

AN ACT concerning public employee benefits.

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

Section 5. The Illinois Pension Code is amended by changing Sections 13-305 and 13-601 as follows:

(40 ILCS 5/13-305) (from Ch. 108 1/2, par. 13-305)

Sec. 13-305. Surviving spouse's annuity; eligibility. A surviving spouse who was married to an employee on the date of the employee's death while in service, or was married to an employee on the date of withdrawal from service and remained married to that employee until the employee's death, shall be entitled to a surviving spouse's annuity payable for life. However, the annuity shall not be payable to the surviving spouse of (1) an employee who withdraws from service before attaining the minimum retirement age unless the deceased employee had at least 10 years of service, or at least 5 years of service if the employee was eligible for an annuity upon attainment of age 62 pursuant to Section 13-301(b) or had been receiving a retirement annuity pursuant to Section 13-301(d), or (2) an employee not described in item (1) who first enters service on or after the effective date of this amendatory Act of 1997 and who has been employed as an employee for (i) less than 36 months from the date of the employee's original entry

into service or (ii) less than 12 months from the employee's date of latest re-entry into service; except as otherwise provided in Section 13-306(a) for an employee whose death arises out of or in the course of the employee's service to the employer.

Notwithstanding any other provision of this Section and notwithstanding the forfeiture of rights provisions under subsection (e) of Section 13-601, surviving spouse annuity eligibility or eligibility for alternative survivor's benefits, if applicable, shall be extended to the spouse or civil union partner of an annuitant who retired prior to June 1, 2011 and received a refund of surviving spouse annuity contributions as provided in subsection (b) of Section 13-601 if the annuitant (i) repaid the surviving spouse annuity contributions under subsection (b-5) of Section 13-601, (ii) could not enter into either a civil union or marriage recognized in the State of Illinois prior to that date, and (iii) became:

(A) a party to a civil union or a party to a legal relationship that is recognized as a civil union or marriage under the Illinois Religious Freedom Protection and Civil Union Act on or after June 1, 2011 and before July 1, 2016 and remains such a party;

(B) a party to a marriage under the Illinois Marriage and Dissolution of Marriage Act on or after February 26, 2014 and before July 1, 2016 and remains such a party; or

(C) a party to a marriage, civil union, or other legal relationship that, at the time it was formed, was not legally recognized in Illinois but was subsequently recognized as a civil union or marriage under the Illinois Religious Freedom Protection and Civil Union Act on or after June 1, 2011 and before July 1, 2016, a marriage under the Illinois Marriage and Dissolution of Marriage Act on or after February 26, 2014 and before July 1, 2016, or both, and remains such a party.

A dissolution of marriage after retirement shall not divest the employee's spouse of the entitlement to a surviving spouse's annuity upon the subsequent death of the employee, provided that the surviving spouse and the deceased employee had been married to each other for a period of not less than 10 continuous years on the date of retirement.

For purposes of Section 1-103.1, the changes made by this amendatory Act of the 100th General Assembly apply to persons not in service on or after the effective date of this amendatory Act of the 100th General Assembly.

(Source: P.A. 94-621, eff. 8-18-05.)

(40 ILCS 5/13-601) (from Ch. 108 1/2, par. 13-601)

Sec. 13-601. Refunds.

(a) Withdrawal from service. Upon withdrawal from service, an employee who first became a member before January 1, 2011, who is under age 55 (age 50 if the employee first entered

service before June 13, 1997), or an employee age 55 (age 50 if the employee first entered service before June 13, 1997) or over but less than age 60 having less than 20 years of service, or an employee age 60 or over having less than 5 years of service shall be entitled, upon application, to a refund of total contributions from salary deductions or amounts otherwise paid under this Article by the employee. An employee who first becomes a member on or after January 1, 2011, who withdraws before age 62 regardless of length of service, or who withdraws with less than 10 years of service regardless of age is entitled to a refund of total contributions from salary deductions or amounts otherwise paid under this Article by the employee. The refund shall not include interest credited to the contributions. The Board may, in its discretion, withhold payment of a refund for a period not to exceed one year from the date of filing an application for refund.

(b) Surviving spouse's annuity contributions. A refund of all amounts deducted from salary or otherwise contributed by an employee for the surviving spouse's annuity shall be paid upon retirement to any employee who on the date of retirement is either not married or is married but whose spouse is not eligible for a surviving spouse's annuity paid wholly or in part under this Article. The refund shall include interest on each contribution at the rate of 3% per annum compounded annually from the date of the contribution to the date of the refund.

(b-5) An annuitant who (i) retired prior to June 1, 2011, (ii) received a refund of surviving spouse's annuity contributions under subsection (b), and (iii) thereafter became and remains a party to a civil union or marriage, as described in Section 13-305, may, within a period of one year beginning 5 months after the effective date of this amendatory Act of the 100th General Assembly, and in accordance with any rules adopted by the Board and consents required by the Board, make an irrevocable election to re-establish rights to a surviving spouse annuity under Sections 13-305 and 13-306 or to alternative survivor's benefits under subsection (d) of Section 13-314, whichever is applicable, by paying to the Fund: (1) the total amount of the refund received for surviving spouse's annuity contributions; and (2) interest thereon at the actuarially assumed rate of return at the time of the election from the date of the refund to the date of repayment in full. Such election may only be made by the annuitant.

The Fund shall allow the annuitant to repay the total amount of the refund, plus interest, over a period not to exceed 24 months. To the extent permitted by the Internal Revenue Code of 1986, as amended, and for federal and State tax purposes, if a member pays in monthly installments by reducing the monthly annuity by the amount of the otherwise applicable contribution, the monthly amount by which the annuitant's benefit is reduced shall not be treated as a contribution by the annuitant, but rather as a reduction of the annuitant's

monthly annuity. In the event of the death of the annuitant prior to repayment of the total amount of the refund, plus interest, the amount owed as of the date of death shall be deducted from the spouse annuity by a reduction in the surviving spouse's monthly annuity. The death of the spouse or civil union partner prior to the annuitant's death shall not void the election.

(c) Payment of Refunds After Death. Whenever any refund is payable after the death of the employee or annuitant as provided for in this Article, the refund shall be paid as follows: to the employee's surviving spouse, but if there is no surviving spouse then in accordance with the employee's written designation of beneficiary filed with the Board on the prescribed form before the employee's death. If there is no such designation of beneficiary, then to the employee's surviving children in equal parts to each. If there are no such children, the refund shall be paid to the heirs of the employee according to the law of descent and distribution of the State of Illinois.

If a personal representative of the estate has not been appointed within 90 days from the date on which a refund became payable, the refund may be applied, in the discretion of the Board, toward the payment of the employee's or the surviving spouse's burial expenses. Any remaining balance shall be paid to the heirs of the employee according to the law of descent and distribution of the State of Illinois.

Whenever the total accumulations to the account of an employee from employee contributions other than the contribution for the cost of living increase, including interest to the employee's date of withdrawal, have not been paid to the employee and surviving spouse as a retirement or spouse's annuity before the death of the employee and spouse, a refund shall be paid as follows: an amount equal to the excess of such amounts over the amounts paid on such annuities without interest on either such amount.

If a reversionary annuity becomes payable under Section 13-303, the refund provided in this section shall not be paid until the death of the reversionary annuitant and the refund otherwise payable under this section shall be then further reduced by the amount of the reversionary annuity paid.

(d) In lieu of annuity. Notwithstanding the provisions set forth in subsection (a) of this section, whenever an employee's or surviving spouse's annuity will be less than \$200 per month, the employee or surviving spouse, as the case may be, may elect to receive a refund of accumulated employee contributions; provided, however, that if the election is made by a surviving spouse the refund shall be reduced by any amounts theretofore paid to the employee in the form of an annuity.

(e) Forfeiture of rights. An employee or surviving spouse who receives a refund forfeits the right to receive an annuity or any other benefit payable under this Article except that if the refund is to a surviving spouse, any child or children of

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the employee shall not be deprived of the right to receive a child's annuity as provided in Section 13-308 of this Article, and the payment of a child's annuity shall not reduce the amount refundable to the surviving spouse.

(Source: P.A. 95-586, eff. 8-31-07; 96-251, eff. 8-11-09; 96-1490, eff. 1-1-11.)

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