



Sen. Heather A. Steans

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1 AMENDMENT TO HOUSE BILL 4996

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4996, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Illinois Pension Code is amended by  
6 changing Sections 15-113, 15-135, 15-136, 15-136.4, 15-139,  
7 15-153.2, and 15-186 and by adding Sections 15-139.5 and  
8 15-168.2 as follows:

9 (40 ILCS 5/15-113) (from Ch. 108 1/2, par. 15-113)

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

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

13 (40 ILCS 5/15-135) (from Ch. 108 1/2, par. 15-135)

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

15 (a) A participant who retires in one of the following

1 specified years with the specified amount of service is  
2 entitled to a retirement annuity at any age under the  
3 retirement program applicable to the participant:

4 35 years if retirement is in 1997 or before;

5 34 years if retirement is in 1998;

6 33 years if retirement is in 1999;

7 32 years if retirement is in 2000;

8 31 years if retirement is in 2001;

9 30 years if retirement is in 2002 or later.

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

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

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

20 (b) The annuity payment period shall begin on the date  
21 specified by the participant or the recipient of a disability  
22 retirement annuity submitting a written application, which  
23 date shall not be prior to termination of employment or more  
24 than one year before the application is received by the board;  
25 however, if the participant is not an employee of an employer  
26 participating in this System or in a participating system as

1 defined in Article 20 of this Code on April 1 of the calendar  
2 year next following the calendar year in which the participant  
3 attains age 70 1/2, the annuity payment period shall begin on  
4 that date regardless of whether an application has been filed.

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

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

8 (40 ILCS 5/15-136) (from Ch. 108 1/2, par. 15-136)

9 Sec. 15-136. Retirement annuities - Amount. The provisions  
10 of this Section 15-136 apply only to those participants who are  
11 participating in the traditional benefit package or the  
12 portable benefit package and do not apply to participants who  
13 are participating in the self-managed plan.

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

18 Rule 1: The retirement annuity shall be 1.67% of final rate  
19 of earnings for each of the first 10 years of service, 1.90%  
20 for each of the next 10 years of service, 2.10% for each year  
21 of service in excess of 20 but not exceeding 30, and 2.30% for  
22 each year in excess of 30; or for persons who retire on or  
23 after January 1, 1998, 2.2% of the final rate of earnings for  
24 each year of service.

25 Rule 2: The retirement annuity shall be the sum of the

1 following, determined from amounts credited to the participant  
2 in accordance with the actuarial tables and the effective  
3 ~~prescribed~~ rate of interest in effect at the time the  
4 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;

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) the annuity that can be provided on an  
16 actuarially equivalent basis from the entire contribution  
17 made by the participant under Section 15-113.3.

18 With respect to a police officer or firefighter who retires  
19 on or after August 14, 1998, the accumulated normal  
20 contributions taken into account under clauses (i) and (ii) of  
21 this Rule 2 shall include the additional normal contributions  
22 made by the police officer or firefighter under Section  
23 15-157(a).

24 The amount of a retirement annuity calculated under this  
25 Rule 2 shall be computed solely on the basis of the  
26 participant's accumulated normal contributions, as specified

1 in this Rule and defined in Section 15-116. Neither an employee  
2 or employer contribution for early retirement under Section  
3 15-136.2 nor any other employer contribution shall be used in  
4 the calculation of the amount of a retirement annuity under  
5 this Rule 2.

6 This amendatory Act of the 91st General Assembly is a  
7 clarification of existing law and applies to every participant  
8 and annuitant without regard to whether status as an employee  
9 terminates before the effective date of this amendatory Act.

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

12 Rule 3: The retirement annuity of a participant who is  
13 employed at least one-half time during the period on which his  
14 or her final rate of earnings is based, shall be equal to the  
15 participant's years of service not to exceed 30, multiplied by  
16 (1) \$96 if the participant's final rate of earnings is less  
17 than \$3,500, (2) \$108 if the final rate of earnings is at least  
18 \$3,500 but less than \$4,500, (3) \$120 if the final rate of  
19 earnings is at least \$4,500 but less than \$5,500, (4) \$132 if  
20 the final rate of earnings is at least \$5,500 but less than  
21 \$6,500, (5) \$144 if the final rate of earnings is at least  
22 \$6,500 but less than \$7,500, (6) \$156 if the final rate of  
23 earnings is at least \$7,500 but less than \$8,500, (7) \$168 if  
24 the final rate of earnings is at least \$8,500 but less than  
25 \$9,500, and (8) \$180 if the final rate of earnings is \$9,500 or  
26 more, except that the annuity for those persons having made an

1 election under Section 15-154(a-1) shall be calculated and  
2 payable under the portable retirement benefit program pursuant  
3 to the provisions of Section 15-136.4.

4 Rule 4: A participant who is at least age 50 and has 25 or  
5 more years of service as a police officer or firefighter, and a  
6 participant who is age 55 or over and has at least 20 but less  
7 than 25 years of service as a police officer or firefighter,  
8 shall be entitled to a retirement annuity of 2 1/4% of the  
9 final rate of earnings for each of the first 10 years of  
10 service as a police officer or firefighter, 2 1/2% for each of  
11 the next 10 years of service as a police officer or  
12 firefighter, and 2 3/4% for each year of service as a police  
13 officer or firefighter in excess of 20. The retirement annuity  
14 for all other service shall be computed under Rule 1.

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

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

19 (ii) in the case of an individual who was a  
20 participating employee employed in the fire department of  
21 the University of Illinois's Champaign-Urbana campus  
22 immediately prior to the elimination of that fire  
23 department and who immediately after the elimination of  
24 that fire department transferred to another job with the  
25 University of Illinois, service performed as an employee of  
26 the University of Illinois in a position other than police

1 officer or firefighter, from the date of that transfer  
2 until the employee's next termination of service with the  
3 University of Illinois.

4 Rule 5: The retirement annuity of a participant who elected  
5 early retirement under the provisions of Section 15-136.2 and  
6 who, on or before February 16, 1995, brought administrative  
7 proceedings pursuant to the administrative rules adopted by the  
8 System to challenge the calculation of his or her retirement  
9 annuity shall be the sum of the following, determined from  
10 amounts credited to the participant in accordance with the  
11 actuarial tables and the prescribed rate of interest in effect  
12 at the time the retirement annuity begins:

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

16 (ii) an annuity from employer contributions of an  
17 amount equal to that which can be provided on an  
18 actuarially equivalent basis from the accumulated normal  
19 contributions made by the participant under Section  
20 15-113.6 and Section 15-113.7 plus 1.4 times all other  
21 accumulated normal contributions made by the participant;  
22 and

23 (iii) an annuity which can be provided on an  
24 actuarially equivalent basis from the employee  
25 contribution for early retirement under Section 15-136.2,  
26 and an annuity from employer contributions of an amount

1 equal to that which can be provided on an actuarially  
2 equivalent basis from the employee contribution for early  
3 retirement under Section 15-136.2.

4 In no event shall a retirement annuity under this Rule 5 be  
5 lower than the amount obtained by adding (1) the monthly amount  
6 obtained by dividing the combined employee and employer  
7 contributions made under Section 15-136.2 by the System's  
8 annuity factor for the age of the participant at the beginning  
9 of the annuity payment period and (2) the amount equal to the  
10 participant's annuity if calculated under Rule 1, reduced under  
11 Section 15-136(b) as if no contributions had been made under  
12 Section 15-136.2.

13 With respect to a participant who is qualified for a  
14 retirement annuity under this Rule 5 whose retirement annuity  
15 began before the effective date of this amendatory Act of the  
16 91st General Assembly, and for whom an employee contribution  
17 was made under Section 15-136.2, the System shall recalculate  
18 the retirement annuity under this Rule 5 and shall pay any  
19 additional amounts due in the manner provided in Section  
20 15-186.1 for benefits mistakenly set too low.

21 The amount of a retirement annuity calculated under this  
22 Rule 5 shall be computed solely on the basis of those  
23 contributions specifically set forth in this Rule 5. Except as  
24 provided in clause (iii) of this Rule 5, neither an employee  
25 nor employer contribution for early retirement under Section  
26 15-136.2, nor any other employer contribution, shall be used in



1 the calculation of the amount of a retirement annuity under  
2 this Rule 5.

3 The General Assembly has adopted the changes set forth in  
4 Section 25 of this amendatory Act of the 91st General Assembly  
5 in recognition that the decision of the Appellate Court for the  
6 Fourth District in *Mattis v. State Universities Retirement*  
7 *System et al.* might be deemed to give some right to the  
8 plaintiff in that case. The changes made by Section 25 of this  
9 amendatory Act of the 91st General Assembly are a legislative  
10 implementation of the decision of the Appellate Court for the  
11 Fourth District in *Mattis v. State Universities Retirement*  
12 *System et al.* with respect to that plaintiff.

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

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

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

25 (2) For a participant who has at least the number of  
26 years of service required to retire at any age under

1 subsection (a) of Section 15-135; or

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

8 (c) The maximum retirement annuity provided under Rules 1,  
9 2, 4, and 5 shall be the lesser of (1) the annual limit of  
10 benefits as specified in Section 415 of the Internal Revenue  
11 Code of 1986, as such Section may be amended from time to time  
12 and as such benefit limits shall be adjusted by the  
13 Commissioner of Internal Revenue, and (2) 80% of final rate of  
14 earnings.

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

18 Effective January 1 immediately following the date the  
19 retirement annuity begins, the annuitant shall receive an  
20 increase in his or her monthly retirement annuity of 0.125% of  
21 the monthly retirement annuity provided under Rule 1, Rule 2,  
22 Rule 3, Rule 4, or Rule 5, contained in this Section,  
23 multiplied by the number of full months which elapsed from the  
24 date the retirement annuity payments began to January 1, 1972,  
25 plus 0.1667% of such annuity, multiplied by the number of full  
26 months which elapsed from January 1, 1972, or the date the

1 retirement annuity payments began, whichever is later, to  
2 January 1, 1978, plus 0.25% of such annuity multiplied by the  
3 number of full months which elapsed from January 1, 1978, or  
4 the date the retirement annuity payments began, whichever is  
5 later, to the effective date of the increase.

6 The annuitant shall receive an increase in his or her  
7 monthly retirement annuity on each January 1 thereafter during  
8 the annuitant's life of 3% of the monthly annuity provided  
9 under Rule 1, Rule 2, Rule 3, Rule 4, or Rule 5 contained in  
10 this Section. The change made under this subsection by P.A.  
11 81-970 is effective January 1, 1980 and applies to each  
12 annuitant whose status as an employee terminates before or  
13 after that date.

14 Beginning January 1, 1990, all automatic annual increases  
15 payable under this Section shall be calculated as a percentage  
16 of the total annuity payable at the time of the increase,  
17 including all increases previously granted under this Article.

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

21 (e) If, on January 1, 1987, or the date the retirement  
22 annuity payment period begins, whichever is later, the sum of  
23 the retirement annuity provided under Rule 1 or Rule 2 of this  
24 Section and the automatic annual increases provided under the  
25 preceding subsection or Section 15-136.1, amounts to less than  
26 the retirement annuity which would be provided by Rule 3, the

1 retirement annuity shall be increased as of January 1, 1987, or  
2 the date the retirement annuity payment period begins,  
3 whichever is later, to the amount which would be provided by  
4 Rule 3 of this Section. Such increased amount shall be  
5 considered as the retirement annuity in determining benefits  
6 provided under other Sections of this Article. This paragraph  
7 applies without regard to whether status as an employee  
8 terminated before the effective date of this amendatory Act of  
9 1987, provided that the annuitant was employed at least  
10 one-half time during the period on which the final rate of  
11 earnings was based.

12 (f) A participant is entitled to such additional annuity as  
13 may be provided on an actuarially equivalent basis, by any  
14 accumulated additional contributions to his or her credit.  
15 However, the additional contributions made by the participant  
16 toward the automatic increases in annuity provided under this  
17 Section shall not be taken into account in determining the  
18 amount of such additional annuity.

19 (g) If, (1) by law, a function of a governmental unit, as  
20 defined by Section 20-107 of this Code, is transferred in whole  
21 or in part to an employer, and (2) a participant transfers  
22 employment from such governmental unit to such employer within  
23 6 months after the transfer of the function, and (3) the sum of  
24 (A) the annuity payable to the participant under Rule 1, 2, or  
25 3 of this Section (B) all proportional annuities payable to the  
26 participant by all other retirement systems covered by Article

1 20, and (C) the initial primary insurance amount to which the  
2 participant is entitled under the Social Security Act, is less  
3 than the retirement annuity which would have been payable if  
4 all of the participant's pension credits validated under  
5 Section 20-109 had been validated under this system, a  
6 supplemental annuity equal to the difference in such amounts  
7 shall be payable to the participant.

8 (h) On January 1, 1981, an annuitant who was receiving a  
9 retirement annuity on or before January 1, 1971 shall have his  
10 or her retirement annuity then being paid increased \$1 per  
11 month for each year of creditable service. On January 1, 1982,  
12 an annuitant whose retirement annuity began on or before  
13 January 1, 1977, shall have his or her retirement annuity then  
14 being paid increased \$1 per month for each year of creditable  
15 service.

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

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

22 (40 ILCS 5/15-136.4)

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

25 (a) This Section 15-136.4 describes the form of annuity and

1 survivor benefits available to a participant who has elected  
2 the portable benefit package and has completed the one-year  
3 waiting period required under subsection (e) of Section  
4 15-134.5. For purposes of this Section, the term "eligible  
5 spouse" means the husband or wife of a participant to whom the  
6 participant is married on the date the participant's annuity  
7 payment period begins, provided however, that if the  
8 participant should die prior to the commencement of retirement  
9 annuity benefits, then "eligible spouse" means the husband or  
10 wife, if any, to whom the participant was married throughout  
11 the one-year period preceding the date of his or her death.

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

1 participant. The last payment of a qualified joint and survivor  
2 annuity shall be made as of the first day of the month in which  
3 the death of the survivor occurs.

4 (c) Instead of the normal form of annuity that would be  
5 paid under subsection (b), a participant may elect in writing  
6 within the 180-day ~~90-day~~ period prior to the date his or her  
7 annuity payments commence to waive the normal form of annuity  
8 payment and receive an optional form of payment as described in  
9 subsection (h). If the participant is married and elects an  
10 optional form of payment under subsection (h) other than a  
11 joint and survivor annuity with the eligible spouse designated  
12 as the contingent annuitant, then such election shall require  
13 the consent of his or her eligible spouse in the manner  
14 described in subsection (d). At any time during the 180-day  
15 ~~90-day~~ period preceding the date the participant's payment  
16 period begins, the participant may revoke the optional form of  
17 payment elected under this subsection (c) and reinstate  
18 coverage under the qualified joint and survivor annuity without  
19 the spouse's consent, but an election to revoke the optional  
20 form elected and elect a new optional form of payment or  
21 designate a different contingent annuitant shall not be  
22 effective without the eligible spouse's consent.

23 (d) The eligible spouse's consent to any election made  
24 pursuant to this Section that requires the eligible spouse's  
25 consent shall be in writing and shall acknowledge the effect of  
26 the consent. In addition, the eligible spouse's signature on

1 the written consent must be witnessed by a notary public. The  
2 eligible spouse's consent need not be obtained if the system is  
3 satisfied that there is no eligible spouse, that the eligible  
4 spouse cannot be located, or because of any other relevant  
5 circumstances. An eligible spouse's consent under this Section  
6 is valid only with respect to the specified optional form of  
7 payment and, if applicable, contingent annuitant designated by  
8 the participant. If the optional form of payment or the  
9 contingent annuitant is subsequently changed (other than by a  
10 revocation of the optional form of payment and reinstatement of  
11 the qualified joint and survivor annuity), a new consent by the  
12 eligible spouse is required. The eligible spouse's consent to  
13 an election made by a participant pursuant to this Section,  
14 once made, may not be revoked by the eligible spouse.

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



1 (f) If a married participant with at least 1.5 years of  
2 service dies prior to commencing retirement annuity payments  
3 and prior to taking a refund under Section 15-154, his or her  
4 eligible spouse is entitled to receive a pre-retirement  
5 survivor annuity, if there is not then in effect a waiver of  
6 the pre-retirement survivor annuity. The pre-retirement  
7 survivor annuity payable under this subsection shall be a  
8 monthly annuity payable for the eligible spouse's life,  
9 commencing as of the beginning of the month next following the  
10 later of the date of the participant's death or the date the  
11 participant would have first met the eligibility requirements  
12 for retirement, and continuing through the beginning of the  
13 month in which the death of the eligible spouse occurs. The  
14 monthly amount payable to the spouse under the pre-retirement  
15 survivor annuity shall be equal to the monthly amount that  
16 would be payable as a survivor annuity under the qualified  
17 joint and survivor annuity described in subsection (b) if: (1)  
18 in the case of a participant who dies on or after the date on  
19 which the participant has met the eligibility requirements for  
20 retirement, the participant had retired with an immediate  
21 qualified joint and survivor annuity on the day before the  
22 participant's date of death; or (2) in the case of a  
23 participant who dies before the earliest date on which the  
24 participant would have met the eligibility requirements for  
25 retirement age, the participant had separated from service on  
26 the date of death, survived to the earliest retirement age

1 based on service prior to his or her death, retired with an  
2 immediate qualified joint and survivor annuity at the earliest  
3 retirement age, and died on the day after the day on which the  
4 participant would have attained the earliest retirement age.

5 (g) A married participant who has not retired may elect at  
6 any time to waive the pre-retirement survivor annuity described  
7 in subsection (f). Any such election shall require the consent  
8 of the participant's eligible spouse in the manner described in  
9 subsection (d). A waiver of the pre-retirement survivor annuity  
10 shall increase the lump sum death benefit payable under  
11 subsection (b) of Section 15-141. Prior to electing any waiver  
12 of the pre-retirement survivor annuity, the participant shall  
13 be provided with a written explanation of (1) the terms and  
14 conditions of the pre-retirement survivor annuity and the death  
15 benefits payable from the system both with and without the  
16 pre-retirement survivor annuity, (2) the participant's right  
17 to elect a waiver of the pre-retirement survivor annuity  
18 coverage subject to his or her spouse's consent, and (3) the  
19 participant's right to reinstate pre-retirement survivor  
20 annuity coverage at any time by revoking a prior waiver of such  
21 coverage.

22 (h) By filing a timely election with the system, a  
23 participant who will be eligible to receive a retirement  
24 annuity under this Section may waive the normal form of annuity  
25 payment described in subsection (b), subject to obtaining the  
26 consent of his or her eligible spouse, if applicable, and elect

1 to receive any one of the following optional forms of payment:

2 (1) Joint and Survivor Annuity Options: The  
3 participant may elect to receive a reduced annuity payable  
4 for his or her life and to have a lifetime survivorship  
5 annuity in a monthly amount equal to 50%, 75%, or 100% (as  
6 elected by the participant) of that reduced monthly amount,  
7 to be paid after the participant's death to his or her  
8 contingent annuitant, if the contingent annuitant is alive  
9 at the time of the participant's death.

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

13 (3) Lump sum retirement benefit. The participant may  
14 elect to receive a lump sum retirement benefit that is  
15 equal to the amount of a refund payable under Section  
16 15-154(a-2).

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

19 For the purposes of this Section, the term "contingent  
20 annuitant" means the beneficiary who is designated by a  
21 participant at the time the participant elects a joint and  
22 survivor annuity to receive the lifetime survivorship annuity  
23 in the event the beneficiary survives the participant at the  
24 participant's death.

25 (i) Under no circumstances may an option be elected,  
26 changed, or revoked after the date the participant's retirement

1 annuity commences.

2 (j) An election made pursuant to subsection (h) shall  
3 become inoperative if the participant or the contingent  
4 annuitant dies before the date the participant's annuity  
5 payments commence, or if the eligible spouse's consent is  
6 required and not given.

7 (k) (Blank).

8 (l) The automatic annual increases described in subsection  
9 (d) of Section 15-136 shall apply to retirement benefits under  
10 the portable benefit package and the automatic annual increases  
11 described in subsection (j) of Section 15-145 shall apply to  
12 survivor benefits under the portable benefit package.

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

14 (40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

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

17 (a) If an annuitant returns to employment for an employer  
18 within 60 days after the beginning of the retirement annuity  
19 payment period, the retirement annuity shall be cancelled, and  
20 the annuitant shall refund to the System the total amount of  
21 the retirement annuity payments which he or she received. If  
22 the retirement annuity is cancelled, the participant shall  
23 continue to participate in the System.

24 (b) If an annuitant retires prior to age 60 and receives or  
25 becomes entitled to receive during any month compensation in

1 excess of the monthly retirement annuity (including any  
2 automatic annual increases) for services performed after the  
3 date of retirement for any employer under this System, that  
4 portion of the monthly retirement annuity provided by employer  
5 contributions shall not be payable.

6 If an annuitant retires at age 60 or over and receives or  
7 becomes entitled to receive during any academic year  
8 compensation in excess of the difference between his or her  
9 highest annual earnings prior to retirement and his or her  
10 annual retirement annuity computed under Rule 1, Rule 2, Rule  
11 3, Rule 4, or Rule 5 of Section 15-136, or under Section  
12 15-136.4, for services performed after the date of retirement  
13 for any employer under this System, that portion of the monthly  
14 retirement annuity provided by employer contributions shall be  
15 reduced by an amount equal to the compensation that exceeds  
16 such difference.

17 However, any remuneration received for serving as a member  
18 of the Illinois Educational Labor Relations Board shall be  
19 excluded from "compensation" for the purposes of this  
20 subsection (b), and serving as a member of the Illinois  
21 Educational Labor Relations Board shall not be deemed to be a  
22 return to employment for the purposes of this Section. This  
23 provision applies without regard to whether service was  
24 terminated prior to the effective date of this amendatory Act  
25 of 1991.

26 (c) If an employer certifies that an annuitant has been

1 reemployed on a permanent and continuous basis or in a position  
2 in which the annuitant is expected to serve for at least 9  
3 months, the annuitant shall resume his or her status as a  
4 participating employee and shall be entitled to all rights  
5 applicable to participating employees upon filing with the  
6 board an election to forgo ~~forego~~ all annuity payments during  
7 the period of reemployment. Upon subsequent retirement, the  
8 retirement annuity shall consist of the annuity which was  
9 terminated by the reemployment, plus the additional retirement  
10 annuity based upon service granted during the period of  
11 reemployment, but the combined retirement annuity shall not  
12 exceed the maximum annuity applicable on the date of the last  
13 retirement.

14 The total service and earnings credited before and after  
15 the initial date of retirement shall be considered in  
16 determining eligibility of the employee or the employee's  
17 beneficiary to benefits under this Article, and in calculating  
18 final rate of earnings.

19 In determining the death benefit payable to a beneficiary  
20 of an annuitant who again becomes a participating employee  
21 under this Section, accumulated normal and additional  
22 contributions shall be considered as the sum of the accumulated  
23 normal and additional contributions at the date of initial  
24 retirement and the accumulated normal and additional  
25 contributions credited after that date, less the sum of the  
26 annuity payments received by the annuitant.

1           The survivors insurance benefits provided under Section  
2 15-145 shall not be applicable to an annuitant who resumes his  
3 or her status as a participating employee, unless the  
4 annuitant, at the time of initial retirement, has a survivors  
5 insurance beneficiary who could qualify for such benefits.

6           If the participant's ~~annuitant's~~ employment is terminated  
7 because of circumstances other than death before 9 months from  
8 the date of reemployment, the provisions of this Section  
9 regarding resumption of status as a participating employee  
10 shall not apply. The normal and survivors insurance  
11 contributions which are deducted during this period shall be  
12 refunded to the annuitant without interest, and subsequent  
13 benefits under this Article shall be the same as those which  
14 were applicable prior to the date the annuitant resumed  
15 employment.

16           The amendments made to this Section by this amendatory Act  
17 of the 91st General Assembly apply without regard to whether  
18 the annuitant was in service on or after the effective date of  
19 this amendatory Act.

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

22           (40 ILCS 5/15-139.5 new)

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

25           (a) An employer who employs or re-employs a person

1 receiving a retirement annuity from the System in an academic  
2 year beginning on or after August 1, 2013 must notify the  
3 System of that employment within 60 days after employing the  
4 annuitant. The notice must include a copy of the contract of  
5 employment; if no written contract of employment exists, then  
6 the notice must specify the rate of compensation and the  
7 anticipated length of employment of that annuitant. The notice  
8 must specify whether the annuitant will be compensated from  
9 federal, corporate, foundation, or trust funds or grants of  
10 State funds that identify the principal investigator by name.  
11 The notice must include the employer's determination of whether  
12 or not the annuitant is an "affected annuitant" as defined in  
13 subsection (b).

14 The employer must also record, document, and certify to the  
15 System (i) the number of paid days and paid weeks worked by the  
16 annuitant in the academic year, (ii) the amount of compensation  
17 paid to the annuitant for employment during the academic year,  
18 and (iii) the amount of that compensation, if any, that comes  
19 from either federal, corporate, foundation, or trust funds or  
20 grants of State funds that identify the principal investigator  
21 by name.

22 As used in this Section, "academic year" has the meaning  
23 ascribed to that term in Section 15-126.1; "paid day" means a  
24 day on which a person performs personal services for an  
25 employer and for which the person is compensated by the  
26 employer; and "paid week" means a calendar week in which a



1 person has at least one paid day.

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

6 The System may specify the time, form, and manner of  
7 providing the determinations, notifications, certifications,  
8 and documentation required under this Section.

9 (b) A person receiving a retirement annuity from the System  
10 becomes an "affected annuitant" on the first day of the  
11 academic year following the academic year in which the  
12 annuitant first meets both of the following conditions:

13 (1) While receiving a retirement annuity under this  
14 Article, the annuitant has been employed on or after August  
15 1, 2013 by one or more employers under this Article for a  
16 total of more than 18 paid weeks (which need not have been  
17 with the same employer or in the same academic year);  
18 except that any periods of employment for which the  
19 annuitant was compensated solely from federal, corporate,  
20 foundation, or trust funds or grants of State funds that  
21 identify the principal investigator by name are excluded.

22 (2) While receiving a retirement annuity under this  
23 Article, the annuitant was employed on or after August 1,  
24 2013 by one or more employers under this Article and  
25 received or became entitled to receive during an academic  
26 year compensation for that employment in excess of 40% of

1 his or her highest annual earnings prior to retirement;  
2 except that compensation paid from federal, corporate,  
3 foundation, or trust funds or grants of State funds that  
4 identify the principal investigator by name is excluded.

5 A person who becomes an affected annuitant remains an  
6 affected annuitant, except for any period during which the  
7 person returns to active service and does not receive a  
8 retirement annuity from the System.

9 (c) It is the obligation of the employer to determine  
10 whether an annuitant is an affected annuitant before employing  
11 the annuitant. For that purpose the employer may require the  
12 annuitant to disclose and document his or her relevant prior  
13 employment and earnings history. Failure of the employer to  
14 make this determination correctly and in a timely manner or to  
15 include this determination with the notification required  
16 under subsection (a) does not excuse the employer from making  
17 the contribution required under subsection (e).

18 The System may assist the employer in determining whether a  
19 person is an affected annuitant. The System shall inform the  
20 employer if it discovers that the employer's determination is  
21 inconsistent with the employment and earnings information in  
22 the System's records.

23 (d) Upon the request of an annuitant, the System shall  
24 certify to the annuitant the following information as reported  
25 by the employers, as that information is indicated in the  
26 records of the System: (i) the annuitant's highest annual

1 earnings prior to retirement, (ii) the number of paid weeks  
2 worked by the annuitant for an employer on or after August 1,  
3 2013, (iii) the compensation paid for that employment in each  
4 academic year, and (iv) whether any of that employment or  
5 compensation has been certified to the System as being paid  
6 from federal, corporate, foundation, or trust funds or grants  
7 of State funds that identify the principal investigator by  
8 name. The System shall only be required to certify information  
9 that is received from the employers.

10 (e) In addition to the requirements of subsection (a), an  
11 employer who employs an affected annuitant must pay to the  
12 System an employer contribution in the amount and manner  
13 provided in this Section, unless the annuitant is compensated  
14 by that employer solely from federal, corporate, foundation, or  
15 trust funds or grants of State funds that identify the  
16 principal investigator by name.

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

24 If an affected annuitant is employed by more than one  
25 employer in an academic year, the employer contribution  
26 required under this Section shall be divided among those

1 employers in proportion to their respective portions of the  
2 total compensation paid to the affected annuitant for that  
3 employment during that academic year.

4 If the System determines that an employer, without  
5 reasonable justification, has failed to make the determination  
6 of affected annuitant status correctly and in a timely manner,  
7 or has failed to notify the system or to correctly document or  
8 certify to the System any of the information required by this  
9 Section, and that failure results in a delayed determination by  
10 the System that a contribution is payable under this Section,  
11 then the amount of that employer's contribution otherwise  
12 determined under this Section shall be doubled.

13 The System shall deem a failure to correctly determine the  
14 annuitant's status to be justified if the employer establishes  
15 to the System's satisfaction that the employer, after due  
16 diligence, made an erroneous determination that the annuitant  
17 was not an affected annuitant due to reasonable reliance on  
18 false or misleading information provided by the annuitant or  
19 another employer, or an error in the annuitant's official  
20 employment or earnings records.

21 (f) Whenever the System determines that an employer is  
22 liable for a contribution under this Section, it shall so  
23 notify the employer and certify the amount of the contribution.  
24 The employer may pay the required contribution without interest  
25 at any time within one year after receipt of the certification.  
26 If the employer fails to pay within that year, then interest

1 shall be charged at a rate equal to the System's prescribed  
2 rate of interest, compounded annually from the 366th day after  
3 receipt of the certification from the System. Payment must be  
4 concluded within 2 years after receipt of the certification by  
5 the employer. If the employer fails to make complete payment,  
6 including applicable interest, within 2 years, then the System  
7 may, after giving notice to the employer, certify the  
8 delinquent amount to the State Comptroller, and the Comptroller  
9 shall thereupon deduct the certified delinquent amount from  
10 State funds payable to the employer and pay them instead to the  
11 System.

12 (g) If an employer is required to make a contribution to  
13 the System as a result of employing an affected annuitant and  
14 the annuitant later elects to forgo his or her annuity in that  
15 same academic year pursuant to subsection (c) of Section  
16 15-139, then the required contribution by the employer shall be  
17 waived, and if the contribution has already been paid, it shall  
18 be refunded to the employer without interest.

19 (h) Notwithstanding any other provision of this Article,  
20 the employer contribution required under this Section shall not  
21 be included in the determination of any benefit under this  
22 Article or any other Article of this Code, regardless of  
23 whether the annuitant returns to active service, and is in  
24 addition to any other State or employer contribution required  
25 under this Article.

26 (i) Notwithstanding any other provision of this Section to

1 the contrary, if an employer employs an affected annuitant in  
2 order to continue critical operations in the event of either an  
3 employee's unforeseen illness, accident, or death or a  
4 catastrophic incident or disaster, then, for one and only one  
5 academic year, the employer is not required to pay the  
6 contribution set forth in this Section for that annuitant. The  
7 employer shall, however, immediately notify the System upon  
8 employing a person subject to this subsection (i). For the  
9 purposes of this subsection (i), "critical operations" means  
10 teaching services, medical services, student welfare services,  
11 and any other services that are critical to the mission of the  
12 employer.

13 (40 ILCS 5/15-153.2) (from Ch. 108 1/2, par. 15-153.2)

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

1 than 12 months.

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

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

8 (ii) any other medical examinations, hospital records,  
9 laboratory results, or other information necessary for  
10 determining the employment capacity and condition of the  
11 participant.

12 The terms "medically determinable physical or mental  
13 impairment" and "substantial gainful activity" shall have the  
14 meanings ascribed to them in the federal Social Security Act,  
15 as now or hereafter amended, and the regulations issued  
16 thereunder.

17 The disability retirement annuity payment period shall  
18 begin immediately following the expiration of the disability  
19 benefit payments under clause (6) of Section 15-152 and shall  
20 be discontinued for a recipient of a disability retirement  
21 annuity when (1) the physical or mental impairment no longer  
22 prevents the participant from engaging in any substantial  
23 gainful activity, (2) the participant dies or (3) the  
24 participant elects to receive a retirement annuity under  
25 Sections 15-135 and 15-136. If a person's disability retirement  
26 annuity is discontinued under clause (1), all rights and

1 credits accrued in the system on the date that the disability  
2 retirement annuity began shall be restored, and the disability  
3 retirement annuity paid shall be considered as disability  
4 payments under clause (6) of Section 15-152.

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

7 (40 ILCS 5/15-168.2 new)

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

20 (40 ILCS 5/15-186) (from Ch. 108 1/2, par. 15-186)

21 Sec. 15-186. Fraud.

22 Any person who knowingly makes any false statement, or  
23 falsifies or permits to be falsified any record or records of  
24 this system, in any attempt to defraud the system or to mislead



1 or defraud an employer with respect to employment of an  
2 annuitant under Section 15-139.5, is guilty of a Class A  
3 misdemeanor.

4 (Source: P.A. 77-2830.)

5 Section 99. Effective date. This Act takes effect July 1,  
6 2012.".