 equal to 3% of the current amount of the pension, including all
27 increases previously granted under this Article,
28 notwithstanding Section 17-157. Such increases shall apply
29 without regard to whether the deceased teacher was in service
30 on or after the effective date of this amendatory Act of 1991,
31 but shall not accrue for any period prior to January 1, 1990.

32 Subject to the minimum established below, the maximum
33 amount of pension for a surviving spouse alone or one minor
34 child shall be \$400 per month, and the maximum combined
35 pensions for a surviving spouse and children of the deceased
36 teacher shall be \$600 per month, with individual pensions

1 adjusted for all beneficiaries pro rata to conform with this
2 limitation. If proration is unnecessary the minimum survivor's
3 and children's pensions shall be \$40 per month. The minimum
4 total survivor's and children's pension payable upon the death
5 of a contributor or annuitant which occurs after December 31,
6 1986, shall be 50% of the earned retirement pension of such
7 contributor or annuitant, calculated without early retirement
8 discount in the case of death in service.

9 On death after retirement, the total survivor's and
10 children's pensions shall not exceed the monthly retirement or
11 disability pension paid to the deceased retirant. Survivor's
12 and children's benefits described in this Section shall apply
13 to all service and disability pensioners eligible for a pension
14 as of July 1, 1981.

15 For the purposes of this Section, the term "eligible child"
16 means an unmarried minor child of a deceased teacher who is
17 under 18 years of age or a child of a deceased teacher who is
18 disabled and was dependent upon the deceased teacher at the
19 time of his or her death.

20 For the purposes of this Section, the term "eligible
21 parent" means a parent of a deceased teacher who was dependent
22 upon the teacher at the time of his or her death.

23 In this Article, the term "survivor's and children's
24 benefits" includes benefits paid to an eligible parent and the
25 term "survivor's and children's pension" includes a pension
26 paid to an eligible parent, unless the context requires
27 otherwise.

28 (Source: P.A. 90-32, eff. 6-27-97; 90-566, eff. 1-2-98.)

29 (40 ILCS 5/17-124) (from Ch. 108 1/2, par. 17-124)

30 Sec. 17-124. Death Benefits - Death on pension. On written
31 application to the Board, there shall be paid to the estate of
32 a deceased teacher-pensioner pension payments, accrued,
33 temporarily withheld or represented by checks uncashed at the
34 date of his death and the excess, if any, of an amount equal to
35 his refundable contributions for service or disability

1 retirement pension over pension to the date of death; provided,
2 that if there be filed with the Board prior to the death of the
3 pensioner his written direction, signed and acknowledged
4 before an officer authorized to take acknowledgments, that such
5 payments be paid to designated beneficiaries, they shall be so
6 paid on written application therefor to the Board. If none of
7 several named beneficiaries survives the pensioner and no
8 directive was furnished by the member to cover this
9 contingency, the deceased beneficiary's share shall be paid to
10 the estate of the pensioner.

11 If a reversionary pension is payable upon death of a
12 pensioner, the determination and payment of any refund of
13 contributions payable under this Section shall be made upon
14 death of the reversionary pensioner. At such time a refund of
15 contributions less (1) the amount contributed for annual
16 increases in pension and (2) total pension payments to the
17 teacher-pensioner and survivor shall be paid in the manner
18 provided in this Section to the designated beneficiaries, or
19 estate of the deceased survivor.

20 If a pension is payable to a surviving spouse, eligible
21 child, or an eligible parent ~~and/or minor children~~ upon death
22 of a pensioner, the determination of any refund of
23 contributions payable under this Section shall be made when the
24 last of those pensions is no longer payable ~~upon death of the~~
25 ~~survivor and marriage or attainment of age 18 of minor~~
26 ~~children~~. At that time a refund of contributions for retirement
27 and survivors' and children's pensions less total pension
28 payments to the teacher-pensioner, surviving spouse, eligible
29 ~~survivor and minor~~ children, and eligible parents shall be paid
30 in the manner provided in this Section to the designated
31 beneficiaries, or estate of the deceased survivor.

32 If eligible beneficiaries for survivors' or children's
33 benefits existed at the time of a pensioner's retirement but
34 not on the date of his death thereafter, the excess of total
35 contributions for retirement and survivors' and children's
36 pensions over pensions paid shall be determined upon death of

1 the pensioner and paid in the manner provided in this Section
2 to the designated beneficiaries, or estate of the deceased
3 teacher-pensioner.

4 Reversionary or survivor's pension payments accrued,
5 temporarily withheld, or represented by uncashed checks to the
6 date of death shall be paid to the reversionary pensioner's or
7 survivor's designated beneficiaries, or estate in the manner
8 provided in this Section.

9 On death of a retired teacher whose death occurs on or
10 after the effective date of this amendatory Act of 1991, there
11 shall be payable a lump sum death benefit equal to 6 times the
12 teacher's salary rate for his last month of service or \$10,000,
13 whichever is less, upon death during the first year on pension
14 minus 1/5 of the death benefit, as defined herein, for each
15 year or fraction thereof on pension after the first full year,
16 to a minimum of \$5,000.

17 Notwithstanding Section 17-157, the changes made in this
18 Section and Section 17-123 by this amendatory Act of 1991 shall
19 apply to teachers dying on or after the effective date of this
20 amendatory Act of 1991 without regard to whether service
21 terminated prior to that date.

22 (Source: P.A. 90-566, eff. 1-2-98.)

23 (40 ILCS 5/17-125) (from Ch. 108 1/2, par. 17-125)

24 Sec. 17-125. Refund of contributions. Upon certification
25 by the Employer of his resignation or cancellation of his
26 teaching certificate prior to completion of the minimum term of
27 service required to establish eligibility for a pension and on
28 written application therefor, a teacher shall be paid a refund
29 of all the amounts he has contributed to the Fund, less any
30 former refund that has not been repaid.

31 Upon certification by the Employer of his resignation or
32 cancellation of his teaching certificate after completion of
33 the minimum term of service required to establish eligibility
34 for a pension and on written application therefor, a teacher
35 shall be paid a refund of all the amounts he has contributed,

1 less (1) any former refund that has not been repaid, and (2)
2 pension payments received, provided he has executed and
3 delivered to the Board his written receipt and release in that
4 behalf. Thereupon, he shall have no further interest in or
5 claim against the Fund.

6 A request for refund under either of the preceding
7 paragraphs shall be considered valid if withdrawal from service
8 occurred at least 2 months prior to the filing of such request.

9 Upon retirement of a teacher either on immediate or
10 deferred pension, if the teacher is not then married, or if his
11 spouse, ~~or~~ children, or parents do not meet the qualifying
12 conditions for survivor's or children's pensions, the total
13 amount contributed by him or otherwise paid by deductions from
14 salary for survivor's pension, shall be refunded to him,
15 without interest. No survivor's or children's pension rights
16 shall be effective thereafter in such a case.

17 During a teacher's term of service, no refund is payable
18 except contributions made in error.

19 (Source: P.A. 90-566, eff. 1-2-98.)

20 Section 90. The State Mandates Act is amended by adding
21 Section 8.28 as follows:

22 (30 ILCS 805/8.28 new)

23 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8
24 of this Act, no reimbursement by the State is required for the
25 implementation of any mandate created by this amendatory Act of
26 the 93rd General Assembly.

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.