

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 15-107, 15-110, and 15-145 as follows:

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

Sec. 15-107. Employee.

(a) "Employee" means any member of the educational, administrative, secretarial, clerical, mechanical, labor or other staff of an employer whose employment is permanent and continuous or who is employed in a position in which services are expected to be rendered on a continuous basis for at least 4 months or one academic term, whichever is less, who (A) receives payment for personal services on a warrant issued pursuant to a payroll voucher certified by an employer and drawn by the State Comptroller upon the State Treasurer or by an employer upon trust, federal or other funds, or (B) is on a leave of absence without pay. Employment which is irregular, intermittent or temporary shall not be considered continuous for purposes of this paragraph.

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

(1) is a student enrolled in and regularly attending classes in a college or university which is an employer,

and is employed on a temporary basis at less than full time;

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

(3) is on a military leave of absence;

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

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

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

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

(b) Any employer may, by filing a written notice with the board, exclude from the definition of "employee" all persons employed pursuant to a federally funded contract entered into

after July 1, 1982 with a federal military department in a program providing training in military courses to federal military personnel on a military site owned by the United States Government, if this exclusion is not prohibited by the federally funded contract or federal laws or rules governing the administration of the contract.

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

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

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

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

the employee status of the person is considered as interrupted as of the 31st work day.

(g) A staff member whose employment contract requires services during an academic term is to be considered an employee during the summer and other vacation periods, unless he or she declines an employment contract for the succeeding academic term or his or her employment status is otherwise terminated, and he or she receives no earnings during these periods.

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

(i) An individual who is employed on a full-time basis as an officer or employee of a statewide teacher organization that serves System participants or an officer of a national teacher organization that serves System participants may participate

in the System and shall be deemed an employee, provided that (1) the individual has previously earned creditable service under this Article, (2) the individual files with the System an irrevocable election to become a participant before January 5, 2012 (the effective date of Public Act 97-651) ~~this amendatory Act of the 97th General Assembly~~, (3) the individual does not receive credit for that employment under any other Article of this Code, and (4) the individual first became a full-time employee of the teacher organization and becomes a participant before January 5, 2012 (the effective date of Public Act 97-651) ~~this amendatory Act of the 97th General Assembly~~. An employee under this subsection (i) is responsible for paying to the System both (A) employee contributions based on the actual compensation received for service with the teacher organization and (B) employer contributions equal to the normal costs (as defined in Section 15-155) resulting from that service; all or any part of these contributions may be paid on the employee's behalf or picked up for tax purposes (if authorized under federal law) by the teacher organization.

A person who is an employee as defined in this subsection (i) may establish service credit for similar employment prior to becoming an employee under this subsection by paying to the System for that employment the contributions specified in this subsection, plus interest at the effective rate from the date of service to the date of payment. However, credit shall not be granted under this subsection for any such prior employment for

which the applicant received credit under any other provision of this Code, or during which the applicant was on a leave of absence under Section 15-113.2.

(j) A person employed by the State Board of Higher Education in a position with the Illinois Century Network as of June 30, 2004 shall be considered to be an employee for so long as he or she remains continuously employed after that date by the Department of Central Management Services in a position with the Illinois Century Network, the Bureau of Communication and Computer Services, or, if applicable, any successor bureau or the Department of Innovation and Technology and meets the requirements of subsection (a).

(k) The Board shall promulgate rules with respect to determining whether any person is an employee within the meaning of this Section. In the case of doubt as to whether any person is an employee within the meaning of this Section or any rule adopted by the Board, the decision of the Board shall be final.

(Source: P.A. 99-830, eff. 1-1-17; 99-897, eff. 1-1-17; revised 9-27-18.)

(40 ILCS 5/15-110) (from Ch. 108 1/2, par. 15-110)

Sec. 15-110. Basic compensation. "Basic compensation": Subject to Section 15-111.5, the gross basic rate of salary or wages payable by an employer, including:

(1) the value of maintenance, board, living quarters,

personal laundry, or other allowances furnished in lieu of salary which are considered gross income under the federal Internal Revenue Code of 1986, as amended;

(2) the employee contributions required under Section 15-157;

(3) the amount paid by any employer to a custodial account for investment in regulated investment company stocks for the benefit of the employee pursuant to the University Employees Custodial Accounts Act;

(4) the amount of the premium payable by any employer to an insurance company or companies on an annuity contract, pursuant to the employee's election to accept a reduction in earnings or forego an increase in earnings under Section 30c of the State Finance Act, or a tax-sheltered annuity plan approved by any employer; and

(5) the amount of any elective deferral to a deferred compensation plan established under this Article or Article 24 of this Code pursuant to Section 457(b) of the federal Internal Revenue Code of 1986, as amended.

Basic compensation does not include (1) salary or wages for overtime or other extra service; (2) prospective salary or wages under a summer teaching contract not yet entered upon; and (3) overseas differential allowances, quarters allowances, post allowances, educational allowances and transportation allowances paid by an employer under a contract with the federal government or its agencies for services rendered in

other countries. If an employee elects to receive in lieu of cash salary or wages, fringe benefits which are not taxable under the federal Internal Revenue Code of 1986, as amended, the amount of the cash salary or wages which is waived shall be included in determining basic compensation.

(Source: P.A. 99-897, eff. 1-1-17.)

(40 ILCS 5/15-145) (from Ch. 108 1/2, par. 15-145)

Sec. 15-145. Survivors insurance benefits; conditions and amounts.

(a) The survivors insurance benefits provided under this Section shall be payable to the eligible survivors of a Tier 1 member covered under the traditional benefit package upon the death of (1) a participating employee with at least 1 1/2 years of service, (2) a participant who terminated employment with at least 10 years of service, and (3) an annuitant in receipt of a retirement annuity or disability retirement annuity under this Article.

Service under the State Employees' Retirement System of Illinois, the Teachers' Retirement System of the State of Illinois and the Public School Teachers' Pension and Retirement Fund of Chicago shall be considered in determining eligibility for survivors benefits under this Section.

If by law, a function of a governmental unit, as defined by Section 20-107, is transferred in whole or in part to an employer, and an employee transfers employment from this

governmental unit to such employer within 6 months after the transfer of this function, the service credits in the governmental unit's retirement system which have been validated under Section 20-109 shall be considered in determining eligibility for survivors benefits under this Section.

(b) A surviving spouse of a deceased participant, or of a deceased annuitant who did not take a refund or additional annuity consisting of accumulated survivors insurance contributions or who repaid the refund or additional annuity, shall receive a survivors annuity of 30% of the final rate of earnings. Payments shall begin on the day following the participant's or annuitant's death or the date the surviving spouse attains age 50, whichever is later, and continue until the death of the surviving spouse. The annuity shall be payable to the surviving spouse prior to attainment of age 50 if the surviving spouse has in his or her care a deceased participant's or annuitant's dependent unmarried child under age 18 (under age 22 if a full-time student) who is eligible for a survivors annuity.

Remarriage of a surviving spouse prior to attainment of age 55 that occurs before the effective date of this amendatory Act of the 91st General Assembly shall disqualify him or her for the receipt of a survivors annuity until July 6, 2000.

A surviving spouse whose survivors annuity has been terminated due to remarriage may apply for reinstatement of

that annuity. The reinstated annuity shall begin to accrue on July 6, 2000, except that if, on July 6, 2000, the annuity is payable to an eligible surviving child or parent, payment of the annuity to the surviving spouse shall not be reinstated until the annuity is no longer payable to any eligible surviving child or parent. The reinstated annuity shall include any one-time or annual increases received prior to the date of termination, as well as any increases that would otherwise have accrued from the date of termination to the date of reinstatement. An eligible surviving spouse whose expectation of receiving a survivors annuity was lost due to remarriage before attainment of age 50 shall also be entitled to reinstatement under this subsection, but the resulting survivors annuity shall not begin to accrue sooner than upon the surviving spouse's attainment of age 50.

The changes made to this subsection by this amendatory Act of the 92nd General Assembly (pertaining to remarriage prior to age 55 or 50) apply without regard to whether the deceased participant or annuitant was in service on or after the effective date of this amendatory Act.

(c) Each dependent unmarried child under age 18 (under age 22 if a full-time student) of a deceased participant, or of a deceased annuitant who did not take a refund or additional annuity consisting of accumulated survivors insurance contributions or who repaid the refund or additional annuity, shall receive a survivors annuity equal to the sum of (1) 20%

of the final rate of earnings, and (2) 10% of the final rate of earnings divided by the number of children entitled to this benefit. Payments shall begin on the day following the participant's or annuitant's death and continue until the child marries, dies, or attains age 18 (age 22 if a full-time student). If the child is in the care of a surviving spouse who is eligible for survivors insurance benefits, the child's benefit shall be paid to the surviving spouse.

Each unmarried child over age 18 of a deceased participant or of a deceased annuitant who had a survivor's insurance beneficiary at the time of his or her retirement, and who was dependent upon the participant or annuitant by reason of a physical or mental disability which began prior to the date the child attained age 18 ~~(age 22 if a full-time student)~~, shall receive a survivor's annuity equal to the sum of (1) 20% of the final rate of earnings, and (2) 10% of the final rate of earnings divided by the number of children entitled to survivors benefits. Payments shall begin on the day following the participant's or annuitant's death and continue until the child marries, dies, or is no longer disabled. If the child is in the care of a surviving spouse who is eligible for survivors insurance benefits, the child's benefit may be paid to the surviving spouse. For the purposes of this Section, disability means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has

lasted or can be expected to last for a continuous period of at least one year.

(d) Each dependent parent of a deceased participant, or of a deceased annuitant who did not take a refund or additional annuity consisting of accumulated survivors insurance contributions or who repaid the refund or additional annuity, shall receive a survivors annuity equal to the sum of (1) 20% of final rate of earnings, and (2) 10% of final rate of earnings divided by the number of parents who qualify for the benefit. Payments shall begin when the parent reaches age 55 or the day following the participant's or annuitant's death, whichever is later, and continue until the parent dies. Remarriage of a parent prior to attainment of age 55 shall disqualify the parent for the receipt of a survivors annuity.

(e) In addition to the survivors annuity provided above, each survivors insurance beneficiary shall, upon death of the participant or annuitant, receive a lump sum payment of \$1,000 divided by the number of such beneficiaries.

(f) The changes made in this Section by Public Act 81-712 pertaining to survivors annuities in cases of remarriage prior to age 55 shall apply to each survivors insurance beneficiary who remarries after June 30, 1979, regardless of the date that the participant or annuitant terminated his employment or died.

The change made to this Section by this amendatory Act of the 91st General Assembly, pertaining to remarriage prior to age 55, applies without regard to whether the deceased

participant or annuitant was in service on or after the effective date of this amendatory Act of the 91st General Assembly.

(g) On January 1, 1981, any person who was receiving a survivors annuity on or before January 1, 1971 shall have the survivors annuity then being paid increased by 1% for each full year which has elapsed from the date the annuity began. On January 1, 1982, any survivor whose annuity began after January 1, 1971, but before January 1, 1981, shall have the survivor's annuity then being paid increased by 1% for each year which has elapsed from the date the survivor's annuity began. On January 1, 1987, any survivor who began receiving a survivor's annuity on or before January 1, 1977, shall have the monthly survivor's annuity increased by \$1 for each full year which has elapsed since the date the survivor's annuity began.

(h) If the sum of the lump sum and total monthly survivor benefits payable under this Section upon the death of a participant amounts to less than the sum of the death benefits payable under items (2) and (3) of Section 15-141, the difference shall be paid in a lump sum to the beneficiary of the participant who is living on the date that this additional amount becomes payable.

(i) If the sum of the lump sum and total monthly survivor benefits payable under this Section upon the death of an annuitant receiving a retirement annuity or disability retirement annuity amounts to less than the death benefit

payable under Section 15-142, the difference shall be paid to the beneficiary of the annuitant who is living on the date that this additional amount becomes payable.

(j) Effective on the later of (1) January 1, 1990, or (2) the January 1 on or next after the date on which the survivor annuity begins, if the deceased member died while receiving a retirement annuity, or in all other cases the January 1 nearest the first anniversary of the date the survivor annuity payments begin, every survivors insurance beneficiary shall receive an increase in his or her monthly survivors annuity of 3%. On each January 1 after the initial increase, the monthly survivors annuity shall be increased by 3% of the total survivors annuity provided under this Article, including previous increases provided by this subsection. Such increases shall apply to the survivors insurance beneficiaries of each participant and annuitant, whether or not the employment status of the participant or annuitant terminates before the effective date of this amendatory Act of 1990. This subsection (j) also applies to persons receiving a survivor annuity under the portable benefit package.

(k) If the Internal Revenue Code of 1986, as amended, requires that the survivors benefits be payable at an age earlier than that specified in this Section the benefits shall begin at the earlier age, in which event, the survivor's beneficiary shall be entitled only to that amount which is equal to the actuarial equivalent of the benefits provided by

this Section.

(1) The changes made to this Section and Section 15-131 by this amendatory Act of 1997, relating to benefits for certain unmarried children who are full-time students under age 22, apply without regard to whether the deceased member was in service on or after the effective date of this amendatory Act of 1997. These changes do not authorize the repayment of a refund or a re-election of benefits, and any benefit or increase in benefits resulting from these changes is not payable retroactively for any period before the effective date of this amendatory Act of 1997.

(Source: P.A. 98-92, eff. 7-16-13; 99-682, eff. 7-29-16.)

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