

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing  
5 Section 16-140 as follows:

6 (40 ILCS 5/16-140) (from Ch. 108 1/2, par. 16-140)

7 Sec. 16-140. Survivors' benefits - definitions.

8 (a) For the purpose of Sections 16-138 through 16-143.2,  
9 the following terms shall have the following meanings, unless  
10 the context otherwise requires:

11 (1) "Average salary": the average salary for the  
12 highest 4 consecutive years within the last 10 years of  
13 creditable service immediately preceding date of death or  
14 retirement, whichever is applicable, or the average salary  
15 for the total creditable service if service is less than 4  
16 years.

17 (2) "Member": any teacher included in the membership of  
18 the system. However, a teacher who becomes an annuitant of  
19 the system or a teacher whose services terminate after 20  
20 years of service from any cause other than retirement is  
21 considered a member, subject to the conditions and  
22 limitations stated in this Article.

23 (3) "Dependent beneficiary": (A) a surviving spouse of

1 a member or annuitant who was married to the member or  
2 annuitant for the 12 month period immediately preceding and  
3 on the date of death of such member or annuitant, except  
4 where a child is born of such marriage, in which case the  
5 qualifying period shall not be applicable; (A-1) a  
6 surviving spouse of a member or annuitant who (i) was  
7 married to the member or annuitant on the date of the  
8 member or annuitant's death, (ii) was married to the member  
9 or annuitant for a period of at least 12 months (but not  
10 necessarily the 12 months immediately preceding the member  
11 or annuitant's death), and (iii) has not received a benefit  
12 under subsection (a) of Section 16-141 or paragraph (1) of  
13 Section 16-142; (B) an eligible child of a member or  
14 annuitant; and (C) a dependent parent.

15 Unless otherwise designated by the member, eligibility  
16 for benefits shall be in the order named, except that a  
17 dependent parent shall be eligible only if there is no  
18 other dependent beneficiary. Any benefit to be received by  
19 or paid to a dependent beneficiary to be determined under  
20 this paragraph as provided in Sections 16-141 and 16-142  
21 may be received by or paid to a trust established for such  
22 dependent beneficiary if such dependent beneficiary is  
23 living at the time such benefit would be received by or  
24 paid to such trust.

25 (4) "Eligible child": an unmarried natural or adopted  
26 child of the member or annuitant under age 18 (age 22 if a

1 full-time student). An unmarried natural or adopted child,  
2 regardless of age, who is dependent by reason of a physical  
3 or mental disability, ~~except any such child receiving~~  
4 ~~benefits under Article III of the Illinois Public Aid Code,~~  
5 is eligible for so long as such physical or mental  
6 disability continues. An adopted child, however, is  
7 eligible only if the proceedings for adoption were  
8 finalized while the child was a minor.

9 For purposes of this subsection, "disability" means an  
10 inability to engage in any substantial gainful activity by  
11 reason of any medically determinable physical or mental  
12 impairment which can be expected to result in death or  
13 which has lasted or can be expected to last for a  
14 continuous period of not less than 12 months.

15 The changes made to this Section by Public Act 90-448,  
16 relating to benefits for certain unmarried children who are  
17 full-time students under age 22, apply without regard to  
18 whether the deceased member was in service on or after the  
19 effective date of that Act. These changes do not authorize  
20 the repayment of a refund or a re-election of benefits, and  
21 any benefit or increase in benefits resulting from these  
22 changes is not payable retroactively for any period before  
23 the effective date of that Act.

24 (5) "Dependent parent": a parent who was receiving at  
25 least 1/2 of his or her support from a member or annuitant  
26 for the 12-month period immediately preceding and on the

1 date of such member's or annuitant's death, provided  
2 however, that such dependent status terminates upon a  
3 member's acceptance of a refund for survivor benefit  
4 contributions as provided under Section 16-142.

5 (6) "Non-dependent beneficiary": any person,  
6 organization or other entity designated by the member who  
7 does not qualify as a dependent beneficiary.

8 (7) "In service": the condition of a member being in  
9 receipt of salary as a teacher at any time within 12 months  
10 immediately before his or her death, being on leave of  
11 absence for which the member, upon return to teaching,  
12 would be eligible to purchase service credit under  
13 subsection (b) (5) of Section 16-127, or being in receipt of  
14 a disability or occupational disability benefit. This term  
15 does not include any annuitant or member who previously  
16 accepted a refund of survivor benefit contributions under  
17 paragraph (1) of Section 16-142 unless the conditions  
18 specified in subsection (b) of Section 16-143.2 are met.

19 (b) The change to this Section made by Public Act 90-511  
20 applies without regard to whether the deceased member or  
21 annuitant was in service on or after the effective date of that  
22 Act.

23 The change to this Section made by this amendatory Act of  
24 the 91st General Assembly applies without regard to whether the  
25 deceased member or annuitant was in service on or after the  
26 effective date of this amendatory Act.

1 (Source: P.A. 90-448, eff. 8-16-97; 90-511, eff. 8-22-97;  
2 90-655, eff. 7-30-98; 91-887, eff. 7-6-00.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.