HB6961

LRB096 24794 JDS 44931 b

96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6961

by Rep. Karen May

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-160
40 ILCS 5/1-170 new
40 ILCS 5/7-116 from Ch. 108 1/2, par. 7-116
30 ILCS 805/8.34 new

Amends the Illinois Pension Code. Provides that if certain persons are receiving a retirement annuity or pension and accept a contractual position covered under the Code, then their annuity or pension will be suspended. In provisions concerning the Illinois Municipal Retirement Fund, prohibits overtime, vehicle allowances, and lump sum payments for sick or vacation time from being considered in the final rate of earnings. Amends the State Mandates Act to require implementation without reimbursement. Effective January 1, 2012.

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FISCAL NOTE ACT MAY APPLY

PENSION IMPACT NOTE ACT MAY APPLY

STATE MANDATES ACT MAY REQUIRE REIMBURSEMENT

A BILL FOR

AN ACT concerning public employee benefits.

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

Section 5. The Illinois Pension Code is amended by changing Sections 1-160 and 7-116 and by adding Section 1-170 as follows:

(40 ILCS 5/1-160)

Sec. 1-160. Provisions applicable to new hires.

(a) The provisions of this Section apply to a person who, on or after January 1, 2011, first becomes a member or a participant under any reciprocal retirement system or pension fund established under this Code, other than a retirement system or pension fund established under Article 2, 3, 4, 5, 6, or 18 of this Code, notwithstanding any other provision of this Code to the contrary, but do not apply to any self-managed plan established under this Code, to any person with respect to service as a sheriff's law enforcement employee under Article 7, or to any participant of the retirement plan established under Section 22-101.

(b) "Final average salary" means the average monthly (or annual) salary obtained by dividing the total salary or earnings calculated under the Article applicable to the member or participant during the 96 consecutive months (or 8 consecutive years) of service within the last 120 months (or 10 years) of service in which the total salary or earnings calculated under the applicable Article was the highest by the number of months (or years) of service in that period. For the purposes of a person who first becomes a member or participant of any retirement system or pension fund to which this Section applies on or after January 1, 2011, in this Code, "final average salary" shall be substituted for the following:

(1) In Articles 7 (except for service as sheriff's law enforcement employees) and 15, "final rate of earnings".

(2) In Articles 8, 9, 10, 11, and 12, "highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal".

(3) In Article 13, "average final salary".

(4) In Article 14, "final average compensation".

(5) In Article 17, "average salary".

(6) In Section 22-207, "wages or salary received by him at the date of retirement or discharge".

(b-5) Beginning on January 1, 2011, for all purposes under this Code (including without limitation the calculation of benefits and employee contributions), the annual earnings, salary, or wages (based on the plan year) of a member or participant to whom this Section applies shall not exceed $106,800; however, that amount shall annually thereafter be increased by the lesser of (i) 3% of that amount, including all previous adjustments, or (ii) one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, including all previous adjustments.

For the purposes of this Section, "consumer price index-u" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance and made available to the boards of the retirement systems and pension funds by November 1 of each year.

(c) A member or participant is entitled to a retirement annuity upon written application if he or she has attained age 67 and has at least 10 years of service credit and is otherwise eligible under the requirements of the applicable Article.

A member or participant who has attained age 62 and has at least 10 years of service credit and is otherwise eligible under the requirements of the applicable Article may elect to receive the lower retirement annuity provided in subsection (d) of this Section.

(d) The retirement annuity of a member or participant who is retiring after attaining age 62 with at least 10 years of service credit shall be reduced by one-half of 1% for each full month that the member's age is under age 67.

(e) Any retirement annuity or supplemental annuity shall be subject to annual increases on the January 1 occurring either on or after the attainment of age 67 or the first anniversary of the annuity start date, whichever is later. Each annual increase shall be calculated at 3% or one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, whichever is less, of the originally granted retirement annuity. If the annual unadjusted percentage change in the consumer price index-u for the 12 months ending with the September preceding each November 1 is zero or there is a decrease, then the annuity shall not be increased.

(f) The initial survivor's or widow's annuity of an otherwise eligible survivor or widow of a retired member or participant who first became a member or participant on or after January 1, 2011 shall be in the amount of 66 2/3% of the retired member's or participant's retirement annuity at the date of death. In the case of the death of a member or participant who has not retired and who first became a member or participant on or after January 1, 2011, eligibility for a survivor's or widow's annuity shall be determined by the applicable Article of this Code. The initial benefit shall be 66 2/3% of the earned annuity without a reduction due to age. A child's annuity of an otherwise eligible child shall be in the amount prescribed under each Article if applicable. Any survivor's or widow's annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity or (2) in other cases, on each January 1 occurring after the first anniversary of the commencement of the annuity. Each annual increase shall be calculated at 3% or one-half the annual unadjusted percentage increase (but not less than zero) in the consumer price index-u for the 12 months ending with the September preceding each November 1, whichever is less, of the originally granted survivor's annuity. If the annual unadjusted percentage change in the consumer price index-u for the 12 months ending with the September preceding each November 1 is zero or there is a decrease, then the annuity shall not be increased.

(g) The benefits in Section 14-110 apply only if the person is a State policeman, a fire fighter in the fire protection service of a department, or a security employee of the Department of Corrections or the Department of Juvenile Justice, as those terms are defined in subsection (b) of Section 14-110. A person who meets the requirements of this Section is entitled to an annuity calculated under the provisions of Section 14-110, in lieu of the regular or minimum retirement annuity, only if the person has withdrawn from service with not less than 20 years of eligible creditable service and has attained age 60, regardless of whether the attainment of age 60 occurs while the person is still in service.

(h) If a person who first becomes a member or a participant of a retirement system or pension fund subject to this Section on or after January 1, 2011 is receiving a retirement annuity or retirement pension under that system or fund and becomes a member or participant under any other system or fund created by this Code and is employed on a full-time basis, except for those members or participants exempted from the provisions of this Section under subsection (a) of this Section, then the person's retirement annuity or retirement pension under that system or fund shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity or retirement pension payments shall resume and be recalculated if recalculation is provided for under the applicable Article of this Code.

If a person who first becomes a member of a retirement system or pension fund subject to this Section on or after the effective date of this amendatory Act of the 96th General Assembly is receiving a retirement annuity or retirement pension under that system or fund and accepts on a contractual basis a position covered under the same Article or any other Article of this Code, then the person's retirement annuity or retirement pension under that system or fund shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity or retirement pension payments shall resume and, if appropriate, be recalculated under the applicable provisions of this Code.

(i) Notwithstanding any other provision of this Section, a person who first becomes a participant of the retirement system established under Article 15 on or after January 1, 2011 shall have the option to enroll in the self-managed plan created under Section 15-158.2 of this Code.

(j) In the case of a conflict between the provisions of this Section and any other provision of this Code, the provisions of this Section shall control.

(Source: P.A. 96-889, eff. 1-1-11; 96-1490, eff. 1-1-11.)

(40 ILCS 5/1-170 new)

Sec. 1-170. Suspension of annuity. If a person who is a member or a participant under any reciprocal retirement system or pension fund established under this Code (other than a retirement system or pension fund established under Article 2, 3, 4, 5, 6, or 18 of this Code), except a sheriff's law enforcement employee under Article 7 or any participant of the retirement plan established under Section 22-101, is receiving a retirement annuity or retirement pension under that system or fund and accepts on a contractual basis a position covered under the same Article or any other Article of this Code, then the person's retirement annuity or retirement pension under that system or fund shall be suspended during that employment. Upon termination of that employment, the person's retirement annuity or retirement pension payments shall resume and, if appropriate, be recalculated under the applicable provisions of this Code.

(40 ILCS 5/7-116) (from Ch. 108 1/2, par. 7-116)

Sec. 7-116. "Final rate of earnings":

(a) For retirement and survivor annuities, the monthly earnings obtained by dividing the total earnings received by the employee during the period of either (1) the 48 consecutive months of service within the last 120 months of service in which his total earnings were the highest or (2) the employee's total period of service, by the number of months of service in such period.

(b) For death benefits, the higher of the rate determined under paragraph (a) of this Section or total earnings received in the last 12 months of service divided by twelve. If the deceased employee has less than 12 months of service, the monthly final rate shall be the monthly rate of pay the employee was receiving when he began service.

(c) For disability benefits, the total earnings of a participating employee in the last 12 calendar months of service prior to the date he becomes disabled divided by 12.

(d) In computing the final rate of earnings: (1) the earnings rate for all periods of prior service shall be considered equal to the average earnings rate for the last 3 calendar years of prior service for which creditable service is received under Section 7-139 or, if there is less than 3 years

of creditable prior service, the average for the total prior service period for which creditable service is received under Section 7-139; (2) for out of state service and authorized leave, the earnings rate shall be the rate upon which service credits are granted; (3) periods of military leave shall not be considered; (4) the earnings rate for all periods of disability shall be considered equal to the rate of earnings upon which the employee's disability benefits are computed for such periods; (5) the earnings to be considered for each of the final three months of the final earnings period shall not exceed 125% of the highest earnings of any other month in the final earnings period; ~~and~~ (6) the annual amount of final rate of earnings shall be the monthly amount multiplied by the number of months of service normally required by the position in a year; and (7) overtime, vehicle allowances, and lump sum payments for sick or vacation time shall not be considered.
(Source: P.A. 90-448, eff. 8-16-97.)

Section 90. The State Mandates Act is amended by adding Section 8.34 as follows:

(30 ILCS 805/8.34 new)

Sec. 8.34. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 96th General Assembly.

Section 99. Effective date. This Act takes effect January 1, 2012.