

1 AN ACT in relation to 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  
5 changing Sections 1-119, 15-107, 15-112, 15-113.3, 15-134,  
6 15-136, 15-153, 15-154, 15-158.2, 15-186.1, 15-187, and  
7 15-190 as follows:

8 (40 ILCS 5/1-119)

9 Sec. 1-119. Qualified Illinois Domestic Relations  
10 Orders.

11 (a) For the purposes of this Section:

12 (1) "Alternate payee" means the spouse, former  
13 spouse, child, or other dependent of a member, as  
14 designated in a QILDRO.

15 (2) "Death benefit" means any nonperiodic benefit  
16 payable upon the death of a member to a survivor of the  
17 member or to the member's estate or designated  
18 beneficiary, including any refund of contributions  
19 following the member's death, whether or not the benefit  
20 is so called under the applicable Article of this Code.

21 (3) "Disability benefit" means any periodic or  
22 nonperiodic benefit payable to a disabled member based on  
23 occupational or nonoccupational disability or disease,  
24 including any periodic or nonperiodic increases in the  
25 benefit, whether or not the benefit is so called under  
26 the applicable Article of this Code.

27 (4) "Member" means any person who participates in  
28 or has service credits in a retirement system, including  
29 a person who is receiving or is eligible to receive a  
30 retirement or disability benefit, without regard to  
31 whether the person has withdrawn from service.

1           (5) "Member's refund" means a return of all or a  
2 portion of a member's contributions that is elected by  
3 the member (or provided by operation of law) and is  
4 payable before the member's death.

5           (6) "Qualified Illinois Domestic Relations Order"  
6 or "QILDRO" means an Illinois court order that creates or  
7 recognizes the existence of an alternate payee's right to  
8 receive all or a portion of a member's accrued benefits  
9 in a retirement system, is issued pursuant to this  
10 Section and Section 503(b)(2) of the Illinois Marriage  
11 and Dissolution of Marriage Act, and meets the  
12 requirements of this Section. A QILDRO is not the same  
13 as a qualified domestic relations order or QDRO issued  
14 pursuant to Section 414(p) of the Internal Revenue Code  
15 of 1986. The requirements of paragraphs (2) and (3) of  
16 that Section do not apply to orders issued under this  
17 Section and shall not be deemed a guide to the  
18 interpretation of this Section; a QILDRO is intended to  
19 be a domestic relations order within the meaning of  
20 paragraph (11) of that Section.

21           (7) "Regular payee" means the person to whom a  
22 benefit would be payable in the absence of an effective  
23 QILDRO.

24           (8) "Retirement benefit" means any periodic or  
25 nonperiodic benefit payable to a retired member based on  
26 age or service, or on the amounts accumulated to the  
27 credit of the member for retirement purposes, including  
28 any periodic or nonperiodic increases in the benefit,  
29 whether or not the benefit is so called under the  
30 applicable Article of this Code.

31           (9) "Retirement system" or "system" means any  
32 retirement system, pension fund, or other public employee  
33 retirement benefit plan that is maintained or established  
34 under any of Articles 2 through 18 of this Code.

1           (10) "Surviving spouse" means the spouse of a  
2 member at the time of the member's death.

3           (11) "Survivor's benefit" means any periodic  
4 benefit payable to a surviving spouse, child, parent, or  
5 other survivor of a deceased member, including any  
6 periodic or nonperiodic increases in the benefit, whether  
7 or not the benefit is so called under the applicable  
8 Article of this Code.

9           (b) (1) An Illinois court of competent jurisdiction in a  
10 proceeding for declaration of invalidity of marriage, legal  
11 separation, or dissolution of marriage that provides for the  
12 distribution of property, or any proceeding to amend or  
13 enforce such a property distribution, may order that all or  
14 any part of any (i) retirement benefit or (ii) member's  
15 refund payable to or on behalf of the member be instead paid  
16 by the retirement system to a designated alternate payee.

17           (2) An order issued under this Section provides only for  
18 the diversion to an alternate payee of certain benefits  
19 otherwise payable by the retirement system under the  
20 provisions of this Code. The existence of a QILDRO shall not  
21 cause the retirement system to pay any benefit, or any amount  
22 of benefit, to an alternate payee that would not have been  
23 payable by the system to a regular payee in the absence of  
24 the QILDRO.

25           (3) A QILDRO shall not affect the vesting, accrual, or  
26 amount of any benefit, nor the date or conditions upon which  
27 any benefit becomes payable, nor the right of the member or  
28 the member's survivors to make any election otherwise  
29 authorized under this Code, except as provided in subsections  
30 (i) and (j).

31           (4) A QILDRO shall not apply to or affect the payment of  
32 any survivor's benefit, death benefit, disability benefit,  
33 life insurance benefit, or health insurance benefit.

34           (c) (1) A QILDRO must contain the name, residence

1 address, and social security number of the member and of the  
2 alternate payee and must identify the retirement system to  
3 which it is directed and the court issuing the order.

4 (2) A QILDRO must specify each benefit to which it  
5 applies, and it must specify the amount of the benefit to be  
6 paid to the alternate payee, which in the case of a  
7 nonperiodic benefit shall be expressed as a dollar amount  
8 (except that a nonperiodic benefit payable to an alternate  
9 payee of a participant in the self-managed plan authorized  
10 under Article 15 of this Code may be expressed as a dollar  
11 amount or as a percentage of the participant's account), and  
12 in the case of a periodic benefit shall be expressed as a  
13 dollar amount per month.

14 (3) With respect to each benefit to which it applies, a  
15 QILDRO must specify when the order will take effect. In the  
16 case of a periodic benefit that is being paid at the time the  
17 order is received, a QILDRO shall take effect immediately or  
18 on a specified later date; if it takes effect immediately, it  
19 shall become effective on the first benefit payment date  
20 occurring at least 30 days after the order is received by the  
21 retirement system. In the case of any other benefit, a  
22 QILDRO shall take effect when the benefit becomes payable,  
23 except that a lump-sum benefit payable to an alternate payee  
24 of a participant in the self-managed plan authorized under  
25 Article 15 of this Code may be paid upon the request of the  
26 alternate payee. However, in no event shall a QILDRO apply  
27 to any benefit paid by the retirement system before or within  
28 30 days after the order is received. A retirement system may  
29 adopt rules to prorate the amount of the first and final  
30 periodic payments to an alternate payee.

31 (4) A QILDRO must also contain any provisions required  
32 under subsection (n) or (p).

33 (d) (1) An order issued under this Section shall not be  
34 implemented unless a certified copy of the order has been

1 filed with the retirement system. The system shall promptly  
2 notify the member and the alternate payee by first class mail  
3 of its receipt of the order.

4 (2) Neither the retirement system, nor its board, nor  
5 any of its employees shall be liable to the member, the  
6 regular payee, or any other person for any amount of a  
7 benefit that is paid in good faith to an alternate payee in  
8 accordance with a QILDRO.

9 (3) At the time the order is submitted to the retirement  
10 system, it shall be accompanied by a nonrefundable \$50  
11 processing fee payable to the retirement system, to be used  
12 by the system to defer any administrative costs arising out  
13 of the implementation of the QILDRO.

14 (e) (1) Each alternate payee is responsible for  
15 maintaining a current residence address on file with the  
16 retirement system. The retirement system shall have no duty  
17 to attempt to locate any alternate payee by any means other  
18 than sending written notice to the last known address of the  
19 alternate payee on file with the system.

20 (2) In the event that the system cannot locate an  
21 alternate payee when a benefit becomes payable, the system  
22 shall hold the amount of the benefit payable to the alternate  
23 payee and make payment to the alternate payee if he or she is  
24 located within the following 180 days. If the alternate  
25 payee has not been located within 180 days from the date the  
26 benefit becomes payable, the system shall pay the benefit and  
27 the amounts held to the regular payee. If the alternate  
28 payee is subsequently located, the system shall thereupon  
29 implement the QILDRO, but the interest of the alternate payee  
30 in any amounts already paid to the regular payee shall be  
31 extinguished. Amounts held under this subsection shall not  
32 bear interest.

33 (f) (1) If the amount of a benefit that is specified in  
34 a QILDRO for payment to an alternate payee exceeds the

1 actual amount of that benefit payable by the retirement  
2 system, the excess shall be disregarded. The retirement  
3 system shall have no liability to any alternate payee or any  
4 other person for the disregarded amounts.

5 (2) In the event of multiple QILDROs against a member,  
6 the retirement system shall honor all of the QILDROs to the  
7 extent possible. However, if the total amount of a benefit  
8 to be paid to alternate payees under all QILDROs in effect  
9 against the member exceeds the actual amount of that benefit  
10 payable by the system, the QILDROs shall be satisfied in the  
11 order of their receipt by the system until the amount of the  
12 benefit is exhausted, and shall not be adjusted pro rata.  
13 Any amounts that cannot be paid due to exhaustion of the  
14 benefit shall remain unpaid, and the retirement system shall  
15 have no liability to any alternate payee or any other person  
16 for such amounts.

17 (3) A modification of a QILDRO shall be filed with the  
18 retirement system in the same manner as a new QILDRO. A  
19 modification that does not increase the amount of any benefit  
20 payable to the alternate payee, and does not expand the  
21 QILDRO to affect any benefit not affected by the unmodified  
22 QILDRO, does not affect the priority of payment under  
23 subdivision (f)(2); the priority of payment of a QILDRO that  
24 has been modified to increase the amount of any benefit  
25 payable to the alternate payee, or to expand the QILDRO to  
26 affect a benefit not affected by the unmodified QILDRO, shall  
27 be based on the date on which the system receives the  
28 modification of the QILDRO.

29 (g) (1) Upon the death of the alternate payee under a  
30 QILDRO, the QILDRO shall expire and cease to be effective,  
31 and in the absence of another QILDRO, the right to receive  
32 any affected benefit shall revert to the regular payee.

33 (2) All QILDROs relating to a member's participation in  
34 a particular retirement system shall expire and cease to be

1 effective upon the issuance of a member's refund that  
2 terminates the member's participation in that retirement  
3 system, without regard to whether the refund was paid to the  
4 member or to an alternate payee under a QILDRO. An expired  
5 QILDRO shall not be automatically revived by any subsequent  
6 return by the member to service under that retirement system.

7 (h) (1) Within 45 days after receiving a subpoena from  
8 any party to a proceeding for declaration of invalidity of  
9 marriage, legal separation, or dissolution of marriage in  
10 which a QILDRO may be issued, or after receiving a request  
11 from the member, a retirement system shall issue a statement  
12 of a member's accumulated contributions, accrued benefits,  
13 and other interests in the plan administered by the  
14 retirement system based on the data on file with the system  
15 on the date the subpoena is received, and of any relevant  
16 procedures, rules, or modifications to the model QILDRO form  
17 that have been adopted by the retirement system.

18 (2) In no event shall the retirement system be required  
19 to furnish to any person an actuarial opinion as to the  
20 present value of the member's benefits or other interests.

21 (3) The papers, entries, and records, or parts thereof,  
22 of any retirement system may be proved by a copy thereof,  
23 certified under the signature of the secretary of the system  
24 or other duly appointed keeper of the records of the system  
25 and the corporate seal, if any.

26 (i) In a retirement system in which a member or  
27 beneficiary is required to apply to the system for payment of  
28 a benefit, the required application may be made by an  
29 alternate payee who is entitled to all of that benefit under  
30 a QILDRO, provided that all other qualifications and  
31 requirements have been met. However, the alternate payee may  
32 not make the required application for a member's refund or a  
33 retirement benefit if the member is in active service or  
34 below the minimum age for receiving an undiscounted

1 retirement annuity in the retirement system that has received  
2 the QILDRO or in any other retirement system in which the  
3 member has creditable service and in which the member's  
4 rights under the Retirement Systems Reciprocal Act would be  
5 affected as a result of the alternate payee's application for  
6 a member's refund or retirement benefit.

7 (j) (1) So long as there is in effect a QILDRO relating  
8 to a member's retirement benefit, the affected member may not  
9 elect a form of payment that has the effect of diminishing  
10 the amount of the payment to which any alternate payee is  
11 entitled, unless the alternate payee has consented to the  
12 election in writing and this consent has been filed with the  
13 retirement system.

14 (2) If a member attempts to make an election prohibited  
15 under subdivision (j)(1), the retirement system shall reject  
16 the election and advise the member of the need to obtain the  
17 alternate payee's consent.

18 (3) If a retirement system discovers that it has  
19 mistakenly allowed an election prohibited under subdivision  
20 (j)(1), it shall thereupon disallow that election and  
21 recalculate any benefits affected thereby. If the system  
22 determines that an amount paid to a regular payee should have  
23 been paid to an alternate payee, the system shall, if  
24 possible, recoup the amounts as provided in subsection (k) of  
25 this Section.

26 (k) In the event that a regular payee or an alternate  
27 payee is overpaid, the retirement system shall recoup the  
28 amounts by deducting the overpayment from future payments and  
29 making payment to the other payee. The system may make  
30 deductions for recoupment over a period of time in the same  
31 manner as is provided by law or rule for the recoupment of  
32 other amounts incorrectly disbursed by the system in  
33 instances not involving a QILDRO. The retirement system  
34 shall incur no liability to either the alternate payee or the



1 regular payee as a result of any payment made in good faith,  
2 regardless of whether the system is able to accomplish  
3 recoupment.

4 (1) (1) A retirement system that has, before the  
5 effective date of this Section, received and implemented a  
6 domestic relations order that directs payment of a benefit to  
7 a person other than the regular payee may continue to  
8 implement that order, and shall not be liable to the regular  
9 payee for any amounts paid in good faith to that other person  
10 in accordance with the order.

11 (2) A domestic relations order directing payment of a  
12 benefit to a person other than the regular payee that was  
13 issued by a court but not implemented by a retirement system  
14 prior to the effective date of this Section shall be void.  
15 However, a person who is the beneficiary or alternate payee  
16 of a domestic relations order that is rendered void under  
17 this subsection may petition the court that issued the order  
18 for an amended order that complies with this Section.

19 (m) (1) In accordance with Article XIII, Section 5 of  
20 the Illinois Constitution, which prohibits the impairment or  
21 diminishment of benefits granted under this Code, a QILDRO  
22 issued against a member of a retirement system established  
23 under an Article of this Code that exempts the payment of  
24 benefits or refunds from attachment, garnishment, judgment or  
25 other legal process shall not be effective without the  
26 written consent of the member if the member began  
27 participating in the retirement system on or before the  
28 effective date of this Section. That consent must specify  
29 the retirement system, the court case number, and the names  
30 and social security numbers of the member and the alternate  
31 payee. The consent must accompany the QILDRO when it is  
32 filed with the retirement system, and must be in  
33 substantially the following form:

34 CONSENT TO ISSUANCE OF QILDRO

1 Court Case Number: .....

2 Member's Social Security Number: .....

3 Alternate payee's Social Security Number: .....

4 I, (name), a member of the (retirement system), hereby

5 consent to the issuance of a Qualified Illinois Domestic

6 Relations Order. I understand that under the Order, certain

7 benefits that would otherwise be payable to me, or to my

8 surviving spouse or estate, will instead be payable to (name

9 of alternate payee). I also understand that my right to

10 elect certain forms of payment of my retirement benefit or

11 member's refund may be limited as a result of the Order.

12 DATED:.....

13 SIGNED:.....

14 (2) A member's consent to the issuance of a QILDRO shall

15 be irrevocable, and shall apply to any QILDRO that pertains

16 to the alternate payee and retirement system named in the

17 consent.

18 (n) An order issued under this Section shall be in

19 substantially the following form (omitting any provisions

20 that are not applicable):

21 QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDER

22 THIS CAUSE coming before the Court for the purpose of the

23 entry of a Qualified Illinois Domestic Relations Order under

24 the provisions of Section 1-119 of the Illinois Pension Code,

25 the Court having jurisdiction over the parties and the

26 subject matter hereof; the Court finding that one of the

27 parties to this proceeding is a member of a retirement system

28 subject to Section 1-119 of the Illinois Pension Code, this

29 Order is entered to implement a division of that party's

30 interest in the retirement system; and the Court being fully

31 advised;

32 IT IS HEREBY ORDERED AS FOLLOWS:

33 (1) The definitions and other provisions of Section

1 1-119 of the Illinois Pension Code are adopted by reference  
2 and made a part of this Order.

3 (2) Identification of Retirement System and parties:

4 Retirement System: (name and address)

5 Member: (name, residence address and social security  
6 number)

7 Alternate payee: (name, residence address and social  
8 security number)

9 (3) The Retirement System shall pay the indicated  
10 amounts of the following specified benefits to the alternate  
11 payee under the following terms and conditions:

12 (i) Of the member's retirement benefit, the  
13 Retirement System shall pay to the alternate payee  
14 \$..... per month, beginning (if the benefit is already  
15 being paid, either immediately or on a specified later  
16 date; otherwise, on the date the retirement benefit  
17 commences), and ending upon the termination of the  
18 retirement benefit or the death of the alternate payee,  
19 whichever occurs first.

20 (ii) Of any member's refund that becomes payable,  
21 the Retirement System shall pay to the alternate payee  
22 \$..... when the member's refund becomes payable.

23 (4) In accordance with subsection (j) of Section 1-119  
24 of the Illinois Pension Code, so long as this QILDRO is in  
25 effect, the member may not elect a form of payment of the  
26 retirement benefit that has the effect of diminishing the  
27 amount of the payment to which the alternate payee is  
28 entitled, unless the alternate payee has consented to the  
29 election in writing and this consent has been filed with the  
30 retirement system.

31 (5) If the member began participating in the Retirement  
32 System before the effective date of this Section, this Order  
33 shall not take effect unless accompanied by the written  
34 consent of the member as required under subsection (m) of

1 Section 1-119 of the Illinois Pension Code.

2 (6) The Court retains jurisdiction to modify this Order.

3 DATED:.....

4 SIGNED:.....

5 (o) (1) A court in Illinois that has issued a QILDRO  
6 shall retain jurisdiction of all issues relating to the  
7 modification of the QILDRO. The Administrative Review Law  
8 and the rules adopted pursuant thereto shall govern and apply  
9 to all proceedings for judicial review of final  
10 administrative decisions of the board of trustees of the  
11 retirement system arising under this Section.

12 (2) The term "administrative decision" is defined as in  
13 Section 3-101 of the Code of Civil Procedure. The venue for  
14 review under the Administrative Review Law shall be the same  
15 as is provided by law for judicial review of other  
16 administrative decisions of the retirement system.

17 (p) (1) Each retirement system may adopt any procedures  
18 or rules that it deems necessary or useful for the  
19 implementation of this Section.

20 (2) Each retirement system may by rule modify the model  
21 QILDRO form provided in subsection (n) or require that  
22 additional information be included in QILDROs presented to  
23 the system, as may be necessary to meet the needs of the  
24 retirement system.

25 (Source: P.A. 90-731, eff. 7-1-99.)

26 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)  
27 Sec. 15-107. Employee.

28 (a) "Employee" means any member of the educational,  
29 administrative, secretarial, clerical, mechanical, labor or  
30 other staff of an employer whose employment is permanent and  
31 continuous or who is employed in a position in which services  
32 are expected to be rendered on a continuous basis for at

1 least 4 months or one academic term, whichever is less, who  
2 (A) receives payment for personal services on a warrant  
3 issued pursuant to a payroll voucher certified by an employer  
4 and drawn by the State Comptroller upon the State Treasurer  
5 or by an employer upon trust, federal or other funds, or (B)  
6 is on a leave of absence without pay. Employment which is  
7 irregular, intermittent or temporary shall not be considered  
8 continuous for purposes of this paragraph.

9 However, a person is not an "employee" if he or she:

10 (1) is a student enrolled in and regularly  
11 attending classes in a college or university which is an  
12 employer, and is employed on a temporary basis at less  
13 than full time;

14 (2) is currently receiving a retirement annuity or  
15 a disability retirement annuity under Section 15-153.2  
16 from this System;

17 (3) is on a military leave of absence;

18 (4) is eligible to participate in the Federal Civil  
19 Service Retirement System and is currently making  
20 contributions to that system based upon earnings paid by  
21 an employer;

22 (5) is on leave of absence without pay for more  
23 than 60 days immediately following termination of  
24 disability benefits under this Article;

25 (6) is hired after June 30, 1979 as a public  
26 service employment program participant under the Federal  
27 Comprehensive Employment and Training Act and receives  
28 earnings in whole or in part from funds provided under  
29 that Act; or

30 (7) is employed on or after July 1, 1991 to perform  
31 services that are excluded by subdivision (a)(7)(f) or  
32 (a)(19) of Section 210 of the federal Social Security Act  
33 from the definition of employment given in that Section  
34 (42 U.S.C. 410).~~or~~

1           ~~(8) participates in an optional program for~~  
2           ~~part-time workers under Section 15-158.1.~~

3           (b) Any employer may, by filing a written notice with  
4 the board, exclude from the definition of "employee" all  
5 persons employed pursuant to a federally funded contract  
6 entered into after July 1, 1982 with a federal military  
7 department in a program providing training in military  
8 courses to federal military personnel on a military site  
9 owned by the United States Government, if this exclusion is  
10 not prohibited by the federally funded contract or federal  
11 laws or rules governing the administration of the contract.

12           (c) Any person appointed by the Governor under the Civil  
13 Administrative Code of the State is an employee, if he or she  
14 is a participant in this system on the effective date of the  
15 appointment.

16           (d) A participant on lay-off status under civil service  
17 rules is considered an employee for not more than 120 days  
18 from the date of the lay-off.

19           (e) A participant is considered an employee during (1)  
20 the first 60 days of disability leave, (2) the period, not to  
21 exceed one year, in which his or her eligibility for  
22 disability benefits is being considered by the board or  
23 reviewed by the courts, and (3) the period he or she receives  
24 disability benefits under the provisions of Section 15-152,  
25 workers' compensation or occupational disease benefits, or  
26 disability income under an insurance contract financed wholly  
27 or partially by the employer.

28           (f) Absences without pay, other than formal leaves of  
29 absence, of less than 30 calendar days, are not considered as  
30 an interruption of a person's status as an employee. If such  
31 absences during any period of 12 months exceed 30 work days,  
32 the employee status of the person is considered as  
33 interrupted as of the 31st work day.

34           (g) A staff member whose employment contract requires

1 services during an academic term is to be considered an  
2 employee during the summer and other vacation periods, unless  
3 he or she declines an employment contract for the succeeding  
4 academic term or his or her employment status is otherwise  
5 terminated, and he or she receives no earnings during these  
6 periods.

7 (h) An individual who was a participating employee  
8 employed in the fire department of the University of  
9 Illinois's Champaign-Urbana campus immediately prior to the  
10 elimination of that fire department and who immediately after  
11 the elimination of that fire department became employed by  
12 the fire department of the City of Urbana or the City of  
13 Champaign shall continue to be considered as an employee for  
14 purposes of this Article for so long as the individual  
15 remains employed as a firefighter by the City of Urbana or  
16 the City of Champaign. The individual shall cease to be  
17 considered an employee under this subsection (h) upon the  
18 first termination of the individual's employment as a  
19 firefighter by the City of Urbana or the City of Champaign.

20 (i) An individual who is employed on a full-time basis  
21 as an officer or employee of a statewide teacher organization  
22 that serves System participants or an officer of a national  
23 teacher organization that serves System participants may  
24 participate in the System and shall be deemed an employee,  
25 provided that (1) the individual has previously earned  
26 creditable service under this Article, (2) the individual  
27 files with the System an irrevocable election to become a  
28 participant, and (3) the individual does not receive credit  
29 for that employment under any other Article of this Code. An  
30 employee under this subsection (i) is responsible for paying  
31 to the System both (A) employee contributions based on the  
32 actual compensation received for service with the teacher  
33 organization and (B) employer contributions equal to the  
34 normal costs (as defined in Section 15-155) resulting from

1 that service; all or any part of these contributions may be  
2 paid on the employee's behalf or picked up for tax purposes  
3 (if authorized under federal law) by the teacher  
4 organization.

5 A person who is an employee as defined in this subsection  
6 (i) may establish service credit for similar employment prior  
7 to becoming an employee under this subsection by paying to  
8 the System for that employment the contributions specified in  
9 this subsection, plus interest at the effective rate from the  
10 date of service to the date of payment. However, credit  
11 shall not be granted under this subsection for any such prior  
12 employment for which the applicant received credit under any  
13 other provision of this Code, or during which the applicant  
14 was on a leave of absence under Section 15-113.2.

15 (Source: P.A. 90-448, eff. 8-16-97; 90-576, eff. 3-31-98;  
16 90-766, eff. 8-14-98; 91-887, eff. 7-6-00.)

17 (40 ILCS 5/15-112) (from Ch. 108 1/2, par. 15-112)

18 Sec. 15-112. Final rate of earnings. "Final rate of  
19 earnings": For an employee who is paid on an hourly basis or  
20 who receives an annual salary in installments during 12  
21 months of each academic year, the average annual earnings  
22 during the 48 consecutive calendar month period ending with  
23 the last day of final termination of employment or the 4  
24 consecutive academic years of service in which the employee's  
25 earnings were the highest, whichever is greater. For any  
26 other employee, the average annual earnings during the 4  
27 consecutive academic years of service in which his or her  
28 earnings were the highest. For an employee with less than 48  
29 months or 4 consecutive academic years of service, the  
30 average earnings during his or her entire period of service.  
31 The earnings of an employee with more than 36 months of  
32 service prior to the date of becoming a participant are, for  
33 such period, considered equal to the average earnings during



1 the last 36 months of such service. For an employee on leave  
2 of absence with pay, or on leave of absence without pay who  
3 makes contributions during such leave, earnings are assumed  
4 to be equal to the basic compensation on the date the leave  
5 began. For an employee on disability leave, earnings are  
6 assumed to be equal to the basic compensation on the date  
7 disability occurs or the average earnings during the 24  
8 months immediately preceding the month in which disability  
9 occurs, whichever is greater.

10 For a participant who retires on or after the effective  
11 date of this amendatory Act of 1997 with at least 20 years of  
12 service as a firefighter or police officer under this  
13 Article, the final rate of earnings shall be the annual rate  
14 of earnings received by the participant on his or her last  
15 day as a firefighter or police officer under this Article, if  
16 that is greater than the final rate of earnings as calculated  
17 under the other provisions of this Section.

18 If a participant is an employee for at least 6 months  
19 during the academic year in which his or her employment is  
20 terminated, the annual final rate of earnings shall be 25% of  
21 the sum of (1) the annual basic compensation for that year,  
22 and (2) the amount earned during the 36 months immediately  
23 preceding that year, if this is greater than the final rate  
24 of earnings as calculated under the other provisions of this  
25 Section.

26 In the determination of the final rate of earnings for an  
27 employee, that part of an employee's earnings for any  
28 academic year beginning after June 30, 1997, which exceeds  
29 the employee's earnings with that employer for the preceding  
30 year by more than 20 percent shall be excluded; in the event  
31 that an employee has more than one employer this limitation  
32 shall be calculated separately for the earnings with each  
33 employer. In making such calculation, only the basic  
34 compensation of employees shall be considered, without regard

1 to vacation or overtime or to contracts for summer  
2 employment.

3 The following are not considered as earnings in  
4 determining final rate of earnings: (1) severance or  
5 separation pay, (2) retirement pay, (3) payment for unused  
6 sick leave, and (4) payments from an employer for the period  
7 used in determining final rate of earnings for any purpose  
8 other than (i) services rendered, (ii) leave of absence or  
9 vacation granted during that period, and (iii) vacation of up  
10 to 56 work days allowed upon termination of employment;  
11 except that, if the benefit has been collectively bargained  
12 between the employer and the recognized collective bargaining  
13 agent pursuant to the Illinois Educational Labor Relations  
14 Act, payment received during a period of up to 2 academic  
15 years for unused sick leave may be considered as earnings in  
16 accordance with the applicable collective bargaining  
17 agreement, subject to the 20% increase limitation of this  
18 Section. Any unused sick leave considered as earnings under  
19 this Section shall not be taken into account in calculating  
20 service credit under Section 15-113.4.

21 Intermittent periods of service shall be considered as  
22 consecutive in determining final rate of earnings.

23 (Source: P.A. 91-887, eff. 7-6-00; 92-599, eff. 6-28-02.)

24 (40 ILCS 5/15-113.3) (from Ch. 108 1/2, par. 15-113.3)

25 Sec. 15-113.3. Service for periods of military service.  
26 "Service for periods of military service": Those periods,  
27 not exceeding 5 years, during which a person served in the  
28 armed forces of the United States, of which all but 2 years  
29 must have immediately followed a period of employment with an  
30 employer under this System or the State Employees' Retirement  
31 System of Illinois; provided that the person received a  
32 discharge other than dishonorable and again became an  
33 employee under this System within one year after discharge.

1 However, for the up to 2 years of military service not  
2 immediately following employment, the applicant must make  
3 contributions to the System equal to (1) 8% of at-the-rates  
4 provided-in-Section-15-157-based-upon the employee's basic  
5 compensation on the last date as a participating employee  
6 prior to such military service, or on the first date as a  
7 participating employee after such military service, whichever  
8 is greater, plus (2) an amount determined by the board to be  
9 equal to the employer's normal cost of the benefits accrued  
10 for such military service, plus (3) interest on items (1) and  
11 (2) at the effective rate from the later of the date of first  
12 membership in the System or the date of conclusion of  
13 military service to the date of payment. The change in the  
14 required contribution for purchased military credit made by  
15 this amendatory Act of 1993 does not entitle any person to a  
16 refund of contributions already paid. The contributions paid  
17 under this Section are not normal contributions as defined in  
18 Section 15-114 or additional contributions as defined in  
19 Section 15-115.

20 The changes to this Section made by this amendatory Act  
21 of 1991 shall apply not only to persons who on or after its  
22 effective date are in service under the System, but also to  
23 persons whose employment terminated prior to that date,  
24 whether or not the person is an annuitant on that date. In  
25 the case of an annuitant who applies for credit allowable  
26 under this Section for a period of military service that did  
27 not immediately follow employment, and who has made the  
28 required contributions for such credit, the annuity shall be  
29 recalculated to include the additional service credit, with  
30 the increase taking effect on the date the System received  
31 written notification of the annuitant's intent to purchase  
32 the credit, if payment of all the required contributions is  
33 made within 60 days of such notice, or else on the first  
34 annuity payment date following the date of payment of the

1 required contributions. In calculating the automatic annual  
2 increase for an annuity that has been recalculated under this  
3 Section, the increase attributable to the additional service  
4 allowable under this amendatory Act of 1991 shall be included  
5 in the calculation of automatic annual increases accruing  
6 after the effective date of the recalculation.

7 (Source: P.A. 90-65, eff. 7-7-97; 90-511, eff. 8-22-97.)

8 (40 ILCS 5/15-134) (from Ch. 108 1/2, par. 15-134)

9 Sec. 15-134. Participant.

10 (a) Each person shall, as a condition of employment,  
11 become a participant and be subject to this Article on the  
12 date that he or she becomes an employee, makes an election to  
13 participate in, or otherwise becomes a participant in one of  
14 the retirement programs offered under this Article, whichever  
15 date is later.

16 An employee who becomes a participant shall continue to  
17 be a participant until he or she becomes an annuitant, dies  
18 or accepts a refund of contributions, ~~except that a person~~  
19 ~~shall not be deemed a participant while participating in an~~  
20 ~~optional program for part-time workers established under~~  
21 ~~Section 15-158.1.~~

22 (b) A person employed concurrently by 2 or more  
23 employers is eligible to participate in the system on  
24 compensation received from all employers.

25 (Source: P.A. 89-430, eff. 12-15-95; 90-65, eff. 7-7-97;  
26 90-448, eff. 8-16-97; 90-655, eff. 7-30-98.)

27 (40 ILCS 5/15-136) (from Ch. 108 1/2, par. 15-136)

28 Sec. 15-136. Retirement annuities - Amount. The  
29 provisions of this Section 15-136 apply only to those  
30 participants who are participating in the traditional benefit  
31 package or the portable benefit package and do not apply to  
32 participants who are participating in the self-managed plan.

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

5 Rule 1: The retirement annuity shall be 1.67% of final  
6 rate of earnings for each of the first 10 years of service,  
7 1.90% for each of the next 10 years of service, 2.10% for  
8 each year of service in excess of 20 but not exceeding 30,  
9 and 2.30% for each year in excess of 30; or for persons who  
10 retire on or after January 1, 1998, 2.2% of the final rate of  
11 earnings for each year of service.

12 Rule 2: The retirement annuity shall be the sum of the  
13 following, determined from amounts credited to the  
14 participant in accordance with the actuarial tables and the  
15 prescribed rate of interest in effect at the time the  
16 retirement annuity begins:

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

20 (ii) an annuity from employer contributions of an  
21 amount equal to that which can be provided on an  
22 actuarially equivalent basis from the accumulated normal  
23 contributions made by the participant under Section  
24 15-113.6 and Section 15-113.7 plus 1.4 times all other  
25 accumulated normal contributions made by the participant;  
26 and

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

30 With respect to a police officer or firefighter who  
31 retires on or after August 14, 1998, the accumulated normal  
32 contributions taken into account under clauses (i) and (ii)  
33 of this Rule 2 shall include the additional normal  
34 contributions made by the police officer or firefighter under

1 Section 15-157(a).

2 The amount of a retirement annuity calculated under this  
3 Rule 2 shall be computed solely on the basis of the  
4 participant's accumulated normal contributions, as specified  
5 in this Rule and defined in Section 15-116. Neither an  
6 employee or employer contribution for early retirement under  
7 Section 15-136.2 nor any other employer contribution shall be  
8 used in the calculation of the amount of a retirement annuity  
9 under this Rule 2.

10 This amendatory Act of the 91st General Assembly is a  
11 clarification of existing law and applies to every  
12 participant and annuitant without regard to whether status as  
13 an employee terminates before the effective date of this  
14 amendatory Act.

15 Rule 3: The retirement annuity of a participant who is  
16 employed at least one-half time during the period on which  
17 his or her final rate of earnings is based, shall be equal to  
18 the participant's years of service not to exceed 30,  
19 multiplied by (1) \$96 if the participant's final rate of  
20 earnings is less than \$3,500, (2) \$108 if the final rate of  
21 earnings is at least \$3,500 but less than \$4,500, (3) \$120 if  
22 the final rate of earnings is at least \$4,500 but less than  
23 \$5,500, (4) \$132 if the final rate of earnings is at least  
24 \$5,500 but less than \$6,500, (5) \$144 if the final rate of  
25 earnings is at least \$6,500 but less than \$7,500, (6) \$156 if  
26 the final rate of earnings is at least \$7,500 but less than  
27 \$8,500, (7) \$168 if the final rate of earnings is at least  
28 \$8,500 but less than \$9,500, and (8) \$180 if the final rate  
29 of earnings is \$9,500 or more, except that the annuity for  
30 those persons having made an election under Section  
31 15-154(a-1) shall be calculated and payable under the  
32 portable retirement benefit program pursuant to the  
33 provisions of Section 15-136.4.

34 Rule 4: A participant who is at least age 50 and has 25

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

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

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

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

27 Rule 5: The retirement annuity of a participant who  
28 elected early retirement under the provisions of Section  
29 15-136.2 and who, on or before February 16, 1995, brought  
30 administrative proceedings pursuant to the administrative  
31 rules adopted by the System to challenge the calculation of  
32 his or her retirement annuity shall be the sum of the  
33 following, determined from amounts credited to the  
34 participant in accordance with the actuarial tables and the

1 prescribed rate of interest in effect at the time the  
2 retirement annuity begins:

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

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

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

20 In no event shall a retirement annuity under this Rule 5  
21 be lower than the amount obtained by adding (1) the monthly  
22 amount obtained by dividing the combined employee and  
23 employer contributions made under Section 15-136.2 by the  
24 System's annuity factor for the age of the participant at the  
25 beginning of the annuity payment period and (2) the amount  
26 equal to the participant's annuity if calculated under Rule  
27 1, reduced under Section 15-136(b) as if no contributions had  
28 been made under Section 15-136.2.

29 With respect to a participant who is qualified for a  
30 retirement annuity under this Rule 5 whose retirement annuity  
31 began before the effective date of this amendatory Act of the  
32 91st General Assembly, and for whom an employee contribution  
33 was made under Section 15-136.2, the System shall recalculate  
34 the retirement annuity under this Rule 5 and shall pay any



1 additional amounts due in the manner provided in Section  
2 15-186.1 for benefits mistakenly set too low.

3 The amount of a retirement annuity calculated under this  
4 Rule 5 shall be computed solely on the basis of those  
5 contributions specifically set forth in this Rule 5. Except  
6 as provided in clause (iii) of this Rule 5, neither an  
7 employee nor employer contribution for early retirement under  
8 Section 15-136.2, nor any other employer contribution, shall  
9 be used in the calculation of the amount of a retirement  
10 annuity under this Rule 5.

11 The General Assembly has adopted the changes set forth in  
12 Section 25 of this amendatory Act of the 91st General  
13 Assembly in recognition that the decision of the Appellate  
14 Court for the Fourth District in *Mattis v. State Universities  
15 Retirement System et al.* might be deemed to give some right  
16 to the plaintiff in that case. The changes made by Section  
17 25 of this amendatory Act of the 91st General Assembly are a  
18 legislative implementation of the decision of the Appellate  
19 Court for the Fourth District in *Mattis v. State Universities  
20 Retirement System et al.* with respect to that plaintiff.

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

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

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

34 (2) For a participant who has at least the number

1 of years of service required to retire at any age under  
2 subsection (a) of Section 15-135; or

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

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

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

19 Effective January 1 immediately following the date the  
20 retirement annuity begins, the annuitant shall receive an  
21 increase in his or her monthly retirement annuity of 0.125%  
22 of the monthly retirement annuity provided under Rule 1, Rule  
23 2, Rule 3, Rule 4, or Rule 5, contained in this Section,  
24 multiplied by the number of full months which elapsed from  
25 the date the retirement annuity payments began to January 1,  
26 1972, plus 0.1667% of such annuity, multiplied by the number  
27 of full months which elapsed from January 1, 1972, or the  
28 date the retirement annuity payments began, whichever is  
29 later, to January 1, 1978, plus 0.25% of such annuity  
30 multiplied by the number of full months which elapsed from  
31 January 1, 1978, or the date the retirement annuity payments  
32 began, whichever is later, to the effective date of the  
33 increase.

34 The annuitant shall receive an increase in his or her

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

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

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

16 (e) If, on January 1, 1987, or the date the retirement  
17 annuity payment period begins, whichever is later, the sum of  
18 the retirement annuity provided under Rule 1 or Rule 2 of  
19 this Section and the automatic annual increases provided  
20 under the preceding subsection or Section 15-136.1, amounts  
21 to less than the retirement annuity which would be provided  
22 by Rule 3, the retirement annuity shall be increased as of  
23 January 1, 1987, or the date the retirement annuity payment  
24 period begins, whichever is later, to the amount which would  
25 be provided by Rule 3 of this Section. Such increased amount  
26 shall be considered as the retirement annuity in determining  
27 benefits provided under other Sections of this Article. This  
28 paragraph applies without regard to whether status as an  
29 employee terminated before the effective date of this  
30 amendatory Act of 1987, provided that the annuitant was  
31 employed at least one-half time during the period on which  
32 the final rate of earnings was based.

33 (f) A participant is entitled to such additional annuity  
34 as may be provided on an actuarially equivalent basis, by any

1 accumulated additional contributions to his or her credit.  
2 However, the additional contributions made by the participant  
3 toward the automatic increases in annuity provided under this  
4 Section shall not be taken into account in determining the  
5 amount of such additional annuity.

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

22 (h) On January 1, 1981, an annuitant who was receiving a  
23 retirement annuity on or before January 1, 1971 shall have  
24 his or her retirement annuity then being paid increased \$1  
25 per month for each year of creditable service. On January 1,  
26 1982, an annuitant whose retirement annuity began on or  
27 before January 1, 1977, shall have his or her retirement  
28 annuity then being paid increased \$1 per month for each year  
29 of creditable service.

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

1 (Source: P.A. 91-887 (Sections 20 and 25), eff. 7-6-00;  
2 92-16, eff. 6-28-01.)

3 (40 ILCS 5/15-153) (from Ch. 108 1/2, par. 15-153)  
4 Sec. 15-153. Disability benefits - Amount. The  
5 disability benefit shall be the greater of (1) 50% of the  
6 basic compensation which would have been paid had the  
7 participant continued in service for the entire period during  
8 which disability benefits are payable, excluding wage or  
9 salary increases subsequent to the date of disability or  
10 extra prospective earnings on a summer teaching contract or  
11 other extra service not yet entered upon or (2) 50% of the  
12 participant's average earnings during the 24 months  
13 immediately preceding the month in which disability occurs.  
14 In determining the disability benefit, the basic compensation  
15 of a participating employee on leave of absence or on lay-off  
16 status shall be assumed to be equal to his or her basic  
17 compensation on the date the leave of absence or lay-off  
18 begins.

19 If the disability benefit is 50% of basic compensation,  
20 payments during the academic ~~fiscal~~ year shall accrue over  
21 the period that the basic compensation would have been paid  
22 had the participant continued in service. If the disability  
23 benefit is 50% of the average earnings of the participant  
24 during the 24 months immediately preceding the month in which  
25 disability occurs, payments during the year shall accrue over  
26 a period of 12 months. Disability benefits shall be paid as  
27 of the end of each calendar month during which payments  
28 accrue. Payments for fractional parts of a month shall be  
29 determined by prorating the total amount payable for the full  
30 month on the basis of days elapsing during the month. Any  
31 disability benefit accrued but unpaid on the death of a  
32 participant shall be paid to the participant's beneficiary.

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

1 (40 ILCS 5/15-154) (from Ch. 108 1/2, par. 15-154)  
2 Sec. 15-154. Refunds.

3 (a) A participant whose status as an employee is  
4 terminated, regardless of cause, or who has been on lay off  
5 status for more than 120 days, and who is not on leave of  
6 absence, is entitled to a refund of contributions upon  
7 application; except that not more than one such refund  
8 application may be made during any academic year.

9 Except as set forth in subsections (a-1) and (a-2), the  
10 refund shall be the sum of the accumulated normal,  
11 additional, and survivors insurance contributions, plus the  
12 entire contribution made by the participant under Section  
13 15-113.3, less the amount of interest credited on these  
14 contributions each year in excess of 4 1/2% of the amount on  
15 which interest was calculated.

16 (a-1) A person who elects, in accordance with the  
17 requirements of Section 15-134.5, to participate in the  
18 portable benefit package and who becomes a participating  
19 employee under that retirement program upon the conclusion of  
20 the one-year waiting period applicable to the portable  
21 benefit package election shall have his or her refund  
22 calculated in accordance with the provisions of subsection  
23 (a-2).

24 (a-2) The refund payable to a participant described in  
25 subsection (a-1) shall be the sum of the participant's  
26 accumulated normal and additional contributions, as defined  
27 in Sections 15-116 and 15-117, plus the entire contribution  
28 made by the participant under Section 15-113.3. If the  
29 participant terminates with 5 or more years of service for  
30 employment as defined in Section 15-113.1, he or she shall  
31 also be entitled to a distribution of employer contributions  
32 in an amount equal to the sum of the accumulated normal and  
33 additional contributions, as defined in Sections 15-116 and  
34 15-117.

1 (b) Upon acceptance of a refund, the participant  
2 forfeits all accrued rights and credits in the System, and if  
3 subsequently reemployed, the participant shall be considered  
4 a new employee subject to all the qualifying conditions for  
5 participation and eligibility for benefits applicable to new  
6 employees. If such person again becomes a participating  
7 employee and continues as such for 2 years, or is employed by  
8 an employer and participates for at least 2 years in the  
9 Federal Civil Service Retirement System, all such rights,  
10 credits, and previous status as a participant shall be  
11 restored upon repayment of the amount of the refund, together  
12 with compound interest thereon from the date the refund was  
13 received to the date of repayment at the rate of 6% per annum  
14 through August 31, 1982, and at the effective rates after  
15 that date. When a participant in the portable benefit  
16 package who received a refund which included a distribution  
17 of employer contributions repays a refund pursuant to this  
18 Section, one-half of the amount repaid shall be deemed the  
19 member's reinstated accumulated normal and additional  
20 contributions and the other half shall be allocated as an  
21 employer contribution to the System, except that any amount  
22 repaid for previously purchased military service credit under  
23 Section 15-113.3 shall be accounted for as such.  
24 ~~Notwithstanding--Section--1-103.1--and--the--other--provisions--of~~  
25 ~~this--Section,--a--person--who--was--a--participant--in--the--System~~  
26 ~~from--February--14,--1966--until--March--13,--1981--may--restore~~  
27 ~~credits--previously--forfeited--by--acceptance--of--a--refund,~~  
28 ~~without--returning--to--service,--by--applying--in--writing--and~~  
29 ~~repaying--to--the--System--by--July--1,--2002--the--amount--of--the~~  
30 ~~refund--plus--interest--at--the--effective--rate--calculated--from~~  
31 ~~the--date--of--the--refund--to--the--date--of--repayment.~~

32 (c) If a participant covered under the traditional  
33 benefit package has made survivors insurance contributions,  
34 but has no survivors insurance beneficiary upon retirement,

1 he or she shall be entitled to elect a refund of the  
2 accumulated survivors insurance contributions, or to elect an  
3 additional annuity the value of which is equal to the  
4 accumulated survivors insurance contributions. This election  
5 must be made prior to the date the person's retirement  
6 annuity is approved by the System Board-of-Trustees.

7 (d) A participant, upon application, is entitled to a  
8 refund of his or her accumulated additional contributions  
9 attributable to the additional contributions described in the  
10 last sentence of subsection (c) of Section 15-157. Upon the  
11 acceptance of such a refund of accumulated additional  
12 contributions, the participant forfeits all rights and  
13 credits which may have accrued because of such contributions.

14 (e) A participant who terminates his or her employee  
15 status and elects to waive service credit under Section  
16 15-154.2, is entitled to a refund of the accumulated normal,  
17 additional and survivors insurance contributions, if any,  
18 which were credited the participant for this service, or to  
19 an additional annuity the value of which is equal to the  
20 accumulated normal, additional and survivors insurance  
21 contributions, if any; except that not more than one such  
22 refund application may be made during any academic year. Upon  
23 acceptance of this refund, the participant forfeits all  
24 rights and credits accrued because of this service.

25 (f) If a police officer or firefighter receives a  
26 retirement annuity under Rule 1 or 3 of Section 15-136, he or  
27 she shall be entitled at retirement to a refund of the  
28 difference between his or her accumulated normal  
29 contributions and the normal contributions which would have  
30 accumulated had such person filed a waiver of the retirement  
31 formula provided by Rule 4 of Section 15-136.

32 (g) If, at the time of retirement, a participant would  
33 be entitled to a retirement annuity under Rule 1, 2, 3, 4, or  
34 5 of Section 15-136, or under Section 15-136.4, that exceeds



1 the maximum specified in clause (1) of subsection (c) of  
2 Section 15-136, he or she shall be entitled to a refund of  
3 the employee contributions, if any, paid under Section 15-157  
4 after the date upon which continuance of such contributions  
5 would have otherwise caused the retirement annuity to exceed  
6 this maximum, plus compound interest at the effective rates.  
7 (Source: P.A. 91-887 (Sections 10 and 25), eff. 7-6-00;  
8 92-16, eff. 6-28-01; 92-424, eff. 8-17-01.)

9 (40 ILCS 5/15-158.2)

10 Sec. 15-158.2. Self-managed plan.

11 (a) Purpose. The General Assembly finds that it is  
12 important for colleges and universities to be able to attract  
13 and retain the most qualified employees and that in order to  
14 attract and retain these employees, colleges and universities  
15 should have the flexibility to provide a defined contribution  
16 plan as an alternative for eligible employees who elect not  
17 to participate in a defined benefit retirement program  
18 provided under this Article. Accordingly, the State  
19 Universities Retirement System is hereby authorized to  
20 establish and administer a self-managed plan, which shall  
21 offer participating employees the opportunity to accumulate  
22 assets for retirement through a combination of employee and  
23 employer contributions that may be invested in mutual funds,  
24 collective investment funds, or other investment products and  
25 used to purchase annuity contracts, either fixed or variable  
26 or a combination thereof. The plan must be qualified under  
27 the Internal Revenue Code of 1986.

28 (b) Adoption by employers. Each employer subject to  
29 this Article may elect to adopt the self-managed plan  
30 established under this Section; this election is irrevocable.  
31 An employer's election to adopt the self-managed plan makes  
32 available to the eligible employees of that employer the  
33 elections described in Section 15-134.5.

1           The State Universities Retirement System shall be the  
2 plan sponsor for the self-managed plan and shall prepare a  
3 plan document and prescribe such rules and procedures as are  
4 considered necessary or desirable for the administration of  
5 the self-managed plan. Consistent with its fiduciary duty to  
6 the participants and beneficiaries of the self-managed plan,  
7 the Board of Trustees of the System may delegate aspects of  
8 plan administration as it sees fit to companies authorized to  
9 do business in this State, to the employers, or to a  
10 combination of both.

11           (c) Selection of service providers and funding vehicles.  
12 The System, in consultation with the employers, shall solicit  
13 proposals to provide administrative services and funding  
14 vehicles for the self-managed plan from insurance and annuity  
15 companies and mutual fund companies, banks, trust companies,  
16 or other financial institutions authorized to do business in  
17 this State. In reviewing the proposals received and  
18 approving and contracting with no fewer than 2 and no more  
19 than 7 companies, ~~at least 2 of which must be insurance and~~  
20 ~~annuity companies,~~ the Board of Trustees of the System shall  
21 consider, among other things, the following criteria:

22           (1) the nature and extent of the benefits that  
23 would be provided to the participants;

24           (2) the reasonableness of the benefits in relation  
25 to the premium charged;

26           (3) the suitability of the benefits to the needs  
27 and interests of the participating employees and the  
28 employer;

29           (4) the ability of the company to provide benefits  
30 under the contract and the financial stability of the  
31 company; and

32           (5) the efficacy of the contract in the recruitment  
33 and retention of employees.

34           The System, in consultation with the employers, shall

1 periodically review each approved company. A company may  
2 continue to provide administrative services and funding  
3 vehicles for the self-managed plan only so long as it  
4 continues to be an approved company under contract with the  
5 Board.

6 (d) Employee Direction. Employees who are participating  
7 in the program must be allowed to direct the transfer of  
8 their account balances among the various investment options  
9 offered, subject to applicable contractual provisions. The  
10 participant shall not be deemed a fiduciary by reason of  
11 providing such investment direction. A person who is a  
12 fiduciary shall not be liable for any loss resulting from  
13 such investment direction and shall not be deemed to have  
14 breached any fiduciary duty by acting in accordance with that  
15 direction. Neither the System nor the employer guarantees  
16 any of the investments in the employee's account balances.

17 (e) Participation. An employee eligible to participate  
18 in the self-managed plan must make a written election in  
19 accordance with the provisions of Section 15-134.5 and the  
20 procedures established by the System. Participation in the  
21 self-managed plan by an electing employee shall begin on the  
22 first day of the first pay period following the later of the  
23 date the employee's election is filed with the System or the  
24 effective date as of which the employee's employer begins to  
25 offer participation in the self-managed plan. Employers may  
26 not make the self-managed plan available earlier than January  
27 1, 1998. An employee's participation in any other retirement  
28 program administered by the System under this Article shall  
29 terminate on the date that participation in the self-managed  
30 plan begins.

31 An employee who has elected to participate in the  
32 self-managed plan under this Section must continue  
33 participation while employed in an eligible position, and may  
34 not participate in any other retirement program administered

1 by the System under this Article while employed by that  
2 employer or any other employer that has adopted the  
3 self-managed plan, unless the self-managed plan is terminated  
4 in accordance with subsection (i).

5 Participation in the self-managed plan under this Section  
6 shall constitute membership in the State Universities  
7 Retirement System.

8 A participant under this Section shall be entitled to the  
9 benefits of Article 20 of this Code.

10 (f) Establishment of Initial Account Balance. If at the  
11 time an employee elects to participate in the self-managed  
12 plan he or she has rights and credits in the System due to  
13 previous participation in the traditional benefit package,  
14 the System shall establish for the employee an opening  
15 account balance in the self-managed plan, equal to the amount  
16 of contribution refund that the employee would be eligible to  
17 receive under Section 15-154 if the employee terminated  
18 employment on that date and elected a refund of  
19 contributions, except that this hypothetical refund shall  
20 include interest at the effective rate for the respective  
21 years. The System shall transfer assets from the defined  
22 benefit retirement program to the self-managed plan, as a tax  
23 free transfer in accordance with Internal Revenue Service  
24 guidelines, for purposes of funding the employee's opening  
25 account balance.

26 (g) No Duplication of Service Credit. Notwithstanding  
27 any other provision of this Article, an employee may not  
28 purchase or receive service or service credit applicable to  
29 any other retirement program administered by the System under  
30 this Article for any period during which the employee was a  
31 participant in the self-managed plan established under this  
32 Section.

33 (h) Contributions. The self-managed plan shall be  
34 funded by contributions from employees participating in the

1 self-managed plan and employer contributions as provided in  
2 this Section.

3 The contribution rate for employees participating in the  
4 self-managed plan under this Section shall be equal to the  
5 employee contribution rate for other participants in the  
6 System, as provided in Section 15-157. This required  
7 contribution shall be made as an "employer pick-up" under  
8 Section 414(h) of the Internal Revenue Code of 1986 or any  
9 successor Section thereof. Any employee participating in the  
10 System's traditional benefit package prior to his or her  
11 election to participate in the self-managed plan shall  
12 continue to have the employer pick up the contributions  
13 required under Section 15-157. However, the amounts picked  
14 up after the election of the self-managed plan shall be  
15 remitted to and treated as assets of the self-managed plan.  
16 In no event shall an employee have an option of receiving  
17 these amounts in cash. Employees may make additional  
18 contributions to the self-managed plan in accordance with  
19 procedures prescribed by the System, to the extent permitted  
20 under rules prescribed by the System.

21 The program shall provide for employer contributions to  
22 be credited to each self-managed plan participant at a rate  
23 of 7.6% of the participating employee's salary, less the  
24 amount used by the System to provide disability benefits for  
25 the employee. The amounts so credited shall be paid into the  
26 participant's self-managed plan accounts in a manner to be  
27 prescribed by the System.

28 An amount of employer contribution, not exceeding 1% of  
29 the participating employee's salary, shall be used for the  
30 purpose of providing the disability benefits of the System to  
31 the employee. Prior to the beginning of each plan year under  
32 the self-managed plan, the Board of Trustees shall determine,  
33 as a percentage of salary, the amount of employer  
34 contributions to be allocated during that plan year for

1 providing disability benefits for employees in the  
2 self-managed plan.

3 The State of Illinois shall make contributions by  
4 appropriations to the System of the employer contributions  
5 required for employees who participate in the self-managed  
6 plan under this Section. The amount required shall be  
7 certified by the Board of Trustees of the System and paid by  
8 the State in accordance with Section 15-165. The System  
9 shall not be obligated to remit the required employer  
10 contributions to any of the insurance and annuity companies,  
11 mutual fund companies, banks, trust companies, financial  
12 institutions, or other sponsors of any of the funding  
13 vehicles offered under the self-managed plan until it has  
14 received the required employer contributions from the State.  
15 In the event of a deficiency in the amount of State  
16 contributions, the System shall implement those procedures  
17 described in subsection (c) of Section 15-165 to obtain the  
18 required funding from the General Revenue Fund.

19 (i) Termination. The self-managed plan authorized under  
20 this Section may be terminated by the System, subject to the  
21 terms of any relevant contracts, and the System shall have no  
22 obligation to reestablish the self-managed plan under this  
23 Section. This Section does not create a right to continued  
24 participation in any self-managed plan set up by the System  
25 under this Section. If the self-managed plan is terminated,  
26 the participants shall have the right to participate in one  
27 of the other retirement programs offered by the System and  
28 receive service credit in such other retirement program for  
29 any years of employment following the termination.

30 (j) Vesting; Withdrawal; Return to Service. A  
31 participant in the self-managed plan becomes vested in the  
32 employer contributions credited to his or her accounts in the  
33 self-managed plan on the earliest to occur of the following:

34 (1) completion of 5 years of service with an employer

1 described in Section 15-106; (2) the death of the  
2 participating employee while employed by an employer  
3 described in Section 15-106, if the participant has completed  
4 at least 1 1/2 years of service; or (3) the participant's  
5 election to retire and apply the reciprocal provisions of  
6 Article 20 of this Code.

7 A participant in the self-managed plan who receives a  
8 distribution of his or her vested amounts from the  
9 self-managed plan while not yet eligible for retirement under  
10 this Article (and Article 20, if applicable) shall forfeit  
11 all service credit and accrued rights in the System; if  
12 subsequently re-employed, the participant shall be considered  
13 a new employee. If a former participant again becomes a  
14 participating employee (or becomes employed by a  
15 participating system under Article 20 of this Code) and  
16 continues as such for at least 2 years, all such rights,  
17 service credits, and previous status as a participant shall  
18 be restored upon repayment of the amount of the distribution,  
19 without interest.

20 (k) Benefit amounts. If an employee who is vested in  
21 employer contributions terminates employment, the employee  
22 shall be entitled to a benefit which is based on the account  
23 values attributable to both employer and employee  
24 contributions and any investment return thereon.

25 If an employee who is not vested in employer  
26 contributions terminates employment, the employee shall be  
27 entitled to a benefit based solely on the account values  
28 attributable to the employee's contributions and any  
29 investment return thereon, and the employer contributions and  
30 any investment return thereon shall be forfeited. Any  
31 employer contributions which are forfeited shall be held in  
32 escrow by the company investing those contributions and shall  
33 be used as directed by the System for future allocations of  
34 employer contributions or for the restoration of amounts

1 previously forfeited by former participants who again become  
2 participating employees.

3 (Source: P.A. 90-448, eff. 8-16-97; 90-576, eff. 3-31-98;  
4 90-766, eff. 8-14-98; 91-887, eff. 7-6-00.)

5 (40 ILCS 5/15-186.1) (from Ch. 108 1/2, par. 15-186.1)

6 Sec. 15-186.1. Mistake in benefit. If the System  
7 mistakenly sets any benefit at an incorrect amount, it shall  
8 recalculate the benefit as soon as may be practicable after  
9 the mistake is discovered.

10 If the benefit was mistakenly set too low, the System  
11 shall make a lump sum payment to the recipient of an amount  
12 equal to the difference between the benefits that should have  
13 been paid and those actually paid, plus interest at the  
14 effective rate from the date the unpaid amounts accrued to  
15 the date of payment.

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

29 (Source: P.A. 85-1008.)

30 (40 ILCS 5/15-187) (from Ch. 108 1/2, par. 15-187)

31 Sec. 15-187. Felony conviction. None of the benefits  
32 provided under this Article shall be paid to any person who



1 is convicted of any felony relating to or arising out of or  
2 in connection with the person's service as an employee.

3 This Section shall not operate to impair any contract or  
4 vested right heretofore acquired under any law or laws  
5 continued in this Article, nor to preclude the right to a  
6 refund. No refund paid to any person who is convicted of a  
7 felony relating to or arising out of or in connection with  
8 the person's service as an employee shall include employer  
9 contributions or interest or, in the case of the self-managed  
10 plan authorized under Section 15-158.2, any employer  
11 contributions or investment return on such employer  
12 contributions.

13 All persons entering service subsequent to July 9, 1955  
14 shall be deemed to have consented to the provisions of this  
15 Section as a condition of coverage.

16 (Source: P.A. 83-1440.)

17 (40 ILCS 5/15-190) (from Ch. 108 1/2, par. 15-190)

18 Sec. 15-190. Persons under legal disability. If a person  
19 is under legal disability when any right or privilege accrues  
20 to him or her under this Article, a guardian may be appointed  
21 pursuant to law, and may, on behalf of such person, claim and  
22 exercise any such right or privilege with the same force and  
23 effect as if the person had not been under a legal disability  
24 and had claimed or exercised such right or privilege.

25 If a person's application for benefits or a physician's  
26 certificate on file with the board shows that the person is  
27 under a legal disability, ~~and no guardian has been appointed~~  
28 ~~for his or her estate,~~ the benefits payable under this  
29 Article may be paid (1) directly to the person under legal  
30 disability, (2) to any person who has legally qualified and  
31 is acting as guardian of the property of the person under  
32 legal disability, (3) to either parent of the person under  
33 legal disability or any adult person with whom the person

1 under legal disability may at the time be living, provided  
2 only that such parent or adult person to whom any amount is  
3 to be paid shall have advised the board in writing that such  
4 amount will be held or used for the benefit of the person  
5 under legal disability, or (4) ~~(3)~~ to the trustee of any  
6 trust created for the sole benefit of the person under legal  
7 disability while that person is living, provided only that  
8 the trustee of such trust to whom any amount is to be paid  
9 shall have advised the board in writing that such amount will  
10 be held or used for the benefit of the person under legal  
11 disability. The system shall not be required to determine  
12 the validity of the trust or any of the terms thereof. The  
13 representation of the trustee that the trust meets the  
14 requirements of this Section shall be conclusive as to the  
15 system. The written receipt of the person under legal  
16 disability or the other person who receives such payment  
17 shall be an absolute discharge of the system's liability in  
18 respect of the amount so paid.

19 (Source: P.A. 90-65, eff. 7-7-97; 90-511, eff. 8-22-97.)

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