

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 15-113, 15-135, 15-136, 15-136.4, 15-139, 15-153.2,  
6 and 15-186 and by adding Sections 15-139.5 and 15-168.2 as  
7 follows:

8 (40 ILCS 5/15-113) (from Ch. 108 1/2, par. 15-113)

9 Sec. 15-113. Service. "Service": The periods defined in  
10 Sections 15-113.1 through 15-113.9 and Section 15-113.11.

11 (Source: P.A. 84-1472.)

12 (40 ILCS 5/15-135) (from Ch. 108 1/2, par. 15-135)

13 Sec. 15-135. Retirement annuities - Conditions.

14 (a) A participant who retires in one of the following  
15 specified years with the specified amount of service is  
16 entitled to a retirement annuity at any age under the  
17 retirement program applicable to the participant:

18 35 years if retirement is in 1997 or before;

19 34 years if retirement is in 1998;

20 33 years if retirement is in 1999;

21 32 years if retirement is in 2000;

22 31 years if retirement is in 2001;

1           30 years if retirement is in 2002 or later.

2           A participant with 8 or more years of service after  
3           September 1, 1941, is entitled to a retirement annuity on or  
4           after attainment of age 55.

5           A participant with at least 5 but less than 8 years of  
6           service after September 1, 1941, is entitled to a retirement  
7           annuity on or after attainment of age 62.

8           A participant who has at least 25 years of service in this  
9           system as a police officer or firefighter is entitled to a  
10          retirement annuity on or after the attainment of age 50, if  
11          Rule 4 of Section 15-136 is applicable to the participant.

12          (b) The annuity payment period shall begin on the date  
13          specified by the participant or the recipient of a disability  
14          retirement annuity submitting a written application, which  
15          date shall not be prior to termination of employment or more  
16          than one year before the application is received by the board;  
17          however, if the participant is not an employee of an employer  
18          participating in this System or in a participating system as  
19          defined in Article 20 of this Code on April 1 of the calendar  
20          year next following the calendar year in which the participant  
21          attains age 70 1/2, the annuity payment period shall begin on  
22          that date regardless of whether an application has been filed.

23          (c) An annuity is not payable if the amount provided under  
24          Section 15-136 is less than \$10 per month.

25          (Source: P.A. 92-749, eff. 8-2-02.)

1 (40 ILCS 5/15-136) (from Ch. 108 1/2, par. 15-136)

2 Sec. 15-136. Retirement annuities - Amount. The provisions  
3 of this Section 15-136 apply only to those participants who are  
4 participating in the traditional benefit package or the  
5 portable benefit package and do not apply to participants who  
6 are participating in the self-managed plan.

7 (a) The amount of a participant's retirement annuity,  
8 expressed in the form of a single-life annuity, shall be  
9 determined by whichever of the following rules is applicable  
10 and provides the largest annuity:

11 Rule 1: The retirement annuity shall be 1.67% of final rate  
12 of earnings for each of the first 10 years of service, 1.90%  
13 for each of the next 10 years of service, 2.10% for each year  
14 of service in excess of 20 but not exceeding 30, and 2.30% for  
15 each year in excess of 30; or for persons who retire on or  
16 after January 1, 1998, 2.2% of the final rate of earnings for  
17 each year of service.

18 Rule 2: The retirement annuity shall be the sum of the  
19 following, determined from amounts credited to the participant  
20 in accordance with the actuarial tables and the effective  
21 ~~prescribed~~ rate of interest in effect at the time the  
22 retirement annuity begins:

23 (i) the normal annuity which can be provided on an  
24 actuarially equivalent basis, by the accumulated normal  
25 contributions as of the date the annuity begins;

26 (ii) an annuity from employer contributions of an

1 amount equal to that which can be provided on an  
2 actuarially equivalent basis from the accumulated normal  
3 contributions made by the participant under Section  
4 15-113.6 and Section 15-113.7 plus 1.4 times all other  
5 accumulated normal contributions made by the participant;  
6 and

7 (iii) the annuity that can be provided on an  
8 actuarially equivalent basis from the entire contribution  
9 made by the participant under Section 15-113.3.

10 With respect to a police officer or firefighter who retires  
11 on or after August 14, 1998, the accumulated normal  
12 contributions taken into account under clauses (i) and (ii) of  
13 this Rule 2 shall include the additional normal contributions  
14 made by the police officer or firefighter under Section  
15 15-157(a).

16 The amount of a retirement annuity calculated under this  
17 Rule 2 shall be computed solely on the basis of the  
18 participant's accumulated normal contributions, as specified  
19 in this Rule and defined in Section 15-116. Neither an employee  
20 or employer contribution for early retirement under Section  
21 15-136.2 nor any other employer contribution shall be used in  
22 the calculation of the amount of a retirement annuity under  
23 this Rule 2.

24 This amendatory Act of the 91st General Assembly is a  
25 clarification of existing law and applies to every participant  
26 and annuitant without regard to whether status as an employee

1 terminates before the effective date of this amendatory Act.

2 This Rule 2 does not apply to a person who first becomes an  
3 employee under this Article on or after July 1, 2005.

4 Rule 3: The retirement annuity of a participant who is  
5 employed at least one-half time during the period on which his  
6 or her final rate of earnings is based, shall be equal to the  
7 participant's years of service not to exceed 30, multiplied by  
8 (1) \$96 if the participant's final rate of earnings is less  
9 than \$3,500, (2) \$108 if the final rate of earnings is at least  
10 \$3,500 but less than \$4,500, (3) \$120 if the final rate of  
11 earnings is at least \$4,500 but less than \$5,500, (4) \$132 if  
12 the final rate of earnings is at least \$5,500 but less than  
13 \$6,500, (5) \$144 if the final rate of earnings is at least  
14 \$6,500 but less than \$7,500, (6) \$156 if the final rate of  
15 earnings is at least \$7,500 but less than \$8,500, (7) \$168 if  
16 the final rate of earnings is at least \$8,500 but less than  
17 \$9,500, and (8) \$180 if the final rate of earnings is \$9,500 or  
18 more, except that the annuity for those persons having made an  
19 election under Section 15-154(a-1) shall be calculated and  
20 payable under the portable retirement benefit program pursuant  
21 to the provisions of Section 15-136.4.

22 Rule 4: A participant who is at least age 50 and has 25 or  
23 more years of service as a police officer or firefighter, and a  
24 participant who is age 55 or over and has at least 20 but less  
25 than 25 years of service as a police officer or firefighter,  
26 shall be entitled to a retirement annuity of 2 1/4% of the

1 final rate of earnings for each of the first 10 years of  
2 service as a police officer or firefighter, 2 1/2% for each of  
3 the next 10 years of service as a police officer or  
4 firefighter, and 2 3/4% for each year of service as a police  
5 officer or firefighter in excess of 20. The retirement annuity  
6 for all other service shall be computed under Rule 1.

7 For purposes of this Rule 4, a participant's service as a  
8 firefighter shall also include the following:

9 (i) service that is performed while the person is an  
10 employee under subsection (h) of Section 15-107; and

11 (ii) in the case of an individual who was a  
12 participating employee employed in the fire department of  
13 the University of Illinois's Champaign-Urbana campus  
14 immediately prior to the elimination of that fire  
15 department and who immediately after the elimination of  
16 that fire department transferred to another job with the  
17 University of Illinois, service performed as an employee of  
18 the University of Illinois in a position other than police  
19 officer or firefighter, from the date of that transfer  
20 until the employee's next termination of service with the  
21 University of Illinois.

22 Rule 5: The retirement annuity of a participant who elected  
23 early retirement under the provisions of Section 15-136.2 and  
24 who, on or before February 16, 1995, brought administrative  
25 proceedings pursuant to the administrative rules adopted by the  
26 System to challenge the calculation of his or her retirement

1 annuity shall be the sum of the following, determined from  
2 amounts credited to the participant in accordance with the  
3 actuarial tables and the prescribed rate of interest in effect  
4 at the time the retirement annuity begins:

5 (i) the normal annuity which can be provided on an  
6 actuarially equivalent basis, by the accumulated normal  
7 contributions as of the date the annuity begins; and

8 (ii) an annuity from employer contributions of an  
9 amount equal to that which can be provided on an  
10 actuarially equivalent basis from the accumulated normal  
11 contributions made by the participant under Section  
12 15-113.6 and Section 15-113.7 plus 1.4 times all other  
13 accumulated normal contributions made by the participant;  
14 and

15 (iii) an annuity which can be provided on an  
16 actuarially equivalent basis from the employee  
17 contribution for early retirement under Section 15-136.2,  
18 and an annuity from employer contributions of an amount  
19 equal to that which can be provided on an actuarially  
20 equivalent basis from the employee contribution for early  
21 retirement under Section 15-136.2.

22 In no event shall a retirement annuity under this Rule 5 be  
23 lower than the amount obtained by adding (1) the monthly amount  
24 obtained by dividing the combined employee and employer  
25 contributions made under Section 15-136.2 by the System's  
26 annuity factor for the age of the participant at the beginning

1 of the annuity payment period and (2) the amount equal to the  
2 participant's annuity if calculated under Rule 1, reduced under  
3 Section 15-136(b) as if no contributions had been made under  
4 Section 15-136.2.

5 With respect to a participant who is qualified for a  
6 retirement annuity under this Rule 5 whose retirement annuity  
7 began before the effective date of this amendatory Act of the  
8 91st General Assembly, and for whom an employee contribution  
9 was made under Section 15-136.2, the System shall recalculate  
10 the retirement annuity under this Rule 5 and shall pay any  
11 additional amounts due in the manner provided in Section  
12 15-186.1 for benefits mistakenly set too low.

13 The amount of a retirement annuity calculated under this  
14 Rule 5 shall be computed solely on the basis of those  
15 contributions specifically set forth in this Rule 5. Except as  
16 provided in clause (iii) of this Rule 5, neither an employee  
17 nor employer contribution for early retirement under Section  
18 15-136.2, nor any other employer contribution, shall be used in  
19 the calculation of the amount of a retirement annuity under  
20 this Rule 5.

21 The General Assembly has adopted the changes set forth in  
22 Section 25 of this amendatory Act of the 91st General Assembly  
23 in recognition that the decision of the Appellate Court for the  
24 Fourth District in *Mattis v. State Universities Retirement*  
25 *System et al.* might be deemed to give some right to the  
26 plaintiff in that case. The changes made by Section 25 of this



1 amendatory Act of the 91st General Assembly are a legislative  
2 implementation of the decision of the Appellate Court for the  
3 Fourth District in *Mattis v. State Universities Retirement*  
4 *System et al.* with respect to that plaintiff.

5 The changes made by Section 25 of this amendatory Act of  
6 the 91st General Assembly apply without regard to whether the  
7 person is in service as an employee on or after its effective  
8 date.

9 (b) The retirement annuity provided under Rules 1 and 3  
10 above shall be reduced by 1/2 of 1% for each month the  
11 participant is under age 60 at the time of retirement. However,  
12 this reduction shall not apply in the following cases:

13 (1) For a disabled participant whose disability  
14 benefits have been discontinued because he or she has  
15 exhausted eligibility for disability benefits under clause  
16 (6) of Section 15-152;

17 (2) For a participant who has at least the number of  
18 years of service required to retire at any age under  
19 subsection (a) of Section 15-135; or

20 (3) For that portion of a retirement annuity which has  
21 been provided on account of service of the participant  
22 during periods when he or she performed the duties of a  
23 police officer or firefighter, if these duties were  
24 performed for at least 5 years immediately preceding the  
25 date the retirement annuity is to begin.

26 (c) The maximum retirement annuity provided under Rules 1,

1 2, 4, and 5 shall be the lesser of (1) the annual limit of  
2 benefits as specified in Section 415 of the Internal Revenue  
3 Code of 1986, as such Section may be amended from time to time  
4 and as such benefit limits shall be adjusted by the  
5 Commissioner of Internal Revenue, and (2) 80% of final rate of  
6 earnings.

7 (d) An annuitant whose status as an employee terminates  
8 after August 14, 1969 shall receive automatic increases in his  
9 or her retirement annuity as follows:

10 Effective January 1 immediately following the date the  
11 retirement annuity begins, the annuitant shall receive an  
12 increase in his or her monthly retirement annuity of 0.125% of  
13 the monthly retirement annuity provided under Rule 1, Rule 2,  
14 Rule 3, Rule 4, or Rule 5, contained in this Section,  
15 multiplied by the number of full months which elapsed from the  
16 date the retirement annuity payments began to January 1, 1972,  
17 plus 0.1667% of such annuity, multiplied by the number of full  
18 months which elapsed from January 1, 1972, or the date the  
19 retirement annuity payments began, whichever is later, to  
20 January 1, 1978, plus 0.25% of such annuity multiplied by the  
21 number of full months which elapsed from January 1, 1978, or  
22 the date the retirement annuity payments began, whichever is  
23 later, to the effective date of the increase.

24 The annuitant shall receive an increase in his or her  
25 monthly retirement annuity on each January 1 thereafter during  
26 the annuitant's life of 3% of the monthly annuity provided

1 under Rule 1, Rule 2, Rule 3, Rule 4, or Rule 5 contained in  
2 this Section. The change made under this subsection by P.A.  
3 81-970 is effective January 1, 1980 and applies to each  
4 annuitant whose status as an employee terminates before or  
5 after that date.

6 Beginning January 1, 1990, all automatic annual increases  
7 payable under this Section shall be calculated as a percentage  
8 of the total annuity payable at the time of the increase,  
9 including all increases previously granted under this Article.

10 The change made in this subsection by P.A. 85-1008 is  
11 effective January 26, 1988, and is applicable without regard to  
12 whether status as an employee terminated before that date.

13 (e) If, on January 1, 1987, or the date the retirement  
14 annuity payment period begins, whichever is later, the sum of  
15 the retirement annuity provided under Rule 1 or Rule 2 of this  
16 Section and the automatic annual increases provided under the  
17 preceding subsection or Section 15-136.1, amounts to less than  
18 the retirement annuity which would be provided by Rule 3, the  
19 retirement annuity shall be increased as of January 1, 1987, or  
20 the date the retirement annuity payment period begins,  
21 whichever is later, to the amount which would be provided by  
22 Rule 3 of this Section. Such increased amount shall be  
23 considered as the retirement annuity in determining benefits  
24 provided under other Sections of this Article. This paragraph  
25 applies without regard to whether status as an employee  
26 terminated before the effective date of this amendatory Act of

1 1987, provided that the annuitant was employed at least  
2 one-half time during the period on which the final rate of  
3 earnings was based.

4 (f) A participant is entitled to such additional annuity as  
5 may be provided on an actuarially equivalent basis, by any  
6 accumulated additional contributions to his or her credit.  
7 However, the additional contributions made by the participant  
8 toward the automatic increases in annuity provided under this  
9 Section shall not be taken into account in determining the  
10 amount of such additional annuity.

11 (g) If, (1) by law, a function of a governmental unit, as  
12 defined by Section 20-107 of this Code, is transferred in whole  
13 or in part to an employer, and (2) a participant transfers  
14 employment from such governmental unit to such employer within  
15 6 months after the transfer of the function, and (3) the sum of  
16 (A) the annuity payable to the participant under Rule 1, 2, or  
17 3 of this Section (B) all proportional annuities payable to the  
18 participant by all other retirement systems covered by Article  
19 20, and (C) the initial primary insurance amount to which the  
20 participant is entitled under the Social Security Act, is less  
21 than the retirement annuity which would have been payable if  
22 all of the participant's pension credits validated under  
23 Section 20-109 had been validated under this system, a  
24 supplemental annuity equal to the difference in such amounts  
25 shall be payable to the participant.

26 (h) On January 1, 1981, an annuitant who was receiving a

1 retirement annuity on or before January 1, 1971 shall have his  
2 or her retirement annuity then being paid increased \$1 per  
3 month for each year of creditable service. On January 1, 1982,  
4 an annuitant whose retirement annuity began on or before  
5 January 1, 1977, shall have his or her retirement annuity then  
6 being paid increased \$1 per month for each year of creditable  
7 service.

8 (i) On January 1, 1987, any annuitant whose retirement  
9 annuity began on or before January 1, 1977, shall have the  
10 monthly retirement annuity increased by an amount equal to 8¢  
11 per year of creditable service times the number of years that  
12 have elapsed since the annuity began.

13 (Source: P.A. 93-347, eff. 7-24-03; 94-4, eff. 6-1-05.)

14 (40 ILCS 5/15-136.4)

15 Sec. 15-136.4. Retirement and Survivor Benefits Under  
16 Portable Benefit Package.

17 (a) This Section 15-136.4 describes the form of annuity and  
18 survivor benefits available to a participant who has elected  
19 the portable benefit package and has completed the one-year  
20 waiting period required under subsection (e) of Section  
21 15-134.5. For purposes of this Section, the term "eligible  
22 spouse" means the husband or wife of a participant to whom the  
23 participant is married on the date the participant's annuity  
24 payment period begins, provided however, that if the  
25 participant should die prior to the commencement of retirement

1 annuity benefits, then "eligible spouse" means the husband or  
2 wife, if any, to whom the participant was married throughout  
3 the one-year period preceding the date of his or her death.

4 (b) This subsection (b) describes the normal form of  
5 annuity payable to a participant subject to this Section  
6 15-136.4. If the participant is unmarried on the date his or  
7 her annuity payment period begins, then the annuity payments  
8 shall be made in the form of a single-life annuity as described  
9 in Section 15-118. If the participant is married on the date  
10 his or her annuity payments commence, then the annuity payments  
11 shall be paid in the form of a qualified joint and survivor  
12 annuity that is the actuarial equivalent of the single-life  
13 annuity. Under the "qualified joint and survivor annuity", a  
14 reduced amount shall be paid to the participant for his or her  
15 lifetime and his or her eligible spouse, if surviving at the  
16 participant's death, shall be entitled to receive thereafter a  
17 lifetime survivorship annuity in a monthly amount equal to 50%  
18 of the reduced monthly amount that was payable to the  
19 participant. The last payment of a qualified joint and survivor  
20 annuity shall be made as of the first day of the month in which  
21 the death of the survivor occurs.

22 (c) Instead of the normal form of annuity that would be  
23 paid under subsection (b), a participant may elect in writing  
24 within the 180-day ~~90-day~~ period prior to the date his or her  
25 annuity payments commence to waive the normal form of annuity  
26 payment and receive an optional form of payment as described in

1 subsection (h). If the participant is married and elects an  
2 optional form of payment under subsection (h) other than a  
3 joint and survivor annuity with the eligible spouse designated  
4 as the contingent annuitant, then such election shall require  
5 the consent of his or her eligible spouse in the manner  
6 described in subsection (d). At any time during the 180-day  
7 ~~90-day~~ period preceding the date the participant's payment  
8 period begins, the participant may revoke the optional form of  
9 payment elected under this subsection (c) and reinstate  
10 coverage under the qualified joint and survivor annuity without  
11 the spouse's consent, but an election to revoke the optional  
12 form elected and elect a new optional form of payment or  
13 designate a different contingent annuitant shall not be  
14 effective without the eligible spouse's consent.

15 (d) The eligible spouse's consent to any election made  
16 pursuant to this Section that requires the eligible spouse's  
17 consent shall be in writing and shall acknowledge the effect of  
18 the consent. In addition, the eligible spouse's signature on  
19 the written consent must be witnessed by a notary public. The  
20 eligible spouse's consent need not be obtained if the system is  
21 satisfied that there is no eligible spouse, that the eligible  
22 spouse cannot be located, or because of any other relevant  
23 circumstances. An eligible spouse's consent under this Section  
24 is valid only with respect to the specified optional form of  
25 payment and, if applicable, contingent annuitant designated by  
26 the participant. If the optional form of payment or the

1 contingent annuitant is subsequently changed (other than by a  
2 revocation of the optional form of payment and reinstatement of  
3 the qualified joint and survivor annuity), a new consent by the  
4 eligible spouse is required. The eligible spouse's consent to  
5 an election made by a participant pursuant to this Section,  
6 once made, may not be revoked by the eligible spouse.

7 (e) Within a reasonable period of time preceding the date a  
8 participant's annuity commences, a participant shall be  
9 supplied with a written explanation of (1) the terms and  
10 conditions of the normal form single-life annuity and qualified  
11 joint and survivor annuity, (2) the participant's right to  
12 elect a single-life annuity or an optional form of payment  
13 under subsection (h) subject to his or her eligible spouse's  
14 consent, if applicable, and (3) the participant's right to  
15 reinstate coverage under the qualified joint and survivor  
16 annuity prior to his or her annuity commencement date by  
17 revoking an election of an optional form of payment under  
18 subsection (h).

19 (f) If a married participant with at least 1.5 years of  
20 service dies prior to commencing retirement annuity payments  
21 and prior to taking a refund under Section 15-154, his or her  
22 eligible spouse is entitled to receive a pre-retirement  
23 survivor annuity, if there is not then in effect a waiver of  
24 the pre-retirement survivor annuity. The pre-retirement  
25 survivor annuity payable under this subsection shall be a  
26 monthly annuity payable for the eligible spouse's life,



1 commencing as of the beginning of the month next following the  
2 later of the date of the participant's death or the date the  
3 participant would have first met the eligibility requirements  
4 for retirement, and continuing through the beginning of the  
5 month in which the death of the eligible spouse occurs. The  
6 monthly amount payable to the spouse under the pre-retirement  
7 survivor annuity shall be equal to the monthly amount that  
8 would be payable as a survivor annuity under the qualified  
9 joint and survivor annuity described in subsection (b) if: (1)  
10 in the case of a participant who dies on or after the date on  
11 which the participant has met the eligibility requirements for  
12 retirement, the participant had retired with an immediate  
13 qualified joint and survivor annuity on the day before the  
14 participant's date of death; or (2) in the case of a  
15 participant who dies before the earliest date on which the  
16 participant would have met the eligibility requirements for  
17 retirement age, the participant had separated from service on  
18 the date of death, survived to the earliest retirement age  
19 based on service prior to his or her death, retired with an  
20 immediate qualified joint and survivor annuity at the earliest  
21 retirement age, and died on the day after the day on which the  
22 participant would have attained the earliest retirement age.

23 (g) A married participant who has not retired may elect at  
24 any time to waive the pre-retirement survivor annuity described  
25 in subsection (f). Any such election shall require the consent  
26 of the participant's eligible spouse in the manner described in

1 subsection (d). A waiver of the pre-retirement survivor annuity  
2 shall increase the lump sum death benefit payable under  
3 subsection (b) of Section 15-141. Prior to electing any waiver  
4 of the pre-retirement survivor annuity, the participant shall  
5 be provided with a written explanation of (1) the terms and  
6 conditions of the pre-retirement survivor annuity and the death  
7 benefits payable from the system both with and without the  
8 pre-retirement survivor annuity, (2) the participant's right  
9 to elect a waiver of the pre-retirement survivor annuity  
10 coverage subject to his or her spouse's consent, and (3) the  
11 participant's right to reinstate pre-retirement survivor  
12 annuity coverage at any time by revoking a prior waiver of such  
13 coverage.

14 (h) By filing a timely election with the system, a  
15 participant who will be eligible to receive a retirement  
16 annuity under this Section may waive the normal form of annuity  
17 payment described in subsection (b), subject to obtaining the  
18 consent of his or her eligible spouse, if applicable, and elect  
19 to receive any one of the following optional forms of payment:

20 (1) Joint and Survivor Annuity Options: The  
21 participant may elect to receive a reduced annuity payable  
22 for his or her life and to have a lifetime survivorship  
23 annuity in a monthly amount equal to 50%, 75%, or 100% (as  
24 elected by the participant) of that reduced monthly amount,  
25 to be paid after the participant's death to his or her  
26 contingent annuitant, if the contingent annuitant is alive

1 at the time of the participant's death.

2 (2) Single-Life Annuity Option (optional for married  
3 participants). The participant may elect to receive a  
4 single-life annuity payable for his or her life only.

5 (3) Lump sum retirement benefit. The participant may  
6 elect to receive a lump sum retirement benefit that is  
7 equal to the amount of a refund payable under Section  
8 15-154(a-2).

9 All joint and survivor annuity forms shall be in an amount that  
10 is the actuarial equivalent of the single-life annuity.

11 For the purposes of this Section, the term "contingent  
12 annuitant" means the beneficiary who is designated by a  
13 participant at the time the participant elects a joint and  
14 survivor annuity to receive the lifetime survivorship annuity  
15 in the event the beneficiary survives the participant at the  
16 participant's death.

17 (i) Under no circumstances may an option be elected,  
18 changed, or revoked after the date the participant's retirement  
19 annuity commences.

20 (j) An election made pursuant to subsection (h) shall  
21 become inoperative if the participant or the contingent  
22 annuitant dies before the date the participant's annuity  
23 payments commence, or if the eligible spouse's consent is  
24 required and not given.

25 (k) (Blank).

26 (l) The automatic annual increases described in subsection

1 (d) of Section 15-136 shall apply to retirement benefits under  
2 the portable benefit package and the automatic annual increases  
3 described in subsection (j) of Section 15-145 shall apply to  
4 survivor benefits under the portable benefit package.

5 (Source: P.A. 96-586, eff. 8-18-09.)

6 (40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

7 Sec. 15-139. Retirement annuities; cancellation; suspended  
8 during employment.

9 (a) If an annuitant returns to employment for an employer  
10 within 60 days after the beginning of the retirement annuity  
11 payment period, the retirement annuity shall be cancelled, and  
12 the annuitant shall refund to the System the total amount of  
13 the retirement annuity payments which he or she received. If  
14 the retirement annuity is cancelled, the participant shall  
15 continue to participate in the System.

16 (b) If an annuitant retires prior to age 60 and receives or  
17 becomes entitled to receive during any month compensation in  
18 excess of the monthly retirement annuity (including any  
19 automatic annual increases) for services performed after the  
20 date of retirement for any employer under this System, that  
21 portion of the monthly retirement annuity provided by employer  
22 contributions shall not be payable.

23 If an annuitant retires at age 60 or over and receives or  
24 becomes entitled to receive during any academic year  
25 compensation in excess of the difference between his or her

1 highest annual earnings prior to retirement and his or her  
2 annual retirement annuity computed under Rule 1, Rule 2, Rule  
3 3, Rule 4, or Rule 5 of Section 15-136, or under Section  
4 15-136.4, for services performed after the date of retirement  
5 for any employer under this System, that portion of the monthly  
6 retirement annuity provided by employer contributions shall be  
7 reduced by an amount equal to the compensation that exceeds  
8 such difference.

9 However, any remuneration received for serving as a member  
10 of the Illinois Educational Labor Relations Board shall be  
11 excluded from "compensation" for the purposes of this  
12 subsection (b), and serving as a member of the Illinois  
13 Educational Labor Relations Board shall not be deemed to be a  
14 return to employment for the purposes of this Section. This  
15 provision applies without regard to whether service was  
16 terminated prior to the effective date of this amendatory Act  
17 of 1991.

18 (c) If an employer certifies that an annuitant has been  
19 reemployed on a permanent and continuous basis or in a position  
20 in which the annuitant is expected to serve for at least 9  
21 months, the annuitant shall resume his or her status as a  
22 participating employee and shall be entitled to all rights  
23 applicable to participating employees upon filing with the  
24 board an election to forgo ~~forego~~ all annuity payments during  
25 the period of reemployment. Upon subsequent retirement, the  
26 retirement annuity shall consist of the annuity which was

1 terminated by the reemployment, plus the additional retirement  
2 annuity based upon service granted during the period of  
3 reemployment, but the combined retirement annuity shall not  
4 exceed the maximum annuity applicable on the date of the last  
5 retirement.

6 The total service and earnings credited before and after  
7 the initial date of retirement shall be considered in  
8 determining eligibility of the employee or the employee's  
9 beneficiary to benefits under this Article, and in calculating  
10 final rate of earnings.

11 In determining the death benefit payable to a beneficiary  
12 of an annuitant who again becomes a participating employee  
13 under this Section, accumulated normal and additional  
14 contributions shall be considered as the sum of the accumulated  
15 normal and additional contributions at the date of initial  
16 retirement and the accumulated normal and additional  
17 contributions credited after that date, less the sum of the  
18 annuity payments received by the annuitant.

19 The survivors insurance benefits provided under Section  
20 15-145 shall not be applicable to an annuitant who resumes his  
21 or her status as a participating employee, unless the  
22 annuitant, at the time of initial retirement, has a survivors  
23 insurance beneficiary who could qualify for such benefits.

24 If the participant's ~~annuitant's~~ employment is terminated  
25 because of circumstances other than death before 9 months from  
26 the date of reemployment, the provisions of this Section

1 regarding resumption of status as a participating employee  
2 shall not apply. The normal and survivors insurance  
3 contributions which are deducted during this period shall be  
4 refunded to the annuitant without interest, and subsequent  
5 benefits under this Article shall be the same as those which  
6 were applicable prior to the date the annuitant resumed  
7 employment.

8 The amendments made to this Section by this amendatory Act  
9 of the 91st General Assembly apply without regard to whether  
10 the annuitant was in service on or after the effective date of  
11 this amendatory Act.

12 (Source: P.A. 91-887 (Sections 10 and 25), eff. 7-6-00; 92-16,  
13 eff. 6-28-01.)

14 (40 ILCS 5/15-139.5 new)

15 Sec. 15-139.5. Return to work by affected annuitant; notice  
16 and contribution by employer.

17 (a) An employer who employs or re-employs a person  
18 receiving a retirement annuity from the System in an academic  
19 year beginning on or after August 1, 2013 must notify the  
20 System of that employment within 60 days after employing the  
21 annuitant. The notice must include a copy of the contract of  
22 employment; if no written contract of employment exists, then  
23 the notice must specify the rate of compensation and the  
24 anticipated length of employment of that annuitant. The notice  
25 must specify whether the annuitant will be compensated from

1 federal, corporate, foundation, or trust funds or grants of  
2 State funds that identify the principal investigator by name.  
3 The notice must include the employer's determination of whether  
4 or not the annuitant is an "affected annuitant" as defined in  
5 subsection (b).

6 The employer must also record, document, and certify to the  
7 System (i) the number of paid days and paid weeks worked by the  
8 annuitant in the academic year, (ii) the amount of compensation  
9 paid to the annuitant for employment during the academic year,  
10 and (iii) the amount of that compensation, if any, that comes  
11 from either federal, corporate, foundation, or trust funds or  
12 grants of State funds that identify the principal investigator  
13 by name.

14 As used in this Section, "academic year" has the meaning  
15 ascribed to that term in Section 15-126.1; "paid day" means a  
16 day on which a person performs personal services for an  
17 employer and for which the person is compensated by the  
18 employer; and "paid week" means a calendar week in which a  
19 person has at least one paid day.

20 For the purposes of this Section, an annuitant whose  
21 employment by an employer extends over more than one academic  
22 year shall be deemed to be re-employed by that employer in each  
23 of those academic years.

24 The System may specify the time, form, and manner of  
25 providing the determinations, notifications, certifications,  
26 and documentation required under this Section.



1       (b) A person receiving a retirement annuity from the System  
2 becomes an "affected annuitant" on the first day of the  
3 academic year following the academic year in which the  
4 annuitant first meets both of the following conditions:

5           (1) While receiving a retirement annuity under this  
6 Article, the annuitant has been employed on or after August  
7 1, 2013 by one or more employers under this Article for a  
8 total of more than 18 paid weeks (which need not have been  
9 with the same employer or in the same academic year);  
10 except that any periods of employment for which the  
11 annuitant was compensated solely from federal, corporate,  
12 foundation, or trust funds or grants of State funds that  
13 identify the principal investigator by name are excluded.

14           (2) While receiving a retirement annuity under this  
15 Article, the annuitant was employed on or after August 1,  
16 2013 by one or more employers under this Article and  
17 received or became entitled to receive during an academic  
18 year compensation for that employment in excess of 40% of  
19 his or her highest annual earnings prior to retirement;  
20 except that compensation paid from federal, corporate,  
21 foundation, or trust funds or grants of State funds that  
22 identify the principal investigator by name is excluded.

23       A person who becomes an affected annuitant remains an  
24 affected annuitant, except for any period during which the  
25 person returns to active service and does not receive a  
26 retirement annuity from the System.

1       (c) It is the obligation of the employer to determine  
2 whether an annuitant is an affected annuitant before employing  
3 the annuitant. For that purpose the employer may require the  
4 annuitant to disclose and document his or her relevant prior  
5 employment and earnings history. Failure of the employer to  
6 make this determination correctly and in a timely manner or to  
7 include this determination with the notification required  
8 under subsection (a) does not excuse the employer from making  
9 the contribution required under subsection (e).

10       The System may assist the employer in determining whether a  
11 person is an affected annuitant. The System shall inform the  
12 employer if it discovers that the employer's determination is  
13 inconsistent with the employment and earnings information in  
14 the System's records.

15       (d) Upon the request of an annuitant, the System shall  
16 certify to the annuitant the following information as reported  
17 by the employers, as that information is indicated in the  
18 records of the System: (i) the annuitant's highest annual  
19 earnings prior to retirement, (ii) the number of paid weeks  
20 worked by the annuitant for an employer on or after August 1,  
21 2013, (iii) the compensation paid for that employment in each  
22 academic year, and (iv) whether any of that employment or  
23 compensation has been certified to the System as being paid  
24 from federal, corporate, foundation, or trust funds or grants  
25 of State funds that identify the principal investigator by  
26 name. The System shall only be required to certify information

1 that is received from the employers.

2 (e) In addition to the requirements of subsection (a), an  
3 employer who employs an affected annuitant must pay to the  
4 System an employer contribution in the amount and manner  
5 provided in this Section, unless the annuitant is compensated  
6 by that employer solely from federal, corporate, foundation, or  
7 trust funds or grants of State funds that identify the  
8 principal investigator by name.

9 The employer contribution required under this Section for  
10 employment of an affected annuitant in an academic year shall  
11 be equal to 12 times the amount of the gross monthly retirement  
12 annuity payable to the annuitant for the month in which the  
13 first paid day of that employment in that academic year occurs,  
14 after any reduction in that annuity that may be imposed under  
15 subsection (b) of Section 15-139.

16 If an affected annuitant is employed by more than one  
17 employer in an academic year, the employer contribution  
18 required under this Section shall be divided among those  
19 employers in proportion to their respective portions of the  
20 total compensation paid to the affected annuitant for that  
21 employment during that academic year.

22 If the System determines that an employer, without  
23 reasonable justification, has failed to make the determination  
24 of affected annuitant status correctly and in a timely manner,  
25 or has failed to notify the System or to correctly document or  
26 certify to the System any of the information required by this

1 Section, and that failure results in a delayed determination by  
2 the System that a contribution is payable under this Section,  
3 then the amount of that employer's contribution otherwise  
4 determined under this Section shall be doubled.

5 The System shall deem a failure to correctly determine the  
6 annuitant's status to be justified if the employer establishes  
7 to the System's satisfaction that the employer, after due  
8 diligence, made an erroneous determination that the annuitant  
9 was not an affected annuitant due to reasonable reliance on  
10 false or misleading information provided by the annuitant or  
11 another employer, or an error in the annuitant's official  
12 employment or earnings records.

13 (f) Whenever the System determines that an employer is  
14 liable for a contribution under this Section, it shall so  
15 notify the employer and certify the amount of the contribution.  
16 The employer may pay the required contribution without interest  
17 at any time within one year after receipt of the certification.  
18 If the employer fails to pay within that year, then interest  
19 shall be charged at a rate equal to the System's prescribed  
20 rate of interest, compounded annually from the 366th day after  
21 receipt of the certification from the System. Payment must be  
22 concluded within 2 years after receipt of the certification by  
23 the employer. If the employer fails to make complete payment,  
24 including applicable interest, within 2 years, then the System  
25 may, after giving notice to the employer, certify the  
26 delinquent amount to the State Comptroller, and the Comptroller

1 shall thereupon deduct the certified delinquent amount from  
2 State funds payable to the employer and pay them instead to the  
3 System.

4 (g) If an employer is required to make a contribution to  
5 the System as a result of employing an affected annuitant and  
6 the annuitant later elects to forgo his or her annuity in that  
7 same academic year pursuant to subsection (c) of Section  
8 15-139, then the required contribution by the employer shall be  
9 waived, and if the contribution has already been paid, it shall  
10 be refunded to the employer without interest.

11 (h) Notwithstanding any other provision of this Article,  
12 the employer contribution required under this Section shall not  
13 be included in the determination of any benefit under this  
14 Article or any other Article of this Code, regardless of  
15 whether the annuitant returns to active service, and is in  
16 addition to any other State or employer contribution required  
17 under this Article.

18 (i) Notwithstanding any other provision of this Section to  
19 the contrary, if an employer employs an affected annuitant in  
20 order to continue critical operations in the event of either an  
21 employee's unforeseen illness, accident, or death or a  
22 catastrophic incident or disaster, then, for one and only one  
23 academic year, the employer is not required to pay the  
24 contribution set forth in this Section for that annuitant. The  
25 employer shall, however, immediately notify the System upon  
26 employing a person subject to this subsection (i). For the

1 purposes of this subsection (i), "critical operations" means  
2 teaching services, medical services, student welfare services,  
3 and any other services that are critical to the mission of the  
4 employer.

5 (40 ILCS 5/15-153.2) (from Ch. 108 1/2, par. 15-153.2)

6 Sec. 15-153.2. Disability retirement annuity. A  
7 participant whose disability benefits are discontinued under  
8 the provisions of clause (6) of Section 15-152 and who is not a  
9 participant in the optional retirement plan established under  
10 Section 15-158.2 is entitled to a disability retirement annuity  
11 of 35% of the basic compensation which was payable to the  
12 participant at the time that disability began, provided that  
13 the board determines that the participant has a medically  
14 determinable physical or mental impairment that prevents him or  
15 her from engaging in any substantial gainful activity, and  
16 which can be expected to result in death or which has lasted or  
17 can be expected to last for a continuous period of not less  
18 than 12 months.

19 The board's determination of whether a participant is  
20 disabled shall be based upon:

21 (i) a written certificate from one or more licensed and  
22 practicing physicians appointed by or acceptable to the  
23 board, stating that the participant is unable to engage in  
24 any substantial gainful activity; and

25 (ii) any other medical examinations, hospital records,

1 laboratory results, or other information necessary for  
2 determining the employment capacity and condition of the  
3 participant.

4 The terms "medically determinable physical or mental  
5 impairment" and "substantial gainful activity" shall have the  
6 meanings ascribed to them in the federal Social Security Act,  
7 as now or hereafter amended, and the regulations issued  
8 thereunder.

9 The disability retirement annuity payment period shall  
10 begin immediately following the expiration of the disability  
11 benefit payments under clause (6) of Section 15-152 and shall  
12 be discontinued for a recipient of a disability retirement  
13 annuity when (1) the physical or mental impairment no longer  
14 prevents the participant from engaging in any substantial  
15 gainful activity, (2) the participant dies or (3) the  
16 participant elects to receive a retirement annuity under  
17 Sections 15-135 and 15-136. If a person's disability retirement  
18 annuity is discontinued under clause (1), all rights and  
19 credits accrued in the system on the date that the disability  
20 retirement annuity began shall be restored, and the disability  
21 retirement annuity paid shall be considered as disability  
22 payments under clause (6) of Section 15-152.

23 (Source: P.A. 90-14, eff. 7-1-97; 90-65, eff. 7-7-97; 90-511,  
24 eff. 8-22-97; 90-766, eff. 8-14-98.)

25 (40 ILCS 5/15-168.2 new)

1       Sec. 15-168.2. Audit of employers. Beginning August 1,  
2       2013, the System may audit the employment records and payroll  
3       records of all employers. When the System audits an employer,  
4       it shall specify the exact information it requires, which may  
5       include but need not be limited to the names, titles, and  
6       earnings history of every individual receiving compensation  
7       from the employer. If an employer is audited by the System,  
8       then the employer must provide to the System all necessary  
9       documents and records within 60 calendar days after receiving  
10       notification from the System. When the System audits an  
11       employer, it shall send related correspondence by certified  
12       mail.

13       (40 ILCS 5/15-186) (from Ch. 108 1/2, par. 15-186)

14       Sec. 15-186. Fraud.

15       Any person who knowingly makes any false statement, or  
16       falsifies or permits to be falsified any record or records of  
17       this system, in any attempt to defraud the system or to mislead  
18       or defraud an employer with respect to employment of an  
19       annuitant under Section 15-139.5, is guilty of a Class A  
20       misdemeanor.

21       (Source: P.A. 77-2830.)

22       Section 99. Effective date. This Act takes effect July 1,  
23       2012.