

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31 whether the person has withdrawn from service.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.