

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 2-114, 3-144.2, 3-148, 4-139, 14-103.19, 18-116, and  
6 21-105.1 and by adding Sections 2-155.1, 2-163, 4-138.10,  
7 14-148.1, 14-153.3, 18-162.1, and 18-170 as follows:

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

9 Sec. 2-114. Actuarial tables.

10 "Actuarial tables": Tabular listings of assumed rates of  
11 death, disability, retirement and withdrawal from service and  
12 mathematical functions derived from such rates combined with an  
13 assumed rate of interest based upon the experience of the  
14 system as adopted by the board upon recommendation of the  
15 actuary.

16 The adopted actuarial tables shall be used to determine the  
17 amount of all benefits under this Article, including any  
18 optional forms of benefits. Optional forms of benefits must be  
19 the actuarial equivalent of the normal benefit payable under  
20 this Article.

21 (Source: Laws 1963, p. 161.)

22 (40 ILCS 5/2-155.1 new)

1       Sec. 2-155.1. Mistake in benefit. If the System mistakenly  
2 sets any benefit at an incorrect amount, it shall recalculate  
3 the benefit as soon as may be practicable after the mistake is  
4 discovered.

5       If the benefit was mistakenly set too low, the System shall  
6 make a lump sum payment to the recipient of an amount equal to  
7 the difference between the benefits that should have been paid  
8 and those actually paid.

9       If the benefit was mistakenly set too high, the System may  
10 recover the amount overpaid from the recipient thereof, either  
11 directly or by deducting such amount from the remaining  
12 benefits payable to the recipient. However, if (1) the amount  
13 of the benefit was mistakenly set too high, and (2) the error  
14 was undiscovered for 3 years or longer, and (3) the error was  
15 not the result of incorrect information supplied by the  
16 affected member or beneficiary, then upon discovery of the  
17 mistake the benefit shall be adjusted to the correct level, but  
18 the recipient of the benefit need not repay to the System the  
19 excess amounts received in error.

20       This Section applies to all mistakes in benefit  
21 calculations that occur before, on, or after the effective date  
22 of this amendatory Act of the 98th General Assembly.

23       (40 ILCS 5/2-163 new)

24       Sec. 2-163. Termination of plan. Upon plan termination, a  
25 participant's interest in the pension fund will be

1 nonforfeitable.

2 (40 ILCS 5/3-144.2) (from Ch. 108 1/2, par. 3-144.2)

3 Sec. 3-144.2. Mistake in benefit.

4 (a) If the Fund commits a mistake by setting any benefit at  
5 an incorrect amount, it shall adjust the benefit to the correct  
6 level as soon as may be practicable after the mistake is  
7 discovered. The term "mistake" includes a clerical or  
8 administrative error executed by the Fund or participant as it  
9 relates to a benefit under this Article; however, in no case  
10 shall "mistake" include any benefit as it relates to the  
11 reasonable calculation of the benefit or aspects of the benefit  
12 based on salary, service credit, calculation or determination  
13 of a disability, date of retirement, or other factors  
14 significant to the calculation of the benefit that were  
15 reasonably understood or agreed to by the Fund at the time of  
16 retirement.

17 (b) If the benefit was mistakenly set too low, the Fund  
18 shall make a lump sum payment to the recipient of an amount  
19 equal to the difference between the benefits that should have  
20 been paid and those actually paid, plus interest at the rate  
21 prescribed by the Public Pension Division of the Department of  
22 Insurance from the date the unpaid amounts accrued to the date  
23 of payment.

24 (c) If the benefit was mistakenly set too high, the Fund  
25 may recover the amount overpaid from the recipient thereof,

1 either directly or by deducting such amount from the remaining  
2 benefits payable to the recipient as is indicated by the  
3 recipient. If the overpayment is recovered by deductions from  
4 the remaining benefits payable to the recipient, the monthly  
5 deduction shall not exceed 10% of the corrected monthly benefit  
6 unless otherwise indicated by the recipient.

7 However, if (i) the amount of the benefit was mistakenly  
8 set too high, and (ii) the error was undiscovered for 3 years  
9 or longer, and (iii) the error was not the result of fraud  
10 committed by the affected participant or beneficiary, then upon  
11 discovery of the mistake the benefit shall be adjusted to the  
12 correct level, but the recipient of the benefit need not repay  
13 to the Fund the excess amounts received in error.

14 ~~The amount of any overpayment, due to fraud,~~  
15 ~~misrepresentation or error, of any pension or benefit granted~~  
16 ~~under this Article may be deducted from future payments to the~~  
17 ~~recipient of such pension or benefit.~~

18 (Source: P.A. 82-623.)

19 (40 ILCS 5/3-148) (from Ch. 108 1/2, par. 3-148)

20 Sec. 3-148. Administrative review. Except as it relates to  
21 any time limitation to correct a mistake as provided in Section  
22 3-144.2, the ~~The~~ provisions of the Administrative Review Law,  
23 and all amendments and modifications thereof and the rules  
24 adopted pursuant thereto, shall apply to and govern all  
25 proceedings for the judicial review of final administrative

1 decisions of the retirement board provided for under this  
2 Article. The term "administrative decision" is as defined in  
3 Section 3-101 of the Code of Civil Procedure.

4 (Source: P.A. 82-783.)

5 (40 ILCS 5/4-138.10 new)

6 Sec. 4-138.10. Mistake in benefit.

7 (a) If the Fund commits a mistake by setting any benefit at  
8 an incorrect amount, it shall adjust the benefit to the correct  
9 level as soon as may be practicable after the mistake is  
10 discovered. The term "mistake" includes a clerical or  
11 administrative error executed by the Fund or participant as it  
12 relates to a benefit under this Article; however, in no case  
13 shall "mistake" include any benefit as it relates to the  
14 reasonable calculation of the benefit or aspects of the benefit  
15 based on salary, service credit, calculation or determination  
16 of a disability, date of retirement, or other factors  
17 significant to the calculation of the benefit that were  
18 reasonably understood or agreed to by the Fund at the time of  
19 retirement.

20 (b) If the benefit was mistakenly set too low, the Fund  
21 shall make a lump sum payment to the recipient of an amount  
22 equal to the difference between the benefits that should have  
23 been paid and those actually paid, plus interest at the rate  
24 prescribed by the Public Pension Division of the Department of  
25 Insurance from the date the unpaid amounts accrued to the date

1 of payment.

2 (c) If the benefit was mistakenly set too high, the Fund  
3 may recover the amount overpaid from the recipient thereof,  
4 either directly or by deducting such amount from the remaining  
5 benefits payable to the recipient as is indicated by the  
6 recipient. If the overpayment is recovered by deductions from  
7 the remaining benefits payable to the recipient, the monthly  
8 deduction shall not exceed 10% of the corrected monthly benefit  
9 unless otherwise indicated by the recipient.

10 However, if (i) the amount of the benefit was mistakenly  
11 set too high, and (ii) the error was undiscovered for 3 years  
12 or longer, and (iii) the error was not the result of fraud  
13 committed by the affected participant or beneficiary, then upon  
14 discovery of the mistake the benefit shall be adjusted to the  
15 correct level, but the recipient of the benefit need not repay  
16 to the Fund the excess amounts received in error.

17 (40 ILCS 5/4-139) (from Ch. 108 1/2, par. 4-139)

18 Sec. 4-139. Administrative review. Except as it relates to  
19 any time limitation to correct a mistake as provided in Section  
20 4-138.10, the ~~The~~ provisions of the Administrative Review Law,  
21 and all amendments and modifications thereof and the rules  
22 adopted pursuant thereto, shall apply to and govern all  
23 proceedings for the judicial review of final administrative  
24 decisions of the retirement board provided for under this  
25 Article. The term "administrative decision" is as defined in

1 Section 3-101 of the Code of Civil Procedure.

2 (Source: P.A. 82-783.)

3 (40 ILCS 5/14-103.19) (from Ch. 108 1/2, par. 14-103.19)

4 Sec. 14-103.19. Actuarial tables. "Actuarial tables":  
5 Tables of mathematical functions derived from mortality,  
6 disability and turn-over rates, combined with interest  
7 discount factors as adopted by the board on recommendation of  
8 the actuary.

9 The adopted actuarial tables shall be used to determine the  
10 amount of all benefits under this Article, including any  
11 optional forms of benefits. Optional forms of benefits must be  
12 the actuarial equivalent of the normal benefit payable under  
13 this Article.

14 (Source: P.A. 80-841.)

15 (40 ILCS 5/14-148.1 new)

16 Sec. 14-148.1. Mistake in benefit. If the System mistakenly  
17 sets any benefit at an incorrect amount, it shall recalculate  
18 the benefit as soon as may be practicable after the mistake is  
19 discovered.

20 If the benefit was mistakenly set too low, the System shall  
21 make a lump sum payment to the recipient of an amount equal to  
22 the difference between the benefits that should have been paid  
23 and those actually paid.

24 If the benefit was mistakenly set too high, the System may

1 recover the amount overpaid from the recipient thereof, either  
2 directly or by deducting such amount from the remaining  
3 benefits payable to the recipient. However, if (1) the amount  
4 of the benefit was mistakenly set too high, and (2) the error  
5 was undiscovered for 3 years or longer, and (3) the error was  
6 not the result of incorrect information supplied by the  
7 affected member or beneficiary, then upon discovery of the  
8 mistake the benefit shall be adjusted to the correct level, but  
9 the recipient of the benefit need not repay to the System the  
10 excess amounts received in error.

11 This Section applies to all mistakes in benefit  
12 calculations that occur before, on, or after the effective date  
13 of this amendatory Act of the 98th General Assembly.

14 (40 ILCS 5/14-153.3 new)

15 Sec. 14-153.3. Termination of plan. Upon plan termination,  
16 a member's interest in the pension fund will be nonforfeitable.

17 (40 ILCS 5/18-116) (from Ch. 108 1/2, par. 18-116)

18 Sec. 18-116. Actuarial tables.

19 "Actuarial tables": Such tabular listings of assumed rates  
20 of death, disability, retirement and withdrawal from service  
21 and mathematical functions derived from such rates combined  
22 with an assumed rate of interest, based upon the experience of  
23 the system, as adopted by the board upon recommendation by the  
24 actuary.



1       The adopted actuarial tables shall be used to determine the  
2 amount of all benefits under this Article, including any  
3 optional forms of benefits. Optional forms of benefits must be  
4 the actuarial equivalent of the normal benefit payable under  
5 this Article.

6       (Source: Laws 1963, p. 161.)

7             (40 ILCS 5/18-162.1 new)

8       Sec. 18-162.1. Mistake in benefit. If the System mistakenly  
9 sets any benefit at an incorrect amount, it shall recalculate  
10 the benefit as soon as may be practicable after the mistake is  
11 discovered.

12       If the benefit was mistakenly set too low, the System shall  
13 make a lump sum payment to the recipient of an amount equal to  
14 the difference between the benefits that should have been paid  
15 and those actually paid.

16       If the benefit was mistakenly set too high, the System may  
17 recover the amount overpaid from the recipient thereof, either  
18 directly or by deducting such amount from the remaining  
19 benefits payable to the recipient. However, if (1) the amount  
20 of the benefit was mistakenly set too high, and (2) the error  
21 was undiscovered for 3 years or longer, and (3) the error was  
22 not the result of incorrect information supplied by the  
23 affected member or beneficiary, then upon discovery of the  
24 mistake the benefit shall be adjusted to the correct level, but  
25 the recipient of the benefit need not repay to the System the

1 excess amounts received in error.

2 This Section applies to all mistakes in benefit  
3 calculations that occur before, on, or after the effective date  
4 of this amendatory Act of the 98th General Assembly.

5 (40 ILCS 5/18-170 new)

6 Sec. 18-170. Termination of plan. Upon plan termination, a  
7 participant's interest in the pension fund will be  
8 nonforfeitable.

9 (40 ILCS 5/21-105.1) (from Ch. 108 1/2, par. 21-105.1)

10 Sec. 21-105.1. Election of optional medicare coverage. The  
11 State or any political subdivision or noncorporate public  
12 entity may elect to provide optional medicare coverage for its  
13 personnel in the same manner and subject to the same conditions  
14 as are set forth in Sections 21-103, 21-104 and 21-105 for the  
15 election of Social Security coverage, including a retirement  
16 system established under Article 3, 4, 5, or 6 of this Code,  
17 notwithstanding the provisions contained in Section 21-105 of  
18 this Article.

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

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.