



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB0038**

Introduced 1/26/2005, by Sen. James A. DeLeo

**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 805/8.29 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.

LRB094 03439 LRD 33442 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  
19 the surviving spouse prior to September 1, 1983 while in  
20 receipt of a survivor's pension shall permanently terminate  
21 payment thereof, regardless of any subsequent change in marital  
22 status; however, beginning September 1, 1983, remarriage of a  
23 surviving spouse after attainment of age 55 shall not terminate  
24 the 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  
2 has been paid, a person choosing to establish or reestablish  
3 the right to receive a survivor's pension pursuant to the  
4 changes made to this Section by this amendatory Act of the 92nd  
5 General Assembly must first repay to the Fund the amount of the  
6 refund 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, 2006. 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 94th 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 8.29 as follows:

22 (30 ILCS 805/8.29 new)

23 Sec. 8.29. 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 94th General Assembly.

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