



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5966

by Rep. Robert S. Molaro

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/18-123  
40 ILCS 5/18-169

from Ch. 108 1/2, par. 18-123

Amends the Judges Article of the Illinois Pension Code. Provides that a married participant who elected not to participate in the survivor's annuity provisions may elect to participate therein by filing with the Board before July 1, 2009 a written recision of the election not to participate. Includes language exempting any benefit increase as a result from the new benefit increase provisions. Effective immediately.

LRB095 19221 AMC 45478 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing  
5 Sections 18-123 and 18-169 as follows:

6 (40 ILCS 5/18-123) (from Ch. 108 1/2, par. 18-123)

7 Sec. 18-123. Participation in survivor's annuity. A  
8 participant in active service as a judge after July 26, 1949,  
9 is eligible to participate in the survivor's annuity provided  
10 under this Article. A married participant who was in service on  
11 July 27, 1949 is subject to the provisions relating to  
12 survivor's annuities unless he or she filed with the Board  
13 written notice not to participate in such annuity within 30  
14 days of that date.

15 A married judge who becomes a participant after July 27,  
16 1949, an unmarried judge who becomes a participant after  
17 December 31, 1992, and a judge who marries after becoming a  
18 participant shall be subject to the provisions relating to  
19 survivor's annuities unless he or she files with the Board  
20 written notice of his or her election not to participate in the  
21 survivor's annuity within 30 days of the date of being notified  
22 of the option by the System. Once the election period has  
23 expired, a judge may not withdraw from participation under this

1 Section except as provided in Section 18-129.

2 A person who became a participant before January 1, 1997  
3 and who is not contributing for survivor's annuity may elect to  
4 make contributions for survivor's annuity by filing written  
5 notice of the election with the Board no later than April 1,  
6 1998. Such an election may not be rescinded. A person who has  
7 so elected shall be entitled only to partial credit for  
8 survivor's annuity under subsection (g) of Section 18-129  
9 unless all of the payments required under subsection (f) of  
10 that Section have been made.

11 A married participant who elects not to participate in the  
12 survivor's annuity provisions shall thereafter be ineligible  
13 to participate in the survivor's annuity unless the election is  
14 rescinded as provided herein.

15 A married participant who elected not to participate in the  
16 survivor's annuity provisions ~~and who is still a judge,~~ may  
17 elect to participate therein by filing with the Board before  
18 July 1, 2009 ~~April 1, 1998~~ a written recision of the election  
19 not to participate. The participant and his or her spouse shall  
20 be entitled to all the rights of the survivor's annuity, except  
21 as limited in Section 18-129, upon paying the System for the  
22 survivor's annuity 1 1/2% of each payment of salary earned  
23 between July 27, 1949 and July 12, 1953, and 2 1/2% of each  
24 payment of salary earned after July 12, 1953, together with  
25 interest at 4% per annum, compounded annually from the date the  
26 contributions would have been due to the date of payment. The

1 time and manner of paying the required contributions and  
2 interest shall be prescribed by the Board.

3 (Source: P.A. 90-507, eff. 8-22-97.)

4 (40 ILCS 5/18-169)

5 Sec. 18-169. Application and expiration of new benefit  
6 increases.

7 (a) As used in this Section, "new benefit increase" means  
8 an increase in the amount of any benefit provided under this  
9 Article, or an expansion of the conditions of eligibility for  
10 any benefit under this Article, that results from an amendment  
11 to this Code that takes effect after June 1, 2005 (the  
12 effective date of Public Act 94-4) ~~this amendatory Act of the~~  
13 ~~94th General Assembly~~. "New benefit increase", however, does  
14 not include any benefit increase resulting from the changes  
15 made by this amendatory Act of the 95th General Assembly.

16 (b) Notwithstanding any other provision of this Code or any  
17 subsequent amendment to this Code, every new benefit increase  
18 is subject to this Section and shall be deemed to be granted  
19 only in conformance with and contingent upon compliance with  
20 the provisions of this Section.

21 (c) The Public Act enacting a new benefit increase must  
22 identify and provide for payment to the System of additional  
23 funding at least sufficient to fund the resulting annual  
24 increase in cost to the System as it accrues.

25 Every new benefit increase is contingent upon the General

1 Assembly providing the additional funding required under this  
2 subsection. The Commission on Government Forecasting and  
3 Accountability shall analyze whether adequate additional  
4 funding has been provided for the new benefit increase and  
5 shall report its analysis to the Public Pension Division of the  
6 Department of Financial and Professional Regulation. A new  
7 benefit increase created by a Public Act that does not include  
8 the additional funding required under this subsection is null  
9 and void. If the Public Pension Division determines that the  
10 additional funding provided for a new benefit increase under  
11 this subsection is or has become inadequate, it may so certify  
12 to the Governor and the State Comptroller and, in the absence  
13 of corrective action by the General Assembly, the new benefit  
14 increase shall expire at the end of the fiscal year in which  
15 the certification is made.

16 (d) Every new benefit increase shall expire 5 years after  
17 its effective date or on such earlier date as may be specified  
18 in the language enacting the new benefit increase or provided  
19 under subsection (c). This does not prevent the General  
20 Assembly from extending or re-creating a new benefit increase  
21 by law.

22 (e) Except as otherwise provided in the language creating  
23 the new benefit increase, a new benefit increase that expires  
24 under this Section continues to apply to persons who applied  
25 and qualified for the affected benefit while the new benefit  
26 increase was in effect and to the affected beneficiaries and

1 alternate payees of such persons, but does not apply to any  
2 other person, including without limitation a person who  
3 continues in service after the expiration date and did not  
4 apply and qualify for the affected benefit while the new  
5 benefit increase was in effect.

6 (Source: P.A. 94-4, eff. 6-1-05.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.