

AN ACT in relation to 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 16-149, 16-149.1, and 16-149.2 and adding Section 16-149.6 as follows:

(40 ILCS 5/16-149) (from Ch. 108 1/2, par. 16-149)

Sec. 16-149. Disability benefit.

(a) A disability benefit is payable to a member who was in active service on or after June 30, 1977 and has at least 3 years of creditable service. Part-time and substitute teachers who are in active service on or after July 1, 1990 must have worked as a teacher for at least 340 hours in either the school year in which the disability occurs or in the preceding school year.

The benefit is payable upon application of a member who is not receiving a benefit under either Section 16-133, Section 16-149.1 or Section 16-149.2. The benefit shall be granted only if the member is found by medical examination to be incapacitated to perform the duties of his or her position as a teacher and only if the commencement of the incapacity occurred while the member was employed as a teacher or within 90 days of such employment.

A member shall be considered disabled only when the System has received (1) a written certificate by at least 2 licensed and practicing physicians designated by the System, certifying that the member is disabled and unable to properly perform the duties of his or her position at the time of disability, except in the case of disability due to pregnancy where a written certificate from only one licensed and practicing physician is required; (2) a written statement from the employer certifying that the member is not eligible to receive a salary; and (3) a

certification from the member that he or she is not and has not been engaged in gainful employment during the period of disability.

The benefit shall begin to accrue on the 31st day of absence from service on account of disability, except that when an application is made more than 90 days subsequent to the later of the commencement of disability or the date eligibility for salary ceases, it shall begin to accrue from the date of application, and shall be payable during the time the member does not receive a retirement annuity. The benefit is not payable to a member who is receiving or has a right to receive any salary as a teacher, or is employed in any capacity as a teacher by the employers included under this System or in an equivalent capacity in any other public or private school, college or university, except as provided in Section 16-149.6.

Service credits under the State Employees' Retirement System of Illinois, the State Universities Retirement System and the Illinois Municipal Retirement Fund shall be considered in determining the member's eligibility for a disability benefit and the total period during which the disability benefit is payable.

(b) The disability benefit shall be 40% of the greater of the member's most recent annual contract salary rate at the time the disability benefit becomes payable or the member's annual contract rate on the date the disability commenced. Prior to July 1, 1990, if the most recent period of service of any member was rendered on a less than full-time but not less than half-time basis, the amount of the disability benefit payable to such member shall be computed on the basis of the salary received by such member for the member's last year of service on a full-time basis if such salary was greater than the member's most recent salary. For part-time and substitute members after June 30, 1990, the disability benefit shall be 40% of the greater of the member's most recent annualized salary rate at the time the disability benefit becomes payable or the annualized salary rate or contract salary rate at the

time the disability commenced.

In addition to the above benefit, the member shall receive creditable service and credit for contributions that the member would have made in active employment during any period of disability for which benefits are paid by the System on the basis of the annual salary rate used in computing the benefit, except as provided in Section 16-149.6.

(c) Effective January 1, 1988, the disability benefit shall continue until the time one of the following events first occurs: (1) disability ceases; (2) the member requests termination of the benefit; (3) the aggregate period for which disability payments made during the member's entire period of service equals 1/4 of the total period of creditable service, not including the time he or she has received the disability payments; or (4) the member is engaged or found to be able to engage in gainful employment, other than limited employment under Section 16-149.6. If the disability benefit is discontinued under item (4) but the member is subsequently found to be unable to be gainfully employed due to the disability which was the cause for his or her most recent incapacity to perform the duties of a teacher, the disability benefit will be resumed, upon notification of the System, as soon as the member is not eligible to receive salary.

A disabled member who receives disability benefits for the maximum period specified above or who requests that the disability benefits be terminated may be retired on a disability retirement annuity.

(d) The board shall prescribe rules governing the filing, investigation, control, and supervision of disability claims. The rules shall include specific standards to be used when requesting additional medical examinations, hospital records or other data necessary for determining the employment capacity and condition of the member. Costs incurred by a claimant in connection with completing a claim for disability benefits shall be paid by the claimant.

(Source: P.A. 86-272; 86-273; 86-1028; 87-794; 87-1265.)

(40 ILCS 5/16-149.1) (from Ch. 108 1/2, par. 16-149.1)

Sec. 16-149.1. Occupational disability benefit.

(a) A member who becomes totally and immediately incapacitated for duty as the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of his or her duties, if such injuries or hazard were not the consequence of the member's willful negligence, shall receive an occupational disability benefit upon making proper application. If application is made more than 90 days subsequent to the later of the commencement of disability or the date eligibility for salary ceases, benefits shall begin to accrue from the date of application, but service credit and credit for contributions will be earned from the date of disability. The benefit is not payable to, and credit for service and contributions may not be earned under this Section by, a member who is receiving a benefit under Section 16-133, 16-149, or 16-149.2, or who is receiving salary as a teacher, or is employed in any capacity as a teacher by the employers included under this System or in an equivalent capacity in any other public or private school, college or university, except as provided in Section 16-149.6.

Proper proof of disability shall consist of: (1) a written certificate by at least 2 licensed and practicing physicians designated by the System, certifying that member is disabled and unable to perform assigned duties; (2) a written statement from the employer certifying that the member is disabled and not receiving a salary, and related information as to the cause and commencement of disability; and (3) a written statement from the member certifying that the member is not and has not been engaged in gainful employment.

Occupational disability benefits under this Section shall be payable only if (1) on the basis of a claim filed by the applicant with the Illinois Workers' Compensation Commission, it is determined by the Commission that the disability was incurred while in the performance and within the scope of

assigned duties, under the terms of the Illinois Workers' Compensation or Occupational Diseases Act, whichever applies, and the claim is adjudicated as compensable by the Commission under either of the aforesaid Acts; or (2) on the basis of a claim filed by the applicant with an insurance carrier with which the employer of the applicant has a workers' compensation insurance policy, it is determined under the terms of the aforesaid policy that the disability was incurred while in the performance and within the scope of the member's assigned duties and the claim is approved as compensable.

(b) The occupational disability benefit shall be the greater of 60% of the member's contract salary rate at the time the disability benefit becomes payable or the member's annual contract rate on the date the disability commenced, and shall be payable monthly in equal installments. For part-time and substitute teachers after June 30, 1990, the benefit shall be the greater of the member's most recent annualized salary rate at the time the disability benefit becomes payable or the annualized salary rate or annual contract rate at the time the disability commenced.

Any amounts provided for a member or a member's dependents under the Illinois Workers' Compensation Act, the Illinois Occupational Diseases Act or a workers' compensation insurance policy provided by the employer shall be applied as an offset to any occupational benefit provided under this Section in such manner as may be prescribed by the board.

In addition to the above benefit, the member shall receive creditable service and credit for contributions that the member would have made in active employment during the period of disability, except as provided in Section 16-149.6. Creditable service and credit for contributions shall be calculated on the basis of the annual salary rate used in computing the benefit; however, such credit shall not be used in the determination of the period for which disability benefits are payable. A member who remains disabled after the termination of benefits due to age or the expiration of the maximum period for which benefits

are payable shall be entitled to the retirement annuity provided under Section 16-133, notwithstanding that the member may not have the required minimum period of creditable service prescribed for such annuity.

(c) Effective January 1, 1988, the occupational disability benefit shall continue until the time one of the following first occurs: (1) disability ceases; (2) the member requests termination of the benefit; or (3) the member is engaged or found to be able to engage in gainful employment, other than limited employment under Section 16-149.6. If the disability benefit is discontinued under item (3) but the member is subsequently found to be unable to be gainfully employed due to the disability which was the cause for his or her most recent incapacity to perform the duties of a teacher, the disability benefit will be resumed, upon notification of the System, as soon as the member is not eligible to receive salary.

(d) The board shall prescribe rules governing the filing, investigation, control, and supervision of disability claims. Costs incurred by a claimant in connection with completing a claim for disability benefits shall be paid by the claimant.

(Source: P.A. 93-721, eff. 1-1-05.)

(40 ILCS 5/16-149.2) (from Ch. 108 1/2, par. 16-149.2)

Sec. 16-149.2. Disability retirement annuity.

(a) A member whose disability benefit has been terminated under the provisions of Section 16-149 may be retired on a disability retirement annuity payable effective the day following such termination provided the member remains disabled under the standard of disability provided in Section 16-149.

The disability retirement annuity shall be payable upon receipt of written certificates from at least 2 licensed physicians designated by the System verifying the continuation of the disability condition. A disability retirement annuity shall not be paid during any period for which the member receives benefits under Section 16-133, Section 16-149, or

Section 16-149.1 or has a right to receive a salary as a teacher, or is employed in any capacity as a teacher by the employers included under this System or in an equivalent capacity in any other public or private school, college or university, except as provided in Section 16-149.6.

(b) The disability retirement annuity shall be equal to the larger of: (1) 35% of the most recent annual contract salary rate or for part-time and substitute members after June 30, 1990, the most recent annualized salary rate; or (2) if disability commences prior to the member's attainment of age 55, the amount computed in accordance with Section 16-133, provided the amount computed under paragraph (B) of Section 16-133 shall be reduced by 1/2 of 1% for each month that the member is less than age 55; or (3) if disability commences after the member's attainment of age 55, and the member is not receiving a retirement annuity under Section 16-133, the amount computed in accordance with Section 16-133.

Prior to July 1, 1990, if the most recent period of service of any member eligible to receive a disability retirement annuity was rendered on a less than full-time but not less than half-time basis, the amount of the disability retirement annuity payable shall be computed on the basis of the salary received by such member for the member's last year of service on a full-time basis if such salary was greater than the member's most recent salary.

(c) If an annuitant receiving a disability retirement annuity under this Section is engaged in or able to engage in gainful employment (including limited employment under Section 16-149.6) paying more than the difference between the disability retirement annuity and the salary rate upon which the disability benefit is based, with no salary to be considered less than the minimum prescribed in Section 24-8 of the School Code, the disability retirement annuity shall be reduced to an amount which together with the amount earned by the annuitant, equals the salary rate upon which the disability benefit is based. However, for the purposes of this subsection

(c) only, the salary rate upon which the benefit is based shall be deemed to increase by 15% on the tenth anniversary of the commencement of the annuity.

Once each year during the first 5 years following retirement on a disability retirement annuity, and once in every 3-year period thereafter, the System may require an annuitant to undergo a medical examination, by a physician or physicians designated by the System. If the annuitant refuses to submit to such medical examination, the annuity shall be discontinued until such time as the annuitant consents to the examination, and if refusal continues for one year, all the rights to the annuity shall be revoked.

(d) If an annuitant in receipt of a disability retirement annuity returns to active service as a teacher (other than limited employment under Section 16-149.6) or is no longer disabled, such annuity shall cease and the annuitant shall again become a member of the Retirement System and, if in active service as a teacher, shall make regular contributions. All service for which the annuitant had credit on the date of disability shall be properly reestablished.

An annuitant in receipt of a disability retirement annuity who returns to active service as a teacher and who again becomes disabled shall not be entitled to a recomputation of the disability retirement annuity based on amendments enacted while the annuitant was in receipt of the annuity unless at least one year of creditable service is rendered after the latest re-entry into service.

(e) An annuitant in receipt of a disability retirement annuity may, upon reaching retirement age as specified in Section 16-132, apply for a retirement annuity which is to be calculated as specified in Section 16-133. The disability retirement annuity shall be discontinued upon commencement of the retirement annuity.

(f) The board shall prescribe rules governing the filing, investigation, control, and supervision of disability retirement claims. The rules shall include specific standards

to be used when requesting additional medical examinations, hospital records or other data necessary for determining the employment capacity and condition of the annuitant. Costs incurred by a claimant in connection with completing a claim for disability benefits shall be paid by the claimant.

The changes to this Section made by this amendatory Act of 1991 shall apply not only to persons who on or after its effective date are in service as a teacher under the System, but also to persons whose status as a teacher terminated prior to that date, whether or not the person is an annuitant on that date.

(Source: P.A. 93-469, eff. 8-8-03.)

(40 ILCS 5/16-149.6 new)

Sec. 16-149.6. Limited employment during disability.

(a) A teacher who (i) has been receiving a disability, occupational disability, or disability retirement benefit under Section 16-149, 16-149.1, or 16-149.2 for at least one year and (ii) remains unable to resume regular full-time teaching due to disability, but is able to engage in limited or part-time employment as a teacher, may engage in such limited or part-time employment as a teacher without loss of the disability, occupational disability, or disability retirement benefit, provided that the teacher's earnings for that limited or part-time employment, when added to the amount of the benefit, do not exceed 100% of the salary rate upon which the benefit is based.

(b) A disabled teacher who engages in limited or part-time teaching under this Section and earns service and contribution credits for that teaching shall not receive duplicate service or contribution credits under Section 16-149 or 16-149.1.

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