



Sen. Kwame Raoul

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1 AMENDMENT TO HOUSE BILL 3813

2 AMENDMENT NO. _____. Amend House Bill 3813 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 1-114, 1-135, 3-110, 4-108, 5-214, 6-209,
6 8-226, 8-233, 9-219, 11-215, 11-217, 15-107, 16-106, and 17-134
7 as follows:

8 (40 ILCS 5/1-114) (from Ch. 108 1/2, par. 1-114)

9 Sec. 1-114. Liability for Breach of Fiduciary Duty. (a) Any
10 person who is a fiduciary with respect to a retirement system
11 or pension fund established under this Code who breaches any
12 duty imposed upon fiduciaries by this Code, including, but not
13 limited to, a failure to report a reasonable suspicion of a
14 false statement specified in Section 1-135 of this Code, shall
15 be personally liable to make good to such retirement system or
16 pension fund any losses to it resulting from each such breach,

1 and to restore to such retirement system or pension fund any
2 profits of such fiduciary which have been made through use of
3 assets of the retirement system or pension fund by the
4 fiduciary, and shall be subject to such equitable or remedial
5 relief as the court may deem appropriate, including the removal
6 of such fiduciary.

7 (b) No person shall be liable with respect to a breach of
8 fiduciary duty under this Code if such breach occurred before
9 such person became a fiduciary or after such person ceased to
10 be a fiduciary.

11 (Source: P.A. 82-960.)

12 (40 ILCS 5/1-135)

13 Sec. 1-135. Fraud. Any person who knowingly makes any false
14 statement or falsifies or permits to be falsified any record of
15 a retirement system or pension fund created under this Code or
16 the Illinois State Board of Investment in an attempt to defraud
17 the retirement system or pension fund created under this Code
18 or the Illinois State Board of Investment is guilty of a Class
19 3 felony. Any reasonable suspicion by any appointed or elected
20 commissioner, trustee, director, or board member of a
21 retirement system or pension fund created under this Code or
22 the State Board of Investment of a false statement or falsified
23 record being submitted or permitted by a person under this Code
24 shall be immediately referred to the board of trustees of the
25 applicable retirement system or pension fund created under this

1 Code, the State Board of Investment, or the State's Attorney of
2 the jurisdiction where the alleged fraudulent activity
3 occurred. The board of trustees of a retirement system or
4 pension fund created under this Code or the State Board of
5 Investment shall immediately notify the State's Attorney of the
6 jurisdiction where any alleged fraudulent activity occurred
7 for investigation. For the purposes of this Section,
8 "reasonable suspicion" means a belief, based upon specific and
9 articulable facts, taken together with rational inferences
10 from those facts, that would lead a reasonable person to
11 believe that fraud has been, or will be, committed. A
12 reasonable suspicion is more than a non-particularized
13 suspicion. A mere inconsistency, standing alone, does not give
14 rise to a reasonable suspicion.

15 (Source: P.A. 96-6, eff. 4-3-09.)

16 (40 ILCS 5/3-110) (from Ch. 108 1/2, par. 3-110)

17 Sec. 3-110. Creditable service.

18 (a) "Creditable service" is the time served by a police
19 officer as a member of a regularly constituted police force of
20 a municipality. In computing creditable service furloughs
21 without pay exceeding 30 days shall not be counted, but all
22 leaves of absence for illness or accident, regardless of
23 length, and all periods of disability retirement for which a
24 police officer has received no disability pension payments
25 under this Article shall be counted.

1 (a-5) Up to 3 years of time during which the police officer
2 receives a disability pension under Section 3-114.1, 3-114.2,
3 3-114.3, or 3-114.6 shall be counted as creditable service,
4 provided that (i) the police officer returns to active service
5 after the disability for a period at least equal to the period
6 for which credit is to be established and (ii) the police
7 officer makes contributions to the fund based on the rates
8 specified in Section 3-125.1 and the salary upon which the
9 disability pension is based. These contributions may be paid at
10 any time prior to the commencement of a retirement pension. The
11 police officer may, but need not, elect to have the
12 contributions deducted from the disability pension or to pay
13 them in installments on a schedule approved by the board. If
14 not deducted from the disability pension, the contributions
15 shall include interest at the rate of 6% per year, compounded
16 annually, from the date for which service credit is being
17 established to the date of payment. If contributions are paid
18 under this subsection (a-5) in excess of those needed to
19 establish the credit, the excess shall be refunded. This
20 subsection (a-5) applies to persons receiving a disability
21 pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 on
22 the effective date of this amendatory Act of the 91st General
23 Assembly, as well as persons who begin to receive such a
24 disability pension after that date.

25 (b) Creditable service includes all periods of service in
26 the military, naval or air forces of the United States entered

1 upon while an active police officer of a municipality, provided
2 that upon applying for a permanent pension, and in accordance
3 with the rules of the board, the police officer pays into the
4 fund the amount the officer would have contributed if he or she
5 had been a regular contributor during such period, to the
6 extent that the municipality which the police officer served
7 has not made such contributions in the officer's behalf. The
8 total amount of such creditable service shall not exceed 5
9 years, except that any police officer who on July 1, 1973 had
10 more than 5 years of such creditable service shall receive the
11 total amount thereof.

12 (b-5) Creditable service includes all periods of service in
13 the military, naval, or air forces of the United States entered
14 upon before beginning service as an active police officer of a
15 municipality, provided that, in accordance with the rules of
16 the board, the police officer pays into the fund the amount the
17 police officer would have contributed if he or she had been a
18 regular contributor during such period, plus an amount
19 determined by the Board to be equal to the municipality's
20 normal cost of the benefit, plus interest at the actuarially
21 assumed rate calculated from the date the employee last became
22 a police officer under this Article. The total amount of such
23 creditable service shall not exceed 2 years.

24 (c) Creditable service also includes service rendered by a
25 police officer while on leave of absence from a police
26 department to serve as an executive of an organization whose

1 membership consists of members of a police department, subject
2 to the following conditions: (i) the police officer is a
3 participant of a fund established under this Article with at
4 least 10 years of service as a police officer; (ii) the police
5 officer received no credit for such service under any other
6 retirement system, pension fund, or annuity and benefit fund
7 included in this Code; (iii) pursuant to the rules of the board
8 the police officer pays to the fund the amount he or she would
9 have contributed had the officer been an active member of the
10 police department; ~~and~~ (iv) the organization pays a
11 contribution equal to the municipality's normal cost for that
12 period of service; and (v) for all leaves of absence under this
13 subsection (c), including those beginning before the effective
14 date of this amendatory Act of the 97th General Assembly, the
15 police officer continues to remain in sworn status, subject to
16 the professional standards of the public employer or those
17 terms established in statute.

18 (d) (1) Creditable service also includes periods of
19 service originally established in another police pension
20 fund under this Article or in the Fund established under
21 Article 7 of this Code for which (i) the contributions have
22 been transferred under Section 3-110.7 or Section 7-139.9
23 and (ii) any additional contribution required under
24 paragraph (2) of this subsection has been paid in full in
25 accordance with the requirements of this subsection (d).

26 (2) If the board of the pension fund to which

1 creditable service and related contributions are
2 transferred under Section 7-139.9 determines that the
3 amount transferred is less than the true cost to the
4 pension fund of allowing that creditable service to be
5 established, then in order to establish that creditable
6 service the police officer must pay to the pension fund,
7 within the payment period specified in paragraph (3) of
8 this subsection, an additional contribution equal to the
9 difference, as determined by the board in accordance with
10 the rules and procedures adopted under paragraph (6) of
11 this subsection. If the board of the pension fund to which
12 creditable service and related contributions are
13 transferred under Section 3-110.7 determines that the
14 amount transferred is less than the true cost to the
15 pension fund of allowing that creditable service to be
16 established, then the police officer may elect (A) to
17 establish that creditable service by paying to the pension
18 fund, within the payment period specified in paragraph (3)
19 of this subsection (d), an additional contribution equal to
20 the difference, as determined by the board in accordance
21 with the rules and procedures adopted under paragraph (6)
22 of this subsection (d) or (B) to have his or her creditable
23 service reduced by an amount equal to the difference
24 between the amount transferred under Section 3-110.7 and
25 the true cost to the pension fund of allowing that
26 creditable service to be established, as determined by the

1 board in accordance with the rules and procedures adopted
2 under paragraph (6) of this subsection (d).

3 (3) Except as provided in paragraph (4), the additional
4 contribution that is required or elected under paragraph
5 (2) of this subsection (d) must be paid to the board (i)
6 within 5 years from the date of the transfer of
7 contributions under Section 3-110.7 or 7-139.9 and (ii)
8 before the police officer terminates service with the fund.
9 The additional contribution may be paid in a lump sum or in
10 accordance with a schedule of installment payments
11 authorized by the board.

12 (4) If the police officer dies in service before
13 payment in full has been made and before the expiration of
14 the 5-year payment period, the surviving spouse of the
15 officer may elect to pay the unpaid amount on the officer's
16 behalf within 6 months after the date of death, in which
17 case the creditable service shall be granted as though the
18 deceased police officer had paid the remaining balance on
19 the day before the date of death.

20 (5) If the additional contribution that is required or
21 elected under paragraph (2) of this subsection (d) is not
22 paid in full within the required time, the creditable
23 service shall not be granted and the police officer (or the
24 officer's surviving spouse or estate) shall be entitled to
25 receive a refund of (i) any partial payment of the
26 additional contribution that has been made by the police

1 officer and (ii) those portions of the amounts transferred
2 under subdivision (a)(1) of Section 3-110.7 or
3 subdivisions (a)(1) and (a)(3) of Section 7-139.9 that
4 represent employee contributions paid by the police
5 officer (but not the accumulated interest on those
6 contributions) and interest paid by the police officer to
7 the prior pension fund in order to reinstate service
8 terminated by acceptance of a refund.

9 At the time of paying a refund under this item (5), the
10 pension fund shall also repay to the pension fund from
11 which the contributions were transferred under Section
12 3-110.7 or 7-139.9 the amount originally transferred under
13 subdivision (a)(2) of that Section, plus interest at the
14 rate of 6% per year, compounded annually, from the date of
15 the original transfer to the date of repayment. Amounts
16 repaid to the Article 7 fund under this provision shall be
17 credited to the appropriate municipality.

18 Transferred credit that is not granted due to failure
19 to pay the additional contribution within the required time
20 is lost; it may not be transferred to another pension fund
21 and may not be reinstated in the pension fund from which it
22 was transferred.

23 (6) The Public Employee Pension Fund Division of the
24 Department of Insurance shall establish by rule the manner
25 of making the calculation required under paragraph (2) of
26 this subsection, taking into account the appropriate

1 actuarial assumptions; the police officer's service, age,
2 and salary history; the level of funding of the pension
3 fund to which the credits are being transferred; and any
4 other factors that the Division determines to be relevant.
5 The rules may require that all calculations made under
6 paragraph (2) be reported to the Division by the board
7 performing the calculation, together with documentation of
8 the creditable service to be transferred, the amounts of
9 contributions and interest to be transferred, the manner in
10 which the calculation was performed, the numbers relied
11 upon in making the calculation, the results of the
12 calculation, and any other information the Division may
13 deem useful.

14 (e) (1) Creditable service also includes periods of
15 service originally established in the Fund established
16 under Article 7 of this Code for which the contributions
17 have been transferred under Section 7-139.11.

18 (2) If the board of the pension fund to which
19 creditable service and related contributions are
20 transferred under Section 7-139.11 determines that the
21 amount transferred is less than the true cost to the
22 pension fund of allowing that creditable service to be
23 established, then the amount of creditable service the
24 police officer may establish under this subsection (e)
25 shall be reduced by an amount equal to the difference, as
26 determined by the board in accordance with the rules and

1 procedures adopted under paragraph (3) of this subsection.

2 (3) The Public Pension Division of the Department of
3 Financial and Professional Regulation shall establish by
4 rule the manner of making the calculation required under
5 paragraph (2) of this subsection, taking into account the
6 appropriate actuarial assumptions; the police officer's
7 service, age, and salary history; the level of funding of
8 the pension fund to which the credits are being
9 transferred; and any other factors that the Division
10 determines to be relevant. The rules may require that all
11 calculations made under paragraph (2) be reported to the
12 Division by the board performing the calculation, together
13 with documentation of the creditable service to be
14 transferred, the amounts of contributions and interest to
15 be transferred, the manner in which the calculation was
16 performed, the numbers relied upon in making the
17 calculation, the results of the calculation, and any other
18 information the Division may deem useful.

19 (4) Until January 1, 2010, a police officer who
20 transferred service from the Fund established under
21 Article 7 of this Code under the provisions of Public Act
22 94-356 may establish additional credit, but only for the
23 amount of the service credit reduction in that transfer, as
24 calculated under paragraph (3) of this subsection (e). This
25 credit may be established upon payment by the police
26 officer of an amount to be determined by the board, equal

1 to (1) the amount that would have been contributed as
2 employee and employer contributions had all of the service
3 been as an employee under this Article, plus interest
4 thereon at the rate of 6% per year, compounded annually
5 from the date of service to the date of transfer, less (2)
6 the total amount transferred from the Article 7 Fund, plus
7 (3) interest on the difference at the rate of 6% per year,
8 compounded annually, from the date of the transfer to the
9 date of payment. The additional service credit is allowed
10 under this amendatory Act of the 95th General Assembly
11 notwithstanding the provisions of Article 7 terminating
12 all transferred credits on the date of transfer.

13 (Source: P.A. 95-812, eff. 8-13-08; 96-297, eff. 8-11-09;
14 96-1260, eff. 7-23-10.)

15 (40 ILCS 5/4-108) (from Ch. 108 1/2, par. 4-108)

16 Sec. 4-108. Creditable service.

17 (a) Creditable service is the time served as a firefighter
18 of a municipality. In computing creditable service, furloughs
19 and leaves of absence without pay exceeding 30 days in any one
20 year shall not be counted, but leaves of absence for illness or
21 accident regardless of length, and periods of disability for
22 which a firefighter received no disability pension payments
23 under this Article, shall be counted.

24 (b) Furloughs and leaves of absence of 30 days or less in
25 any one year may be counted as creditable service, if the

1 firefighter makes the contribution to the fund that would have
2 been required had he or she not been on furlough or leave of
3 absence. To qualify for this creditable service, the
4 firefighter must pay the required contributions to the fund not
5 more than 90 days subsequent to the termination of the furlough
6 or leave of absence, to the extent that the municipality has
7 not made such contribution on his or her behalf.

8 (c) Creditable service includes:

9 (1) Service in the military, naval or air forces of the
10 United States entered upon when the person was an active
11 firefighter, provided that, upon applying for a permanent
12 pension, and in accordance with the rules of the board the
13 firefighter pays into the fund the amount that would have
14 been contributed had he or she been a regular contributor
15 during such period of service, if and to the extent that
16 the municipality which the firefighter served made no such
17 contributions in his or her behalf. The total amount of
18 such creditable service shall not exceed 5 years, except
19 that any firefighter who on July 1, 1973 had more than 5
20 years of such creditable service shall receive the total
21 amount thereof as of that date.

22 (1.5) Up to 24 months of service in the military,
23 naval, or air forces of the United States that was served
24 prior to employment by a municipality or fire protection
25 district as a firefighter. To receive the credit for the
26 military service prior to the employment as a firefighter,

1 the firefighter must apply in writing to the fund and must
2 make contributions to the fund equal to (i) the employee
3 contributions that would have been required had the service
4 been rendered as a member, plus (ii) an amount determined
5 by the fund to be equal to the employer's normal cost of
6 the benefits accrued for that military service, plus (iii)
7 interest at the actuarially assumed rate provided by the
8 Department of Financial and Professional Regulation,
9 compounded annually from the first date of membership in
10 the fund to the date of payment on items (i) and (ii). The
11 changes to this paragraph (1.5) by this amendatory Act of
12 the 95th General Assembly apply only to participating
13 employees in service on or after its effective date.

14 (2) Service prior to July 1, 1976 by a firefighter
15 initially excluded from participation by reason of age who
16 elected to participate and paid the required contributions
17 for such service.

18 (3) Up to 8 years of service by a firefighter as an
19 officer in a statewide firefighters' association when he is
20 on a leave of absence from a municipality's payroll,
21 provided that (i) the firefighter has at least 10 years of
22 creditable service as an active firefighter, (ii) the
23 firefighter contributes to the fund the amount that he
24 would have contributed had he remained an active member of
25 the fund, ~~and~~ (iii) the employee or statewide firefighter
26 association contributes to the fund an amount equal to the

1 employer's required contribution as determined by the
2 board, and (iv) for all leaves of absence under this
3 subdivision (3), including those beginning before the
4 effective date of this amendatory Act of the 97th General
5 Assembly, the firefighter continues to remain in sworn
6 status, subject to the professional standards of the public
7 employer or those terms established in statute.

8 (4) Time spent as an on-call fireman for a
9 municipality, calculated at the rate of one year of
10 creditable service for each 5 years of time spent as an
11 on-call fireman, provided that (i) the firefighter has at
12 least 18 years of creditable service as an active
13 firefighter, (ii) the firefighter spent at least 14 years
14 as an on-call firefighter for the municipality, (iii) the
15 firefighter applies for such creditable service within 30
16 days after the effective date of this amendatory Act of
17 1989, (iv) the firefighter contributes to the Fund an
18 amount representing employee contributions for the number
19 of years of creditable service granted under this
20 subdivision (4), based on the salary and contribution rate
21 in effect for the firefighter at the date of entry into the
22 Fund, to be determined by the board, and (v) not more than
23 3 years of creditable service may be granted under this
24 subdivision (4).

25 Except as provided in Section 4-108.5, creditable
26 service shall not include time spent as a volunteer

1 firefighter, whether or not any compensation was received
2 therefor. The change made in this Section by Public Act
3 83-0463 is intended to be a restatement and clarification
4 of existing law, and does not imply that creditable service
5 was previously allowed under this Article for time spent as
6 a volunteer firefighter.

7 (5) Time served between July 1, 1976 and July 1, 1988
8 in the position of protective inspection officer or
9 administrative assistant for fire services, for a
10 municipality with a population under 10,000 that is located
11 in a county with a population over 3,000,000 and that
12 maintains a firefighters' pension fund under this Article,
13 if the position included firefighting duties,
14 notwithstanding that the person may not have held an
15 appointment as a firefighter, provided that application is
16 made to the pension fund within 30 days after the effective
17 date of this amendatory Act of 1991, and the corresponding
18 contributions are paid for the number of years of service
19 granted, based upon the salary and contribution rate in
20 effect for the firefighter at the date of entry into the
21 pension fund, as determined by the Board.

22 (6) Service before becoming a participant by a
23 firefighter initially excluded from participation by
24 reason of age who becomes a participant under the amendment
25 to Section 4-107 made by this amendatory Act of 1993 and
26 pays the required contributions for such service.

1 (7) Up to 3 years of time during which the firefighter
2 receives a disability pension under Section 4-110,
3 4-110.1, or 4-111, provided that (i) the firefighter
4 returns to active service after the disability for a period
5 at least equal to the period for which credit is to be
6 established and (ii) the firefighter makes contributions
7 to the fund based on the rates specified in Section 4-118.1
8 and the salary upon which the disability pension is based.
9 These contributions may be paid at any time prior to the
10 commencement of a retirement pension. The firefighter may,
11 but need not, elect to have the contributions deducted from
12 the disability pension or to pay them in installments on a
13 schedule approved by the board. If not deducted from the
14 disability pension, the contributions shall include
15 interest at the rate of 6% per year, compounded annually,
16 from the date for which service credit is being established
17 to the date of payment. If contributions are paid under
18 this subdivision (c)(7) in excess of those needed to
19 establish the credit, the excess shall be refunded. This
20 subdivision (c)(7) applies to persons receiving a
21 disability pension under Section 4-110, 4-110.1, or 4-111
22 on the effective date of this amendatory Act of the 91st
23 General Assembly, as well as persons who begin to receive
24 such a disability pension after that date.

25 (Source: P.A. 94-856, eff. 6-15-06; 95-1056, eff. 4-10-09.)

1 (40 ILCS 5/5-214) (from Ch. 108 1/2, par. 5-214)

2 Sec. 5-214. Credit for other service. Any participant in
3 this fund (other than a member of the fire department of the
4 city) who has rendered service as a member of the police
5 department of the city for a period of 3 years or more is
6 entitled to credit for the various purposes of this Article for
7 service rendered prior to becoming a member or subsequent
8 thereto for the following periods:

9 (a) While on leave of absence from the police
10 department assigned or detailed to investigative,
11 protective, security or police work for the park district
12 of the city, the department of the Port of Chicago or the
13 sanitary district in which the city is located.

14 (b) As a temporary police officer in the city or while
15 serving in the office of the mayor or in the office of the
16 corporation counsel, as a member of the city council of the
17 city, as an employee of the Policemen's Annuity and Benefit
18 Fund created by this Article, as the head of an
19 organization whose membership consists of members of the
20 police department, the Public Vehicle License Commission
21 and the board of election commissioners of the city,
22 provided that, in each of these cases and for all periods
23 specified in this item (b), including those beginning
24 before the effective date of this amendatory Act of the
25 97th General Assembly, the police officer is on leave to
26 special duty assignments and continues to remain in sworn

1 status, subject to the professional standards of the public
2 employer or those terms established in statute.

3 (c) While performing safety or investigative work for
4 the county in which such city is principally located or for
5 the State of Illinois or for the federal government, on
6 leave of absence from the department of police, or while
7 performing investigative work for the department as a
8 civilian employee of the department.

9 (d) While on leave of absence from the police
10 department of the city and serving as the chief of police
11 of a police department outside the city.

12 No credit shall be granted in this fund, however, for this
13 service if the policeman has credit therefor in any other
14 annuity and benefit fund, or unless he contributes to this fund
15 the amount he would have contributed with interest had he
16 remained an active member of the police department in the
17 position he occupied as a result of a civil service competitive
18 examination, certification and appointment by the Civil
19 Service Board; or in the case of a city operating under the
20 provisions of a personnel ordinance the position he occupied as
21 a result of a personnel ordinance competitive examination
22 certification and appointment under the authority of a
23 Municipal Personnel ordinance.

24 Concurrently with such contributions, the city shall
25 contribute the amounts provided by this Article. No credit
26 shall be allowed for any period of time for which contributions

1 by the policeman have not been paid. The period of service
2 rendered by such policeman prior to the date he became a member
3 of the police department of the city or while detailed,
4 assigned or on leave of absence and employed in any of the
5 departments set forth hereinabove in this Section for which
6 such policeman has contributed to this fund shall be credited
7 to him as service for all the purposes of this Article, except
8 that he shall not have any of the rights conferred by the
9 provisions of Sections 5-127 and 5-162 of this Article.

10 The changes in this Section made by Public Act 86-273 shall
11 apply to members of the fund who have not begun receiving a
12 pension under this Article on August 23, 1989, without regard
13 to whether employment is terminated before that date.

14 (Source: P.A. 86-273; 87-1265.)

15 (40 ILCS 5/6-209) (from Ch. 108 1/2, par. 6-209)

16 Sec. 6-209. In computing the service rendered by a fireman
17 prior to the effective date, the following periods shall be
18 counted, in addition to all periods during which he performed
19 the duties of his position, as periods of service for annuity
20 purposes only: All periods of (a) vacation, (b) leave of
21 absence with whole or part pay, (c) leave of absence without
22 pay which were necessary on account of disability, and (d)
23 leave of absence during which he was engaged in the military or
24 naval service of the United States of America. Service credit
25 shall not be allowed for any period during which a fireman was

1 in receipt of pension on account of disability from any pension
2 fund superseded by this fund.

3 In computing the service rendered by a fireman on and after
4 the effective date, the following periods shall be counted in
5 addition to all periods during which he performed the duties of
6 his position, as periods of service for annuity purposes only:

7 All periods of (a) vacation, (b) leave of absence with whole or
8 part pay, (c) leave of absence during which he was engaged in
9 the military or naval service of the United States of America,

10 (d) disability for which he receives any disability benefit,

11 (e) disability for which he receives whole or part pay, (f)

12 leave of absence, or other authorized relief from active duty,

13 during which he served as president of The Firemen's

14 Association of Chicago, provided that for all leaves of absence

15 or other authorized relief under this item (f), including those

16 beginning before the effective date of this amendatory Act of

17 the 97th General Assembly, the fireman continues to remain in

18 sworn status, subject to the professional standards of the

19 public employer or those terms established in statute, (g)

20 periods of suspension from duty not to exceed a total of one

21 year during the total period of service of the fireman, and (h)

22 a period of time not to exceed 23 days in 1980 in accordance

23 with an agreement with the City on a settlement of strike;

24 provided that the fireman elects to make contributions to the

25 Fund for the various annuity and benefit purposes according to

26 the provisions of this Article as though he were an active

1 fireman, based upon the salary attached to the civil service
2 rank held by him during such absence from duty, and if the
3 fireman so elects, the city shall make the prescribed
4 concurrent contributions for such annuity and benefit purposes
5 as provided in this Article, all to the end that such fireman
6 shall be entitled to receive the same annuities and benefits
7 for which he would otherwise be eligible if he had continued as
8 an active fireman during the periods of absence from duty.

9 In computing service on and after the effective date for
10 ordinary disability benefit, all periods described in the
11 preceding paragraph, except any period for which a fireman
12 receives ordinary disability benefit, shall be counted as
13 periods of service.

14 In computing service for any of the purposes of this
15 Article, credit shall be given for any periods prior to January
16 9, 1997, during which an active fireman (or fire paramedic) who
17 is a member of the General Assembly is on leave of absence or
18 is otherwise authorized to be absent from duty to enable him to
19 perform his legislative duties, notwithstanding any reduction
20 in salary for such periods and notwithstanding that the
21 contributions paid by the fireman were based on such reduced
22 salary rather than the full amount of salary attached to his
23 civil service rank.

24 In computing service for any of the purposes of this
25 Article, no credit shall be given for any period during which a
26 fireman was not rendering active service because of his

1 discharge from the service, unless proceedings to test the
2 legality of the discharge are filed in a court of competent
3 jurisdiction within one year from the date of discharge and a
4 final judgment is entered therein declaring the discharge
5 illegal.

6 No overtime or extra service shall be included in computing
7 service of a fireman and not more than one year or a proper
8 fractional part thereof of service shall be allowed for service
9 rendered during any calendar year.

10 (Source: P.A. 86-273; 86-1488; 87-1265.)

11 (40 ILCS 5/8-226) (from Ch. 108 1/2, par. 8-226)

12 Sec. 8-226. Computation of service. In computing the term
13 of service of an employee prior to the effective date, the
14 entire period beginning on the date he was first appointed and
15 ending on the day before the effective date, except any
16 intervening period during which he was separated by withdrawal
17 from service, shall be counted for all purposes of this
18 Article, except that for any employee who was not in service on
19 the day before the effective date, service rendered prior to
20 such date shall not be considered for the purposes of Section
21 8-138.

22 For a person employed by an employer for whom this Article
23 was in effect prior to January 1, 1950, from whose salary
24 deductions are first made under this Article after December 31,
25 1949, any period of service rendered prior to the effective

1 date, unless he was in service on the day before the effective
2 date, shall not be counted as service.

3 The time a person was an employee of any territory annexed
4 to the city prior to the effective date shall be counted as a
5 period of service.

6 In computing the term of service of any employee subsequent
7 to the day before the effective date, the following periods
8 shall be counted as periods of service for age and service,
9 widow's and child's annuity purposes:

10 (a) The time during which he performed the duties of
11 his position;

12 (b) Vacations, leaves of absence with whole or part
13 pay, and leaves of absence without pay not longer than 90
14 days;

15 (c) Leaves of absence without pay that begin before the
16 effective date of this amendatory Act of the 97th General
17 Assembly and during which a participant is employed
18 full-time by a local labor organization that represents
19 municipal employees, provided that (1) the participant
20 continues to make employee contributions to the Fund as
21 though he were an active employee, based on the regular
22 salary rate received by the participant for his municipal
23 employment immediately prior to such leave of absence (and
24 in the case of such employment prior to December 9, 1987,
25 pays to the Fund an amount equal to the employee
26 contributions for such employment plus regular interest

1 thereon as calculated by the board), and based on his
2 current salary with such labor organization after the
3 effective date of this amendatory Act of 1991, (2) after
4 January 1, 1989 the participant, or the labor organization
5 on the participant's behalf, makes contributions to the
6 Fund as though it were the employer, in the same amount and
7 same manner as specified under this Article, based on the
8 regular salary rate received by the participant for his
9 municipal employment immediately prior to such leave of
10 absence, and based on his current salary with such labor
11 organization after the effective date of this amendatory
12 Act of 1991, and (3) the participant does not receive
13 credit in any pension plan established by the local labor
14 organization based on his employment by the organization;

15 (d) Any period of disability for which he received (i)
16 a disability benefit under this Article, or (ii) a
17 temporary total disability benefit under the Workers'
18 Compensation Act if the disability results from a condition
19 commonly termed heart attack or stroke or any other
20 condition falling within the broad field of coronary
21 involvement or heart disease, or (iii) whole or part pay;

22 (e) Any period for which contributions and service
23 credit have been transferred to this Fund under subsection
24 (d) of Section 9-121.1 or subsection (d) of Section
25 12-127.1 of this Code.

26 For a person employed by an employer in which the 1921 Act

1 was in effect prior to January 1, 1950, from whose salary
2 deductions are first made under the 1921 Act or this Article
3 after December 31, 1949, any period of service rendered
4 subsequent to the effective date and prior to the date he
5 became an employee and contributor, shall not be counted as a
6 period of service under this Article, except such period for
7 which he made payment as provided in Section 8-230 of this
8 Article, in which case such period shall be counted as a period
9 of service for all annuity purposes hereunder.

10 In computing the term of service of an employee subsequent
11 to the day before the effective date for ordinary disability
12 benefit purposes, all periods described in the preceding
13 paragraph, except any such period for which he receives
14 ordinary disability benefit, shall be counted as periods of
15 service; provided, that for any person employed by an employer
16 in which this Article was in effect prior to January 1, 1950,
17 from whose salary deductions are first made under this Article
18 after December 31, 1949, any period of service rendered
19 subsequent to the effective date and prior to the date he
20 became an employee and contributor, shall not be counted as a
21 period of service for ordinary disability benefit purposes,
22 unless the person made payment for the period as provided in
23 Section 8-230 of this Article, in which case the period shall
24 be counted as a period of service for ordinary disability
25 purposes for periods of disability on or after the effective
26 date of this amendatory Act of 1997.

1 Overtime or extra service shall not be included in
2 computing any term of service. Not more than 1 year of service
3 shall be allowed for service rendered during any calendar year.

4 For the purposes of this Section, the phrase "any pension
5 plan established by the local labor organization" means any
6 pension plan in which a participant may receive credit as a
7 result of his or her membership in the local labor
8 organization, including, but not limited to, the local labor
9 organization itself and its affiliates at the local,
10 intrastate, State, multi-state, national, or international
11 level. The definition of this phrase is a declaration of
12 existing law and shall not be construed as a new enactment.

13 (Source: P.A. 90-511, eff. 8-22-97.)

14 (40 ILCS 5/8-233) (from Ch. 108 1/2, par. 8-233)

15 Sec. 8-233. Basis of annual salary. For the purpose of this
16 Article, the annual salary of an employee whose salary or wage
17 is appropriated, fixed, or arranged in the annual appropriation
18 ordinance upon other than an annual basis shall be determined
19 as follows:

20 (a) If the employee is paid on a monthly basis, the annual
21 salary is 12 times the monthly salary. If the employee is paid
22 on a weekly basis, the annual salary is 52 times the weekly
23 salary.

24 "Monthly salary" means the amount of compensation or salary
25 appropriated and payable for a normal and regular month's work

1 in the employee's position in the service. "Weekly salary"
2 means the amount of compensation or salary appropriated and
3 payable for a normal and regular week's work in the employee's
4 position in the service. If the work is on a regularly
5 scheduled part time basis, then "monthly salary" and "weekly
6 salary" refer, respectively, to the part time monthly or weekly
7 salary.

8 If the appropriation for the position is for a shorter
9 period than 12 months a year, or 52 weeks a year if on a weekly
10 basis, or the employee is in a class, grade, or category in
11 which the employee normally works for fewer than 12 months or
12 52 weeks a year, then the basis shall be adjusted downward to
13 the extent that the appropriated or customary work period is
14 less than the normal 12 months or 52 weeks of service in a
15 year.

16 Compensation for overtime, at regular or overtime rates,
17 that is paid in addition to the appropriated regular and normal
18 monthly or weekly salary shall not be considered.

19 (b) If the employee is paid on a daily basis, the annual
20 salary is 260 times the daily wage. If the employee is paid on
21 an hourly basis, the annual salary is 2080 times the hourly
22 wage.

23 The norm is based on a 12-month per year, 5-day work week
24 of 8 hours per day and 40 hours per week, with consideration
25 given only to time compensated for at the straight time rate of
26 compensation or wage. The norm shall be increased (subject to a

1 maximum of 300 days or 2400 hours per year) or decreased for an
2 employee to the extent that the normal and established work
3 period, at the straight time compensation or wage for the
4 position held in the class, grade, or category in which the
5 employee is assigned, is for a greater or lesser number of
6 months, weeks, days, or hours than the period on which the
7 established norm is based.

8 "Daily wage" and "hourly wage" mean, respectively, the
9 normal, regular, or basic straight time rate of compensation or
10 wage appropriated and payable for a normal and regular day's
11 work, or hour's work, in the employee's position in the
12 service.

13 Any time worked in excess of the norm (or the increased or
14 decreased norm, whichever is applicable) that is compensated
15 for at overtime, premium, or other than regular or basic
16 straight time rates shall not be considered as time worked, and
17 the compensation for that work shall not be considered as
18 salary or wage. Such time and compensation shall in every case
19 and for all purposes be considered overtime and shall be
20 excluded for all purposes under this Article. However, the
21 straight time portion of compensation or wage, for time worked
22 on holidays that fall within an employee's established norm,
23 shall be included for all purposes under this Article.

24 (c) For minimum annuity purposes under Section 8-138, where
25 a salary rate change occurs during the year, it shall be
26 considered that the annual salary for that year is (1) the

1 annual equivalent of the monthly, weekly, daily, or hourly
2 salary or wage rate that was applicable for the greater number
3 of months, weeks, days, or hours (whichever is applicable) in
4 the year under consideration, or (2) the annual equivalent of
5 the average salary or wage rate in effect for the employee
6 during the year, whichever is greater. The average salary or
7 wage rate shall be calculated by multiplying each salary or
8 wage rate in effect for the employee during the year by the
9 number of months, weeks, days, or hours (whichever is
10 applicable) during which that rate was in effect, and dividing
11 the sum of the resulting products by the total number of
12 months, weeks, days, or hours (whichever is applicable) worked
13 by the employee during the year.

14 (d) The changes to subsection (c) made by this amendatory
15 Act of 1997 apply to persons withdrawing from service on or
16 after July 1, 1990 and for each such person are intended to be
17 retroactive to the date upon which the affected annuity began.
18 The Fund shall recompute the affected annuity and shall pay the
19 additional amount due for the period before the increase
20 resulting from this amendatory Act in a lump sum, without
21 interest.

22 (e) This Article shall not be construed to authorize a
23 salary paid by an entity other than an employer, as defined in
24 Section 8-110, to be used to calculate the highest average
25 annual salary of a participant. This subsection (e) is a
26 declaration of existing law and shall not be construed as a new

1 enactment.

2 (Source: P.A. 90-31, eff. 6-27-97.)

3 (40 ILCS 5/9-219) (from Ch. 108 1/2, par. 9-219)

4 Sec. 9-219. Computation of service.

5 (1) In computing the term of service of an employee prior
6 to the effective date, the entire period beginning on the date
7 he was first appointed and ending on the day before the
8 effective date, except any intervening period during which he
9 was separated by withdrawal from service, shall be counted for
10 all purposes of this Article.

11 (2) In computing the term of service of any employee on or
12 after the effective date, the following periods of time shall
13 be counted as periods of service for age and service, widow's
14 and child's annuity purposes:

15 (a) The time during which he performed the duties of
16 his position.

17 (b) Vacations, leaves of absence with whole or part
18 pay, and leaves of absence without pay not longer than 90
19 days.

20 (c) For an employee who is a member of a county police
21 department or a correctional officer with the county
22 department of corrections, approved leaves of absence
23 without pay during which the employee serves as a full-time
24 officer or employee of an employee association, the
25 membership of which consists of other participants in the

1 Fund, provided that the employee contributes to the Fund
2 (1) the amount that he would have contributed had he
3 remained an active employee in the position he occupied at
4 the time the leave of absence was granted, (2) an amount
5 calculated by the Board representing employer
6 contributions, and (3) regular interest thereon from the
7 date of service to the date of payment. However, if the
8 employee's application to establish credit under this
9 subsection is received by the Fund on or after July 1, 2002
10 and before July 1, 2003, the amount representing employer
11 contributions specified in item (2) shall be waived.

12 For a former member of a county police department who
13 has received a refund under Section 9-164, periods during
14 which the employee serves as head of an employee
15 association, the membership of which consists of other
16 police officers, provided that the employee contributes to
17 the Fund (1) the amount that he would have contributed had
18 he remained an active member of the county police
19 department in the position he occupied at the time he left
20 service, (2) an amount calculated by the Board representing
21 employer contributions, and (3) regular interest thereon
22 from the date of service to the date of payment. However,
23 if the former member of the county police department
24 retires on or after January 1, 1993 but no later than March
25 1, 1993, the amount representing employer contributions
26 specified in item (2) shall be waived.

1 For leaves of absence to which this item (c) applies
2 and for other periods to which this item (c) applies,
3 including those leaves of absence and other periods of
4 service beginning before the effective date of this
5 amendatory Act of the 97th General Assembly, the employee
6 or former member must continue to remain in sworn status,
7 subject to the professional standards of the public
8 employer or those terms established in statute.

9 (d) Any period of disability for which he received
10 disability benefit or whole or part pay.

11 (e) Accumulated vacation or other time for which an
12 employee who retires on or after November 1, 1990 receives
13 a lump sum payment at the time of retirement, provided that
14 contributions were made to the fund at the time such lump
15 sum payment was received. The service granted for the lump
16 sum payment shall not change the employee's date of
17 withdrawal for computing the effective date of the annuity.

18 (f) An employee may receive service credit for annuity
19 purposes for accumulated sick leave as of the date of the
20 employee's withdrawal from service, not to exceed a total
21 of 180 days, provided that the amount of such accumulated
22 sick leave is certified by the County Comptroller to the
23 Board and the employee pays an amount equal to 8.5% (9% for
24 members of the County Police Department who are eligible to
25 receive an annuity under Section 9-128.1) of the amount
26 that would have been paid had such accumulated sick leave

1 been paid at the employee's final rate of salary. Such
2 payment shall be made within 30 days after the date of
3 withdrawal and prior to receipt of the first annuity check.
4 The service credit granted for such accumulated sick leave
5 shall not change the employee's date of withdrawal for the
6 purpose of computing the effective date of the annuity.

7 (3) In computing the term of service of an employee on or
8 after the effective date for ordinary disability benefit
9 purposes, the following periods of time shall be counted as
10 periods of service:

11 (a) Unless otherwise specified in Section 9-157, the
12 time during which he performed the duties of his position.

13 (b) Paid vacations and leaves of absence with whole or
14 part pay.

15 (c) Any period for which he received duty disability
16 benefit.

17 (d) Any period of disability for which he received
18 whole or part pay.

19 (4) For an employee who on January 1, 1958, was transferred
20 by Act of the 70th General Assembly from his position in a
21 department of welfare of any city located in the county in
22 which this Article is in force and effect to a similar position
23 in a department of such county, service shall also be credited
24 for ordinary disability benefit and child's annuity for such
25 period of department of welfare service during which period he
26 was a contributor to a statutory annuity and benefit fund in

1 such city and for which purposes service credit would otherwise
2 not be credited by virtue of such involuntary transfer.

3 (5) An employee described in subsection (e) of Section
4 9-108 shall receive credit for child's annuity and ordinary
5 disability benefit for the period of time for which he was
6 credited with service in the fund from which he was
7 involuntarily separated through class or group transfer;
8 provided, that no such credit shall be allowed to the extent
9 that it results in a duplication of credits or benefits, and
10 neither shall such credit be allowed to the extent that it was
11 or may be forfeited by the application for and acceptance of a
12 refund from the fund from which the employee was transferred.

13 (6) Overtime or extra service shall not be included in
14 computing service. Not more than 1 year of service shall be
15 allowed for service rendered during any calendar year.

16 (Source: P.A. 92-599, eff. 6-28-02.)

17 (40 ILCS 5/11-215) (from Ch. 108 1/2, par. 11-215)

18 Sec. 11-215. Computation of service.

19 (a) In computing the term of service of an employee prior
20 to the effective date, the entire period beginning on the date
21 he was first appointed and ending on the day before the
22 effective date, except any intervening period during which he
23 was separated by withdrawal from service, shall be counted for
24 all purposes of this Article. Only the first year of each
25 period of lay-off or leave of absence without pay, continuing

1 or extending for a period in excess of one year, shall be
2 counted as such service.

3 (b) For a person employed by an employer for whom this
4 Article was in effect prior to August 1, 1949, from whose
5 salary deductions are first made under this Article after July
6 31, 1949, any period of service rendered prior to the effective
7 date, unless he was in service on the day before the effective
8 date, shall not be counted as service.

9 (c) In computing the term of service of an employee
10 subsequent to the day before the effective date, the following
11 periods of time shall be counted as periods of service for
12 annuity purposes:

13 (1) the time during which he performed the duties of
14 his position;

15 (2) leaves of absence with whole or part pay, and
16 leaves of absence without pay not longer than 90 days;

17 (3) leaves of absence without pay that begin before the
18 effective date of this amendatory Act of the 97th General
19 Assembly and during which a participant is employed
20 full-time by a local labor organization that represents
21 municipal employees, provided that (A) the participant
22 continues to make employee contributions to the Fund as
23 though he were an active employee, based on the regular
24 salary rate received by the participant for his municipal
25 employment immediately prior to such leave of absence (and
26 in the case of such employment prior to December 9, 1987,

1 pays to the Fund an amount equal to the employee
2 contributions for such employment plus regular interest
3 thereon as calculated by the board), and based on his
4 current salary with such labor organization after the
5 effective date of this amendatory Act of 1991, (B) after
6 January 1, 1989 the participant, or the labor organization
7 on the participant's behalf, makes contributions to the
8 Fund as though it were the employer, in the same amount and
9 same manner as specified under this Article, based on the
10 regular salary rate received by the participant for his
11 municipal employment immediately prior to such leave of
12 absence, and based on his current salary with such labor
13 organization after the effective date of this amendatory
14 Act of 1991, and (C) the participant does not receive
15 credit in any pension plan established by the local labor
16 organization based on his employment by the organization;

17 (4) any period of disability for which he received (i)
18 a disability benefit under this Article, or (ii) a
19 temporary total disability benefit under the Workers'
20 Compensation Act if the disability results from a condition
21 commonly termed heart attack or stroke or any other
22 condition falling within the broad field of coronary
23 involvement or heart disease, or (iii) whole or part pay.

24 (d) For a person employed by an employer, or the retirement
25 board, in which "The 1935 Act" was in effect prior to August 1,
26 1949, from whose salary deductions are first made under "The

1 1935 Act" or this Article after July 31, 1949, any period of
2 service rendered subsequent to the effective date and prior to
3 August 1, 1949, shall not be counted as a period of service
4 under this Article, except such period for which he made
5 payment, as provided in Section 11-221 of this Article, in
6 which case such period shall be counted as a period of service
7 for all annuity purposes hereunder.

8 (e) In computing the term of service of an employee
9 subsequent to the day before the effective date for ordinary
10 disability benefit purposes, the following periods of time
11 shall be counted as periods of service:

12 (1) any period during which he performed the duties of
13 his position;

14 (2) leaves of absence with whole or part pay;

15 (3) any period of disability for which he received (i)
16 a duty disability benefit under this Article, or (ii) a
17 temporary total disability benefit under the Workers'
18 Compensation Act if the disability results from a condition
19 commonly termed heart attack or stroke or any other
20 condition falling within the broad field of coronary
21 involvement or heart disease, or (iii) whole or part pay.

22 However, any period of service rendered by an employee
23 contributor prior to the date he became a contributor to the
24 fund shall not be counted as a period of service for ordinary
25 disability purposes, unless the person made payment for the
26 period as provided in Section 11-221 of this Article, in which

1 case the period shall be counted as a period of service for
2 ordinary disability purposes for periods of disability on or
3 after the effective date of this amendatory Act of 1997.

4 Overtime or extra service shall not be included in
5 computing any term of service. Not more than 1 year of service
6 shall be allowed for service rendered during any calendar year.

7 For the purposes of this Section, the phrase "any pension
8 plan established by the local labor organization" means any
9 pension plan in which a participant may receive credit as a
10 result of his or her membership in the local labor
11 organization, including, but not limited to, the local labor
12 organization itself and its affiliates at the local,
13 intrastate, State, multi-state, national, or international
14 level. The definition of this phrase is a declaration of
15 existing law and shall not be construed as a new enactment.

16 (Source: P.A. 90-511, eff. 8-22-97.)

17 (40 ILCS 5/11-217) (from Ch. 108 1/2, par. 11-217)

18 Sec. 11-217. Basis of annual salary. For the purpose of
19 this Article, the annual salary of an employee whose salary or
20 wage is appropriated, fixed, or arranged in the annual
21 appropriation ordinance upon other than an annual basis shall
22 be determined as follows:

23 (a) If the employee is paid on a monthly basis, the annual
24 salary is 12 times the monthly salary. If the employee is paid
25 on a weekly basis, the annual salary is 52 times the weekly

1 salary.

2 "Monthly salary" means the amount of compensation or salary
3 appropriated and payable for a normal and regular month's work
4 in the employee's position in the service. "Weekly salary"
5 means the amount of compensation or salary appropriated and
6 payable for a normal and regular week's work in the employee's
7 position in the service. If the work is on a regularly
8 scheduled part time basis, then "monthly salary" and "weekly
9 salary" refer, respectively, to the part time monthly or weekly
10 salary.

11 If the appropriation for the position is for a shorter
12 period than 12 months a year, or 52 weeks a year if on a weekly
13 basis, or the employee is in a class, grade, or category in
14 which the employee normally works for fewer than 12 months or
15 52 weeks a year, then the basis shall be adjusted downward to
16 the extent that the appropriated or customary work period is
17 less than the normal 12 months or 52 weeks of service in a
18 year.

19 Compensation for overtime, at regular or overtime rates,
20 that is paid in addition to the appropriated regular and normal
21 monthly or weekly salary shall not be considered.

22 (b) If the employee is paid on a daily basis, the annual
23 salary is 260 times the daily wage. If the employee is paid on
24 an hourly basis, the annual salary is 2080 times the hourly
25 wage.

26 The norm is based on a 12-month per year, 5-day work week

1 of 8 hours per day and 40 hours per week, with consideration
2 given only to time compensated for at the straight time rate of
3 compensation or wage. The norm shall be increased (subject to a
4 maximum of 300 days or 2400 hours per year) or decreased for an
5 employee to the extent that the normal and established work
6 period, at the straight time compensation or wage for the
7 position held in the class, grade, or category in which the
8 employee is assigned, is for a greater or lesser number of
9 months, weeks, days, or hours than the period on which the
10 established norm is based.

11 "Daily wage" and "hourly wage" mean, respectively, the
12 normal, regular, or basic straight time rate of compensation or
13 wage appropriated and payable for a normal and regular day's
14 work, or hour's work, in the employee's position in the
15 service.

16 Any time worked in excess of the norm (or the increased or
17 decreased norm, whichever is applicable) that is compensated
18 for at overtime, premium, or other than regular or basic
19 straight time rates shall not be considered as time worked, and
20 the compensation for that work shall not be considered as
21 salary or wage. Such time and compensation shall in every case
22 and for all purposes be considered overtime and shall be
23 excluded for all purposes under this Article. However, the
24 straight time portion of compensation or wage, for time worked
25 on holidays that fall within an employee's established norm,
26 shall be included for all purposes under this Article.

1 (c) For minimum annuity purposes under Section 11-134,
2 where a salary rate change occurs during the year, it shall be
3 considered that the annual salary for that year is (1) the
4 annual equivalent of the monthly, weekly, daily, or hourly
5 salary or wage rate that was applicable for the greater number
6 of months, weeks, days, or hours (whichever is applicable) in
7 the year under consideration, or (2) the annual equivalent of
8 the average salary or wage rate in effect for the employee
9 during the year, whichever is greater. The average salary or
10 wage rate shall be calculated by multiplying each salary or
11 wage rate in effect for the employee during the year by the
12 number of months, weeks, days, or hours (whichever is
13 applicable) during which that rate was in effect, and dividing
14 the sum of the resulting products by the total number of
15 months, weeks, days, or hours (whichever is applicable) worked
16 by the employee during the year.

17 (d) The changes to subsection (c) made by this amendatory
18 Act of 1997 apply to persons withdrawing from service on or
19 after July 1, 1990 and for each such person are intended to be
20 retroactive to the date upon which the affected annuity began.
21 The Fund shall recompute the affected annuity and shall pay the
22 additional amount due for the period before the increase
23 resulting from this amendatory Act in a lump sum, without
24 interest.

25 (e) This Article shall not be construed to authorize a
26 salary paid by an entity other than an employer, as defined in

1 Section 11-107, to be used to calculate the highest average
2 annual salary of a participant. This subsection (e) is a
3 declaration of existing law and shall not be construed as a new
4 enactment.

5 (Source: P.A. 90-31, eff. 6-27-97.)

6 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

7 Sec. 15-107. Employee.

8 (a) "Employee" means any member of the educational,
9 administrative, secretarial, clerical, mechanical, labor or
10 other staff of an employer whose employment is permanent and
11 continuous or who is employed in a position in which services
12 are expected to be rendered on a continuous basis for at least
13 4 months or one academic term, whichever is less, who (A)
14 receives payment for personal services on a warrant issued
15 pursuant to a payroll voucher certified by an employer and
16 drawn by the State Comptroller upon the State Treasurer or by
17 an employer upon trust, federal or other funds, or (B) is on a
18 leave of absence without pay. Employment which is irregular,
19 intermittent or temporary shall not be considered continuous
20 for purposes of this paragraph.

21 However, a person is not an "employee" if he or she:

22 (1) is a student enrolled in and regularly attending
23 classes in a college or university which is an employer,
24 and is employed on a temporary basis at less than full
25 time;

1 (2) is currently receiving a retirement annuity or a
2 disability retirement annuity under Section 15-153.2 from
3 this System;

4 (3) is on a military leave of absence;

5 (4) is eligible to participate in the Federal Civil
6 Service Retirement System and is currently making
7 contributions to that system based upon earnings paid by an
8 employer;

9 (5) is on leave of absence without pay for more than 60
10 days immediately following termination of disability
11 benefits under this Article;

12 (6) is hired after June 30, 1979 as a public service
13 employment program participant under the Federal
14 Comprehensive Employment and Training Act and receives
15 earnings in whole or in part from funds provided under that
16 Act; or

17 (7) is employed on or after July 1, 1991 to perform
18 services that are excluded by subdivision (a)(7)(f) or
19 (a)(19) of Section 210 of the federal Social Security Act
20 from the definition of employment given in that Section (42
21 U.S.C. 410).

22 (b) Any employer may, by filing a written notice with the
23 board, exclude from the definition of "employee" all persons
24 employed pursuant to a federally funded contract entered into
25 after July 1, 1982 with a federal military department in a
26 program providing training in military courses to federal

1 military personnel on a military site owned by the United
2 States Government, if this exclusion is not prohibited by the
3 federally funded contract or federal laws or rules governing
4 the administration of the contract.

5 (c) Any person appointed by the Governor under the Civil
6 Administrative Code of the State is an employee, if he or she
7 is a participant in this system on the effective date of the
8 appointment.

9 (d) A participant on lay-off status under civil service
10 rules is considered an employee for not more than 120 days from
11 the date of the lay-off.

12 (e) A participant is considered an employee during (1) the
13 first 60 days of disability leave, (2) the period, not to
14 exceed one year, in which his or her eligibility for disability
15 benefits is being considered by the board or reviewed by the
16 courts, and (3) the period he or she receives disability
17 benefits under the provisions of Section 15-152, workers'
18 compensation or occupational disease benefits, or disability
19 income under an insurance contract financed wholly or partially
20 by the employer.

21 (f) Absences without pay, other than formal leaves of
22 absence, of less than 30 calendar days, are not considered as
23 an interruption of a person's status as an employee. If such
24 absences during any period of 12 months exceed 30 work days,
25 the employee status of the person is considered as interrupted
26 as of the 31st work day.

1 (g) A staff member whose employment contract requires
2 services during an academic term is to be considered an
3 employee during the summer and other vacation periods, unless
4 he or she declines an employment contract for the succeeding
5 academic term or his or her employment status is otherwise
6 terminated, and he or she receives no earnings during these
7 periods.

8 (h) An individual who was a participating employee employed
9 in the fire department of the University of Illinois's
10 Champaign-Urbana campus immediately prior to the elimination
11 of that fire department and who immediately after the
12 elimination of that fire department became employed by the fire
13 department of the City of Urbana or the City of Champaign shall
14 continue to be considered as an employee for purposes of this
15 Article for so long as the individual remains employed as a
16 firefighter by the City of Urbana or the City of Champaign. The
17 individual shall cease to be considered an employee under this
18 subsection (h) upon the first termination of the individual's
19 employment as a firefighter by the City of Urbana or the City
20 of Champaign.

21 (i) An individual who is employed on a full-time basis as
22 an officer or employee of a statewide teacher organization that
23 serves System participants or an officer of a national teacher
24 organization that serves System participants may participate
25 in the System and shall be deemed an employee, provided that
26 (1) the individual has previously earned creditable service

1 under this Article, (2) the individual files with the System an
2 irrevocable election to become a participant, ~~and~~ (3) the
3 individual does not receive credit for that employment under
4 any other Article of this Code, and (4) the individual first
5 became a full-time employee of the teacher organization and
6 becomes a participant before the effective date of this
7 amendatory Act of the 97th General Assembly. An employee under
8 this subsection (i) is responsible for paying to the System
9 both (A) employee contributions based on the actual
10 compensation received for service with the teacher
11 organization and (B) employer contributions equal to the normal
12 costs (as defined in Section 15-155) resulting from that
13 service; all or any part of these contributions may be paid on
14 the employee's behalf or picked up for tax purposes (if
15 authorized under federal law) by the teacher organization.

16 A person who is an employee as defined in this subsection
17 (i) may establish service credit for similar employment prior
18 to becoming an employee under this subsection by paying to the
19 System for that employment the contributions specified in this
20 subsection, plus interest at the effective rate from the date
21 of service to the date of payment. However, credit shall not be
22 granted under this subsection for any such prior employment for
23 which the applicant received credit under any other provision
24 of this Code, or during which the applicant was on a leave of
25 absence under Section 15-113.2.

26 (j) A person employed by the State Board of Higher

1 Education in a position with the Illinois Century Network as of
2 June 30, 2004 shall be considered to be an employee for so long
3 as he or she remains continuously employed after that date by
4 the Department of Central Management Services in a position
5 with the Illinois Century Network, the Bureau of Communication
6 and Computer Services, or, if applicable, any successor bureau
7 and meets the requirements of subsection (a).

8 (Source: P.A. 95-369, eff. 8-23-07.)

9 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)

10 Sec. 16-106. Teacher. "Teacher": The following
11 individuals, provided that, for employment prior to July 1,
12 1990, they are employed on a full-time basis, or if not
13 full-time, on a permanent and continuous basis in a position in
14 which services are expected to be rendered for at least one
15 school term:

16 (1) Any educational, administrative, professional or
17 other staff employed in the public common schools included
18 within this system in a position requiring certification
19 under the law governing the certification of teachers;

20 (2) Any educational, administrative, professional or
21 other staff employed in any facility of the Department of
22 Children and Family Services or the Department of Human
23 Services, in a position requiring certification under the
24 law governing the certification of teachers, and any person
25 who (i) works in such a position for the Department of

1 Corrections, (ii) was a member of this System on May 31,
2 1987, and (iii) did not elect to become a member of the
3 State Employees' Retirement System pursuant to Section
4 14-108.2 of this Code; except that "teacher" does not
5 include any person who (A) becomes a security employee of
6 the Department of Human Services, as defined in Section
7 14-110, after June 28, 2001 (the effective date of Public
8 Act 92-14), or (B) becomes a member of the State Employees'
9 Retirement System pursuant to Section 14-108.2c of this
10 Code;

11 (3) Any regional superintendent of schools, assistant
12 regional superintendent of schools, State Superintendent
13 of Education; any person employed by the State Board of
14 Education as an executive; any executive of the boards
15 engaged in the service of public common school education in
16 school districts covered under this system of which the
17 State Superintendent of Education is an ex-officio member;

18 (4) Any employee of a school board association
19 operating in compliance with Article 23 of the School Code
20 who is certificated under the law governing the
21 certification of teachers;

22 (5) Any person employed by the retirement system who:

23 (i) was an employee of and a participant in the
24 system on August 17, 2001 (the effective date of Public
25 Act 92-416), or

26 (ii) becomes an employee of the system on or after

1 August 17, 2001;

2 (6) Any educational, administrative, professional or
3 other staff employed by and under the supervision and
4 control of a regional superintendent of schools, provided
5 such employment position requires the person to be
6 certificated under the law governing the certification of
7 teachers and is in an educational program serving 2 or more
8 districts in accordance with a joint agreement authorized
9 by the School Code or by federal legislation;

10 (7) Any educational, administrative, professional or
11 other staff employed in an educational program serving 2 or
12 more school districts in accordance with a joint agreement
13 authorized by the School Code or by federal legislation and
14 in a position requiring certification under the laws
15 governing the certification of teachers;

16 (8) Any officer or employee of a statewide teacher
17 organization or officer of a national teacher organization
18 who is certified under the law governing certification of
19 teachers, provided: (i) the individual had previously
20 established creditable service under this Article, (ii)
21 the individual files with the system an irrevocable
22 election to become a member, ~~and~~ (iii) the individual does
23 not receive credit for such service under any other Article
24 of this Code, and (iv) the individual first became an
25 officer or employee of the teacher organization and becomes
26 a member before the effective date of this amendatory Act

1 of the 97th General Assembly;

2 (9) Any educational, administrative, professional, or
3 other staff employed in a charter school operating in
4 compliance with the Charter Schools Law who is certificated
5 under the law governing the certification of teachers.

6 (10) Any person employed, on the effective date of this
7 amendatory Act of the 94th General Assembly, by the
8 Macon-Piatt Regional Office of Education in a
9 birth-through-age-three pilot program receiving funds
10 under Section 2-389 of the School Code who is required by
11 the Macon-Piatt Regional Office of Education to hold a
12 teaching certificate, provided that the Macon-Piatt
13 Regional Office of Education makes an election, within 6
14 months after the effective date of this amendatory Act of
15 the 94th General Assembly, to have the person participate
16 in the system. Any service established prior to the
17 effective date of this amendatory Act of the 94th General
18 Assembly for service as an employee of the Macon-Piatt
19 Regional Office of Education in a birth-through-age-three
20 pilot program receiving funds under Section 2-389 of the
21 School Code shall be considered service as a teacher if
22 employee and employer contributions have been received by
23 the system and the system has not refunded those
24 contributions.

25 An annuitant receiving a retirement annuity under this
26 Article or under Article 17 of this Code who is employed by a

1 board of education or other employer as permitted under Section
2 16-118 or 16-150.1 is not a "teacher" for purposes of this
3 Article. A person who has received a single-sum retirement
4 benefit under Section 16-136.4 of this Article is not a
5 "teacher" for purposes of this Article.

6 ~~A person who is a teacher as described in item (8) of this~~
7 ~~Section may establish service credit for similar employment~~
8 ~~prior to becoming certified as a teacher if he or she (i) is~~
9 ~~certified as a teacher on or before the effective date of this~~
10 ~~amendatory Act of the 94th General Assembly, (ii) applies in~~
11 ~~writing to the system within 6 months after the effective date~~
12 ~~of this amendatory Act of the 94th General Assembly, and (iii)~~
13 ~~pays to the system contributions equal to the normal costs~~
14 ~~calculated from the date of first full time employment as~~
15 ~~described in item (8) to the date of payment, compounded~~
16 ~~annually at the rate of 8.5% per year for periods before the~~
17 ~~effective date of this amendatory Act of the 94th General~~
18 ~~Assembly and for subsequent periods at a rate equal to the~~
19 ~~System's actuarially assumed rate of return on investments.~~
20 ~~However, credit shall not be granted under this paragraph for~~
21 ~~any such prior employment for which the applicant received~~
22 ~~credit under any other provision of this Code.~~

23 (Source: P.A. 93-320, eff. 7-23-03; 94-1111, eff. 2-27-07.)

24 (40 ILCS 5/17-134) (from Ch. 108 1/2, par. 17-134)

25 Sec. 17-134. Contributions for leaves of absence; military

1 service; computing service. In computing service for pension
2 purposes the following periods of service shall stand in lieu
3 of a like number of years of teaching service upon payment
4 therefor in the manner hereinafter provided: (a) time spent on
5 a leave of absence granted by the employer; (b) service with
6 teacher or labor organizations based upon special leaves of
7 absence therefor granted by an Employer; (c) a maximum of 5
8 years spent in the military service of the United States, of
9 which up to 2 years may have been served outside the pension
10 period; (d) unused sick days at termination of service to a
11 maximum of 244 days; (e) time lost due to layoff and
12 curtailment of the school term from June 6 through June 21,
13 1976; and (f) time spent after June 30, 1982 as a member of the
14 Board of Education, if required to resign from an
15 administrative or teaching position in order to qualify as a
16 member of the Board of Education.

17 (1) For time spent on or after September 6, 1948 on
18 sabbatical leaves of absence or sick leaves, for which
19 salaries are paid, an Employer shall make payroll
20 deductions at the applicable rates in effect during such
21 periods.

22 (2) For time spent on a leave of absence granted by the
23 employer for which no salaries are paid, teachers desiring
24 credit therefor shall pay the required contributions at the
25 rates in effect during such periods as though they were in
26 teaching service. If an Employer pays salary for vacations

1 which occur during a teacher's sick leave or maternity or
2 paternity leave without salary, vacation pay for which the
3 teacher would have qualified while in active service shall
4 be considered part of the teacher's total salary for
5 pension purposes. No more than 36 months of leave credit
6 may be allowed any person during the entire term of
7 service. Sabbatical leave credit shall be limited to the
8 time the person on leave without salary under an Employer's
9 rules is allowed to engage in an activity for which he
10 receives salary or compensation.

11 (3) For time spent prior to September 6, 1948, on
12 sabbatical leaves of absence or sick leaves for which
13 salaries were paid, teachers desiring service credit
14 therefor shall pay the required contributions at the
15 maximum applicable rates in effect during such periods.

16 (4) For service with teacher or labor organizations
17 authorized by special leaves of absence, for which no
18 payroll deductions are made by an Employer, teachers
19 desiring service credit therefor shall contribute to the
20 Fund upon the basis of the actual salary received from such
21 organizations at the percentage rates in effect during such
22 periods for certified positions with such Employer. To the
23 extent the actual salary exceeds the regular salary, which
24 shall be defined as the salary rate, as calculated by the
25 Board, in effect for the teacher's regular position in
26 teaching service on September 1, 1983 or on the effective

1 date of the leave with the organization, whichever is
2 later, the organization shall pay to the Fund the
3 employer's normal cost as set by the Board on the
4 increment. Notwithstanding any other provision of this
5 subdivision (4), teachers are only eligible for credit for
6 service under this subdivision (4) if the special leave of
7 absence begins before the effective date of this amendatory
8 Act of the 97th General Assembly.

9 (5) For time spent in the military service, teachers
10 entitled to and desiring credit therefor shall contribute
11 the amount required for each year of service or fraction
12 thereof at the rates in force (a) at the date of
13 appointment, or (b) on return to teaching service as a
14 regularly certified teacher, as the case may be; provided
15 such rates shall not be less than \$450 per year of service.
16 These conditions shall apply unless an Employer elects to
17 and does pay into the Fund the amount which would have been
18 due from such person had he been employed as a teacher
19 during such time. In the case of credit for military
20 service not during the pension period, the teacher must
21 also pay to the Fund an amount determined by the Board to
22 be equal to the employer's normal cost of the benefits
23 accrued from such service, plus interest thereon at 5% per
24 year, compounded annually, from the date of appointment to
25 the date of payment.

26 The changes to this Section made by Public Act 87-795

1 shall apply not only to persons who on or after its
2 effective date are in service under the Fund, but also to
3 persons whose status as a teacher terminated prior to that
4 date, whether or not the person is an annuitant on that
5 date. In the case of an annuitant who applies for credit
6 allowable under this Section for a period of military
7 service that did not immediately follow employment, and who
8 has made the required contributions for such credit, the
9 annuity shall be recalculated to include the additional
10 service credit, with the increase taking effect on the date
11 the Fund received written notification of the annuitant's
12 intent to purchase the credit, if payment of all the
13 required contributions is made within 60 days of such
14 notice, or else on the first annuity payment date following
15 the date of payment of the required contributions. In
16 calculating the automatic annual increase for an annuity
17 that has been recalculated under this Section, the increase
18 attributable to the additional service allowable under
19 this amendatory Act of 1991 shall be included in the
20 calculation of automatic annual increases accruing after
21 the effective date of the recalculation.

22 The total credit for military service shall not exceed
23 5 years, except that any teacher who on July 1, 1963, had
24 validated credit for more than 5 years of military service
25 shall be entitled to the total amount of such credit.

26 (6) A maximum of 244 unused sick days credited to his

1 account by an Employer on the date of termination of
2 employment. Members, upon verification of unused sick
3 days, may add this service time to total creditable
4 service.

5 (7) In all cases where time spent on leave is
6 creditable and no payroll deductions therefor are made by
7 an Employer, persons desiring service credit shall make the
8 required contributions directly to the Fund.

9 (8) For time lost without pay due to layoff and
10 curtailment of the school term from June 6 through June 21,
11 1976, as provided in item (e) of the first paragraph of
12 this Section, persons who were contributors on the days
13 immediately preceding such layoff shall receive credit
14 upon paying to the Fund a contribution based on the rates
15 of compensation and employee contributions in effect at the
16 time of such layoff, together with an additional amount
17 equal to 12.2% of the compensation computed for such period
18 of layoff, plus interest on the entire amount at 5% per
19 annum from January 1, 1978 to the date of payment. If such
20 contribution is paid, salary for pension purposes for any
21 year in which such a layoff occurred shall include the
22 compensation recognized for purposes of computing that
23 contribution.

24 (9) For time spent after June 30, 1982, as a
25 nonsalaried member of the Board of Education, if required
26 to resign from an administrative or teaching position in

1 order to qualify as a member of the Board of Education, an
2 administrator or teacher desiring credit therefor shall
3 pay the required contributions at the rates and salaries in
4 effect during such periods as though the member were in
5 service.

6 Effective September 1, 1974, the interest charged for
7 validation of service described in paragraphs (2) through (5)
8 of this Section shall be compounded annually at a rate of 5%
9 commencing one year after the termination of the leave or
10 return to service.

11 (Source: P.A. 92-599, eff. 6-28-02.)

12 Section 97. Retroactive repeal. This amendatory Act of the
13 97th General Assembly hereby repeals and declares void ab
14 initio the last paragraph of Section 16-106 of the Illinois
15 Pension Code as contained in Public Act 94-1111 as that
16 paragraph furnishes no vested rights because it violates
17 multiple provisions of the 1970 Illinois Constitution,
18 including, but not limited to, Article VIII, Section 1. Upon
19 receipt of an application within 6 months after the effective
20 date of this amendatory Act of the 97th General Assembly, the
21 System shall immediately refund any contributions made by or on
22 behalf of a person to receive service credit pursuant to the
23 text set forth in Public Act 94-1111, as well as any amount
24 determined by the Board to be equal to the investment earned by
25 the System on those contributions since their receipt.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".