

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 7-170, 7-171, 7-172, 7-172.2, 7-173, 7-220, 15-113, 15-135, 15-136, 15-136.4, 15-139, and 15-153.2 as follows:

(40 ILCS 5/7-170) (from Ch. 108 1/2, par. 7-170)

Sec. 7-170. Federal Social Security coverage.

(a) It is declared to be the policy and purpose to extend to covered employees as defined in Section 7-138, the benefits of the Federal Old Age and Survivors Insurance System as authorized by the Federal Social Security Act and amendments thereto. To effect this, the board shall take such action as may be required by applicable State and Federal laws or regulations.

(b) The board shall execute an agreement with the State Agency to secure coverage of covered employees as provided in paragraph (a) of this section.

(c) Each participating municipality and each participating instrumentality shall remit payment of contributions for Social Security purposes on behalf of covered employees and covered municipalities and participating instrumentalities as required by applicable State and federal laws and regulations.

(d) Contributions of covered employees ~~to this fund~~ for Federal Social Security purposes shall be paid in such amounts and at such time as required by applicable State and federal laws and regulations.

(e) (Blank).

(f) The board shall maintain such records and submit such reports as may be required by applicable State and Federal laws or regulations.

(Source: P.A. 96-1084, eff. 7-16-10.)

(40 ILCS 5/7-171) (from Ch. 108 1/2, par. 7-171)

Sec. 7-171. Finance; taxes.

(a) Each municipality other than a school district shall appropriate an amount sufficient to provide for the current municipality contributions required by Section 7-172 of this Article, for the fiscal year for which the appropriation is made and all amounts due for municipal contributions for previous years. Those municipalities which have been assessed an annual amount to amortize its unfunded obligation, as provided in subparagraph 4 of paragraph (a) of Section 7-172 of this Article, shall include in the appropriation an amount sufficient to pay the amount assessed. The appropriation shall be based upon an estimate of assets available for municipality contributions and liabilities therefor for the fiscal year for which appropriations are to be made, including funds available from levies for this purpose in prior years.

(b) For the purpose of providing monies for municipality contributions, beginning for the year in which a municipality is included in this fund:

(1) A municipality other than a school district may levy a tax which shall not exceed the amount appropriated for municipality contributions.

(2) A school district may levy a tax in an amount reasonably calculated at the time of the levy to provide for the municipality contributions required under Section 7-172 of this Article for the fiscal years for which revenues from the levy will be received and all amounts due for municipal contributions for previous years. Any levy adopted before the effective date of this amendatory Act of 1995 by a school district shall be considered valid and authorized to the extent that the amount was reasonably calculated at the time of the levy to provide for the municipality contributions required under Section 7-172 for the fiscal years for which revenues from the levy will be received and all amounts due for municipal contributions for previous years. In no event shall a budget adopted by a school district limit a levy of that school district adopted under this Section.

(c) Any county which is served by a regional office of education that serves 2 or more counties may include in its appropriation an amount sufficient to provide its proportionate share of the municipality contributions for that

regional office of education. The tax levy authorized by this Section may include an amount necessary to provide monies for this contribution.

(d) Any county that is a part of a multiple-county health department or consolidated health department which is formed under "An Act in relation to the establishment and maintenance of county and multiple-county public health departments", approved July 9, 1943, as amended, and which is a participating instrumentality may include in the county's appropriation an amount sufficient to provide its proportionate share of municipality contributions of the department. The tax levy authorized by this Section may include the amount necessary to provide monies for this contribution.

(d-5) A school district participating in a special education joint agreement created under Section 10-22.31 of the School Code that is a participating instrumentality may include in the school district's tax levy under this Section an amount sufficient to provide its proportionate share of the municipality contributions for current and prior service by employees of the participating instrumentality created under the joint agreement.

(e) Such tax shall be levied and collected in like manner, with the general taxes of the municipality and shall be in addition to all other taxes which the municipality is now or may hereafter be authorized to levy upon all taxable property therein, and shall be exclusive of and in addition to the

amount of tax levied for general purposes under Section 8-3-1 of the "Illinois Municipal Code", approved May 29, 1961, as amended, or under any other law or laws which may limit the amount of tax which the municipality may levy for general purposes. The tax may be levied by the governing body of the municipality without being authorized as being additional to all other taxes by a vote of the people of the municipality.

(f) The county clerk of the county in which any such municipality is located, in reducing tax levies shall not consider any such tax as a part of the general tax levy for municipality purposes, and shall not include the same in the limitation of any other tax rate which may be extended.

(g) The amount of the tax to be levied in any year shall, within the limits herein prescribed, be determined by the governing body of the respective municipality.

(h) The revenue derived from any such tax levy shall be used only for the contributions required under Section 7-172 ~~purposes specified in this Article~~ and, as collected, shall be paid to the treasurer of the municipality levying the tax. Monies received by a county treasurer for use in making contributions to a regional office of education for its municipality contributions shall be held by him for that purpose and paid to the regional office of education in the same manner as other monies appropriated for the expense of the regional office.

(Source: P.A. 96-1084, eff. 7-16-10.)

(40 ILCS 5/7-172) (from Ch. 108 1/2, par. 7-172)

Sec. 7-172. Contributions by participating municipalities and participating instrumentalities.

(a) Each participating municipality and each participating instrumentality shall make payment to the fund as follows:

1. municipality contributions in an amount determined by applying the municipality contribution rate to each payment of earnings paid to each of its participating employees;

2. an amount equal to the employee contributions provided by paragraph ~~paragraphs~~ (a) ~~and (b)~~ of Section 7-173, whether or not the employee contributions are withheld as permitted by that Section;

3. all accounts receivable, together with interest charged thereon, as provided in Section 7-209;

4. if it has no participating employees with current earnings, an amount payable which, over a closed period of 20 years for participating municipalities and 10 years for participating instrumentalities, will amortize, at the effective rate for that year, any unfunded obligation. The unfunded obligation shall be computed as provided in paragraph 2 of subsection (b);

5. if it has fewer than 7 participating employees or a negative balance in its municipality reserve, the greater of (A) an amount payable that, over a period of 20 years,

will amortize at the effective rate for that year any unfunded obligation, computed as provided in paragraph 2 of subsection (b) or (B) the amount required by paragraph 1 of this subsection (a).

(b) A separate municipality contribution rate shall be determined for each calendar year for all participating municipalities together with all instrumentalities thereof. The municipality contribution rate shall be determined for participating instrumentalities as if they were participating municipalities. The municipality contribution rate shall be the sum of the following percentages:

1. The percentage of earnings of all the participating employees of all participating municipalities and participating instrumentalities which, if paid over the entire period of their service, will be sufficient when combined with all employee contributions available for the payment of benefits, to provide all annuities for participating employees, and the \$3,000 death benefit payable under Sections 7-158 and 7-164, such percentage to be known as the normal cost rate.

2. The percentage of earnings of the participating employees of each participating municipality and participating instrumentalities necessary to adjust for the difference between the present value of all benefits, excluding temporary and total and permanent disability and death benefits, to be provided for its participating

employees and the sum of its accumulated municipality contributions and the accumulated employee contributions and the present value of expected future employee and municipality contributions pursuant to subparagraph 1 of this paragraph (b). This adjustment shall be spread over the remainder of the period that is allowable under generally accepted accounting principles.

3. The percentage of earnings of the participating employees of all municipalities and participating instrumentalities necessary to provide the present value of all temporary and total and permanent disability benefits granted during the most recent year for which information is available.

4. The percentage of earnings of the participating employees of all participating municipalities and participating instrumentalities necessary to provide the present value of the net single sum death benefits expected to become payable from the reserve established under Section 7-206 during the year for which this rate is fixed.

5. The percentage of earnings necessary to meet any deficiency arising in the Terminated Municipality Reserve.

(c) A separate municipality contribution rate shall be computed for each participating municipality or participating instrumentality for its sheriff's law enforcement employees.

A separate municipality contribution rate shall be computed for the sheriff's law enforcement employees of each

forest preserve district that elects to have such employees. For the period from January 1, 1986 to December 31, 1986, such rate shall be the forest preserve district's regular rate plus 2%.

In the event that the Board determines that there is an actuarial deficiency in the account of any municipality with respect to a person who has elected to participate in the Fund under Section 3-109.1 of this Code, the Board may adjust the municipality's contribution rate so as to make up that deficiency over such reasonable period of time as the Board may determine.

(d) The Board may establish a separate municipality contribution rate for all employees who are program participants employed under the federal Comprehensive Employment Training Act by all of the participating municipalities and instrumentalities. The Board may also provide that, in lieu of a separate municipality rate for these employees, a portion of the municipality contributions for such program participants shall be refunded or an extra charge assessed so that the amount of municipality contributions retained or received by the fund for all CETA program participants shall be an amount equal to that which would be provided by the separate municipality contribution rate for all such program participants. Refunds shall be made to prime sponsors of programs upon submission of a claim therefor and extra charges shall be assessed to participating

municipalities and instrumentalities. In establishing the municipality contribution rate as provided in paragraph (b) of this Section, the use of a separate municipality contribution rate for program participants or the refund of a portion of the municipality contributions, as the case may be, may be considered.

(e) Computations of municipality contribution rates for the following calendar year shall be made prior to the beginning of each year, from the information available at the time the computations are made, and on the assumption that the employees in each participating municipality or participating instrumentality at such time will continue in service until the end of such calendar year at their respective rates of earnings at such time.

(f) Any municipality which is the recipient of State allocations representing that municipality's contributions for retirement annuity purposes on behalf of its employees as provided in Section 12-21.16 of the Illinois Public Aid Code shall pay the allocations so received to the Board for such purpose. Estimates of State allocations to be received during any taxable year shall be considered in the determination of the municipality's tax rate for that year under Section 7-171. If a special tax is levied under Section 7-171, none of the proceeds may be used to reimburse the municipality for the amount of State allocations received and paid to the Board. Any multiple-county or consolidated health department which

receives contributions from a county under Section 11.2 of "An Act in relation to establishment and maintenance of county and multiple-county health departments", approved July 9, 1943, as amended, or distributions under Section 3 of the Department of Public Health Act, shall use these only for municipality contributions by the health department.

(g) Municipality contributions for the several purposes specified shall, for township treasurers and employees in the offices of the township treasurers who meet the qualifying conditions for coverage hereunder, be allocated among the several school districts and parts of school districts serviced by such treasurers and employees in the proportion which the amount of school funds of each district or part of a district handled by the treasurer bears to the total amount of all school funds handled by the treasurer.

From the funds subject to allocation among districts and parts of districts pursuant to the School Code, the trustees shall withhold the proportionate share of the liability for municipality contributions imposed upon such districts by this Section, in respect to such township treasurers and employees and remit the same to the Board.

The municipality contribution rate for an educational service center shall initially be the same rate for each year as the regional office of education or school district which serves as its administrative agent. When actuarial data become available, a separate rate shall be established as provided in

subparagraph (i) of this Section.

The municipality contribution rate for a public agency, other than a vocational education cooperative, formed under the Intergovernmental Cooperation Act shall initially be the average rate for the municipalities which are parties to the intergovernmental agreement. When actuarial data become available, a separate rate shall be established as provided in subparagraph (i) of this Section.

(h) Each participating municipality and participating instrumentality shall make the contributions in the amounts provided in this Section in the manner prescribed from time to time by the Board and all such contributions shall be obligations of the respective participating municipalities and participating instrumentalities to this fund. The failure to deduct any employee contributions shall not relieve the participating municipality or participating instrumentality of its obligation to this fund. Delinquent payments of contributions due under this Section may, with interest, be recovered by civil action against the participating municipalities or participating instrumentalities. Municipality contributions, other than the amount necessary for employee contributions ~~and Social Security contributions,~~ for periods of service by employees from whose earnings no deductions were made for employee contributions to the fund, may be charged to the municipality reserve for the municipality or participating instrumentality.

(i) Contributions by participating instrumentalities shall be determined as provided herein except that the percentage derived under subparagraph 2 of paragraph (b) of this Section, and the amount payable under subparagraph 4 of paragraph (a) of this Section, shall be based on an amortization period of 10 years.

(j) Notwithstanding the other provisions of this Section, the additional unfunded liability accruing as a result of this amendatory Act of the 94th General Assembly shall be amortized over a period of 30 years beginning on January 1 of the second calendar year following the calendar year in which this amendatory Act takes effect, except that the employer may provide for a longer amortization period by adopting a resolution or ordinance specifying a 35-year or 40-year period and submitting a certified copy of the ordinance or resolution to the fund no later than June 1 of the calendar year following the calendar year in which this amendatory Act takes effect.

(k) If the amount of a participating employee's reported earnings for any of the 12-month periods used to determine the final rate of earnings exceeds the employee's 12 month reported earnings with the same employer for the previous year by the greater of 6% or 1.5 times the annual increase in the Consumer Price Index-U, as established by the United States Department of Labor for the preceding September, the participating municipality or participating instrumentality that paid those earnings shall pay to the Fund, in addition to any other

contributions required under this Article, the present value of the increase in the pension resulting from the portion of the increase in salary that is in excess of the greater of 6% or 1.5 times the annual increase in the Consumer Price Index-U, as determined by the Fund. This present value shall be computed on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the Fund that is available at the time of the computation.

Whenever it determines that a payment is or may be required under this subsection (k), the fund shall calculate the amount of the payment and bill the participating municipality or participating instrumentality for that amount. The bill shall specify the calculations used to determine the amount due. If the participating municipality or participating instrumentality disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to the fund in writing for a recalculation. The application must specify in detail the grounds of the dispute. Upon receiving a timely application for recalculation, the fund shall review the application and, if appropriate, recalculate the amount due. The participating municipality and participating instrumentality contributions required under this subsection (k) may be paid in the form of a lump sum within 90 days after receipt of the bill. If the participating municipality and participating instrumentality contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to the

fund's annual actuarially assumed rate of return on investment compounded annually from the 91st day after receipt of the bill. Payments must be concluded within 3 years after receipt of the bill by the participating municipality or participating instrumentality.

When assessing payment for any amount due under this subsection (k), the fund shall exclude earnings increases resulting from overload or overtime earnings.

When assessing payment for any amount due under this subsection (k), the fund shall also exclude earnings increases attributable to standard employment promotions resulting in increased responsibility and workload.

This subsection (k) does not apply to earnings increases paid to individuals under contracts or collective bargaining agreements entered into, amended, or renewed before January 1, 2012 (the effective date of Public Act 97-609) ~~this amendatory Act of the 97th General Assembly~~, earnings increases paid to members who are 10 years or more from retirement eligibility, or earnings increases resulting from an increase in the number of hours required to be worked.

When assessing payment for any amount due under this subsection (k), the fund shall also exclude earnings attributable to personnel policies adopted before January 1, 2012 (the effective date of Public Act 97-609) ~~this amendatory Act of the 97th General Assembly~~ as long as those policies are not applicable to employees who begin service on or after

January 1, 2012 (the effective date of Public Act 97-609) ~~this amendatory Act of the 97th General Assembly.~~

(Source: P.A. 96-1084, eff. 7-16-10; 96-1140, eff. 7-21-10; 97-333, eff. 8-12-11; 97-609, eff. 1-1-12.)

(40 ILCS 5/7-172.2) (from Ch. 108 1/2, par. 7-172.2)

Sec. 7-172.2. In addition to the payments otherwise required by this Article, each participating municipality and each participating instrumentality shall make payment of Social Security contributions and medicare taxes in the amounts and in the manner provided by law. Each employee shall make contributions for Federal Social Security and medicare taxes, for periods during which he or she is a covered employee, as required by the Social Security Enabling Act and State and federal law.

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

(40 ILCS 5/7-173) (from Ch. 108 1/2, par. 7-173)

Sec. 7-173. Contributions by employees.

(a) Each participating employee shall make contributions to the fund as follows:

1. For retirement annuity purposes, normal contributions of 3 3/4% of earnings.

2. Additional contributions of such percentages of each payment of earnings, as shall be elected by the employee for retirement annuity purposes, but not in excess

of 10%. The selected rate shall be applicable to all earnings paid following receipt by the Board of written notice of election to make such contributions. Additional contributions at the selected rate shall be made concurrently with normal contributions.

3. Survivor contributions, by each participating employee, of 3/4% of each payment of earnings.

(b) (Blank) ~~Each employee shall make contributions for Federal Social Security taxes, for periods during which he is a covered employee, as required by the Social Security Enabling Act and State and federal law. For participating employees, such contributions shall be in addition to those required under paragraph (a) of this Section.~~

(c) Contributions shall be deducted from each corresponding payment of earnings paid to each employee and shall be remitted to the board by the participating municipality or participating instrumentality making such payment. The remittance, together with a report of the earnings and contributions shall be made as directed by the board. For township treasurers and employees of township treasurers qualifying as employees hereunder, the contributions herein required as deductions from salary shall be withheld by the school township trustees from funds available for the payment of the compensation of such treasurers and employees as provided in the School Code and remitted to the board.

(d) An employee who has made additional contributions under

paragraph (a)2 of this Section may upon retirement or at any time prior thereto, elect to withdraw the total of such additional contributions including interest credited thereon to the end of the preceding calendar year.

(e) Failure to make the deductions for employee contributions provided in paragraph (c) of this Section shall not relieve the employee from liability for such contributions. The amount of such liability may be deducted, with interest charged under Section 7-209, from any annuities or benefits payable hereunder to the employee or any other person receiving an annuity or benefit by reason of such employee's participation.

(f) A participating employee who has at least 40 years of creditable service in the Fund may elect to cease making the contributions required under this Section. The status of the employee under this Article shall be unaffected by this election, except that the employee shall not receive any additional creditable service for the periods of employment following the election. An election under this subsection relieves the employer from making additional employer contributions in relation to that employee.

(Source: P.A. 96-1084, eff. 7-16-10; 96-1258, eff. 7-23-10; 97-333, eff. 8-12-11.)

(40 ILCS 5/7-220) (from Ch. 108 1/2, par. 7-220)

Sec. 7-220. Administrative review. The provisions of the

Administrative Review Law, and all amendments and modifications thereof and the rules adopted pursuant thereto shall apply to and govern all proceedings for the judicial review of final administrative decisions of the retirement board provided for under this Article. The term "administrative decision" is as defined in Section 3-101 of the Code of Civil Procedure. The venue for actions brought under the Administrative Review Law shall be any county in which the Board maintains an office or the county in which the member's ~~plaintiff's~~ employing participating municipality or participating instrumentality has its main office.

(Source: P.A. 96-1140, eff. 7-21-10.)

(40 ILCS 5/15-113) (from Ch. 108 1/2, par. 15-113)

Sec. 15-113. Service. "Service": The periods defined in Sections 15-113.1 through 15-113.9 and Section 15-113.11.

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

(40 ILCS 5/15-135) (from Ch. 108 1/2, par. 15-135)

Sec. 15-135. Retirement annuities - Conditions.

(a) A participant who retires in one of the following specified years with the specified amount of service is entitled to a retirement annuity at any age under the retirement program applicable to the participant:

35 years if retirement is in 1997 or before;

34 years if retirement is in 1998;

- 33 years if retirement is in 1999;
- 32 years if retirement is in 2000;
- 31 years if retirement is in 2001;
- 30 years if retirement is in 2002 or later.

A participant with 8 or more years of service after September 1, 1941, is entitled to a retirement annuity on or after attainment of age 55.

A participant with at least 5 but less than 8 years of service after September 1, 1941, is entitled to a retirement annuity on or after attainment of age 62.

A participant who has at least 25 years of service in this system as a police officer or firefighter is entitled to a retirement annuity on or after the attainment of age 50, if Rule 4 of Section 15-136 is applicable to the participant.

(b) The annuity payment period shall begin on the date specified by the participant or the recipient of a disability retirement annuity submitting a written application, which date shall not be prior to termination of employment or more than one year before the application is received by the board; however, if the participant is not an employee of an employer participating in this System or in a participating system as defined in Article 20 of this Code on April 1 of the calendar year next following the calendar year in which the participant attains age 70 1/2, the annuity payment period shall begin on that date regardless of whether an application has been filed.

(c) An annuity is not payable if the amount provided under

Section 15-136 is less than \$10 per month.

(Source: P.A. 92-749, eff. 8-2-02.)

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

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

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

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

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

(i) the normal annuity which can be provided on an

actuarially equivalent basis, by the accumulated normal contributions as of the date the annuity begins;

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

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

With respect to a police officer or firefighter who retires on or after August 14, 1998, the accumulated normal contributions taken into account under clauses (i) and (ii) of this Rule 2 shall include the additional normal contributions made by the police officer or firefighter under Section 15-157(a).

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

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

This Rule 2 does not apply to a person who first becomes an employee under this Article on or after July 1, 2005.

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

Rule 4: A participant who is at least age 50 and has 25 or more years of service as a police officer or firefighter, and a

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

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

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

(ii) in the case of 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 transferred to another job with the University of Illinois, service performed as an employee of the University of Illinois in a position other than police officer or firefighter, from the date of that transfer until the employee's next termination of service with the University of Illinois.

Rule 5: The retirement annuity of a participant who elected early retirement under the provisions of Section 15-136.2 and

who, on or before February 16, 1995, brought administrative proceedings pursuant to the administrative rules adopted by the System to challenge the calculation of his or her retirement annuity shall be the sum of the following, determined from amounts credited to the participant in accordance with the actuarial tables and the prescribed rate of interest in effect at the time the retirement annuity begins:

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

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

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

In no event shall a retirement annuity under this Rule 5 be lower than the amount obtained by adding (1) the monthly amount

obtained by dividing the combined employee and employer contributions made under Section 15-136.2 by the System's annuity factor for the age of the participant at the beginning of the annuity payment period and (2) the amount equal to the participant's annuity if calculated under Rule 1, reduced under Section 15-136(b) as if no contributions had been made under Section 15-136.2.

With respect to a participant who is qualified for a retirement annuity under this Rule 5 whose retirement annuity began before the effective date of this amendatory Act of the 91st General Assembly, and for whom an employee contribution was made under Section 15-136.2, the System shall recalculate the retirement annuity under this Rule 5 and shall pay any additional amounts due in the manner provided in Section 15-186.1 for benefits mistakenly set too low.

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

The General Assembly has adopted the changes set forth in Section 25 of this amendatory Act of the 91st General Assembly in recognition that the decision of the Appellate Court for the

Fourth District in *Mattis v. State Universities Retirement System et al.* might be deemed to give some right to the plaintiff in that case. The changes made by Section 25 of this amendatory Act of the 91st General Assembly are a legislative implementation of the decision of the Appellate Court for the Fourth District in *Mattis v. State Universities Retirement System et al.* with respect to that plaintiff.

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

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

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

(2) For a participant who has at least the number of years of service required to retire at any age under subsection (a) of Section 15-135; or

(3) For that portion of a retirement annuity which has been provided on account of service of the participant during periods when he or she performed the duties of a police officer or firefighter, if these duties were

performed for at least 5 years immediately preceding the date the retirement annuity is to begin.

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

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

Effective January 1 immediately following the date the retirement annuity begins, the annuitant shall receive an increase in his or her monthly retirement annuity of 0.125% of the monthly retirement annuity provided under Rule 1, Rule 2, Rule 3, Rule 4, or Rule 5, contained in this Section, multiplied by the number of full months which elapsed from the date the retirement annuity payments began to January 1, 1972, plus 0.1667% of such annuity, multiplied by the number of full months which elapsed from January 1, 1972, or the date the retirement annuity payments began, whichever is later, to January 1, 1978, plus 0.25% of such annuity multiplied by the number of full months which elapsed from January 1, 1978, or the date the retirement annuity payments began, whichever is later, to the effective date of the increase.

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

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

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

(e) If, on January 1, 1987, or the date the retirement annuity payment period begins, whichever is later, the sum of the retirement annuity provided under Rule 1 or Rule 2 of this Section and the automatic annual increases provided under the preceding subsection or Section 15-136.1, amounts to less than the retirement annuity which would be provided by Rule 3, the retirement annuity shall be increased as of January 1, 1987, or the date the retirement annuity payment period begins, whichever is later, to the amount which would be provided by Rule 3 of this Section. Such increased amount shall be considered as the retirement annuity in determining benefits

provided under other Sections of this Article. This paragraph applies without regard to whether status as an employee terminated before the effective date of this amendatory Act of 1987, provided that the annuitant was employed at least one-half time during the period on which the final rate of earnings was based.

(f) A participant is entitled to such additional annuity as may be provided on an actuarially equivalent basis, by any accumulated additional contributions to his or her credit. However, the additional contributions made by the participant toward the automatic increases in annuity provided under this Section shall not be taken into account in determining the amount of such additional annuity.

(g) If, (1) by law, a function of a governmental unit, as defined by Section 20-107 of this Code, is transferred in whole or in part to an employer, and (2) a participant transfers employment from such governmental unit to such employer within 6 months after the transfer of the function, and (3) the sum of (A) the annuity payable to the participant under Rule 1, 2, or 3 of this Section (B) all proportional annuities payable to the participant by all other retirement systems covered by Article 20, and (C) the initial primary insurance amount to which the participant is entitled under the Social Security Act, is less than the retirement annuity which would have been payable if all of the participant's pension credits validated under Section 20-109 had been validated under this system, a

supplemental annuity equal to the difference in such amounts shall be payable to the participant.

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

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

(Source: P.A. 93-347, eff. 7-24-03; 94-4, eff. 6-1-05.)

(40 ILCS 5/15-136.4)

Sec. 15-136.4. Retirement and Survivor Benefits Under Portable Benefit Package.

(a) This Section 15-136.4 describes the form of annuity and survivor benefits available to a participant who has elected the portable benefit package and has completed the one-year waiting period required under subsection (e) of Section 15-134.5. For purposes of this Section, the term "eligible spouse" means the husband or wife of a participant to whom the

participant is married on the date the participant's annuity payment period begins, provided however, that if the participant should die prior to the commencement of retirement annuity benefits, then "eligible spouse" means the husband or wife, if any, to whom the participant was married throughout the one-year period preceding the date of his or her death.

(b) This subsection (b) describes the normal form of annuity payable to a participant subject to this Section 15-136.4. If the participant is unmarried on the date his or her annuity payment period begins, then the annuity payments shall be made in the form of a single-life annuity as described in Section 15-118. If the participant is married on the date his or her annuity payments commence, then the annuity payments shall be paid in the form of a qualified joint and survivor annuity that is the actuarial equivalent of the single-life annuity. Under the "qualified joint and survivor annuity", a reduced amount shall be paid to the participant for his or her lifetime and his or her eligible spouse, if surviving at the participant's death, shall be entitled to receive thereafter a lifetime survivorship annuity in a monthly amount equal to 50% of the reduced monthly amount that was payable to the participant. The last payment of a qualified joint and survivor annuity shall be made as of the first day of the month in which the death of the survivor occurs.

(c) Instead of the normal form of annuity that would be paid under subsection (b), a participant may elect in writing

within the 180-day ~~90-day~~ period prior to the date his or her annuity payments commence to waive the normal form of annuity payment and receive an optional form of payment as described in subsection (h). If the participant is married and elects an optional form of payment under subsection (h) other than a joint and survivor annuity with the eligible spouse designated as the contingent annuitant, then such election shall require the consent of his or her eligible spouse in the manner described in subsection (d). At any time during the 180-day ~~90-day~~ period preceding the date the participant's payment period begins, the participant may revoke the optional form of payment elected under this subsection (c) and reinstate coverage under the qualified joint and survivor annuity without the spouse's consent, but an election to revoke the optional form elected and elect a new optional form of payment or designate a different contingent annuitant shall not be effective without the eligible spouse's consent.

(d) The eligible spouse's consent to any election made pursuant to this Section that requires the eligible spouse's consent shall be in writing and shall acknowledge the effect of the consent. In addition, the eligible spouse's signature on the written consent must be witnessed by a notary public. The eligible spouse's consent need not be obtained if the system is satisfied that there is no eligible spouse, that the eligible spouse cannot be located, or because of any other relevant circumstances. An eligible spouse's consent under this Section

is valid only with respect to the specified optional form of payment and, if applicable, contingent annuitant designated by the participant. If the optional form of payment or the contingent annuitant is subsequently changed (other than by a revocation of the optional form of payment and reinstatement of the qualified joint and survivor annuity), a new consent by the eligible spouse is required. The eligible spouse's consent to an election made by a participant pursuant to this Section, once made, may not be revoked by the eligible spouse.

(e) Within a reasonable period of time preceding the date a participant's annuity commences, a participant shall be supplied with a written explanation of (1) the terms and conditions of the normal form single-life annuity and qualified joint and survivor annuity, (2) the participant's right to elect a single-life annuity or an optional form of payment under subsection (h) subject to his or her eligible spouse's consent, if applicable, and (3) the participant's right to reinstate coverage under the qualified joint and survivor annuity prior to his or her annuity commencement date by revoking an election of an optional form of payment under subsection (h).

(f) If a married participant with at least 1.5 years of service dies prior to commencing retirement annuity payments and prior to taking a refund under Section 15-154, his or her eligible spouse is entitled to receive a pre-retirement survivor annuity, if there is not then in effect a waiver of

the pre-retirement survivor annuity. The pre-retirement survivor annuity payable under this subsection shall be a monthly annuity payable for the eligible spouse's life, commencing as of the beginning of the month next following the later of the date of the participant's death or the date the participant would have first met the eligibility requirements for retirement, and continuing through the beginning of the month in which the death of the eligible spouse occurs. The monthly amount payable to the spouse under the pre-retirement survivor annuity shall be equal to the monthly amount that would be payable as a survivor annuity under the qualified joint and survivor annuity described in subsection (b) if: (1) in the case of a participant who dies on or after the date on which the participant has met the eligibility requirements for retirement, the participant had retired with an immediate qualified joint and survivor annuity on the day before the participant's date of death; or (2) in the case of a participant who dies before the earliest date on which the participant would have met the eligibility requirements for retirement age, the participant had separated from service on the date of death, survived to the earliest retirement age based on service prior to his or her death, retired with an immediate qualified joint and survivor annuity at the earliest retirement age, and died on the day after the day on which the participant would have attained the earliest retirement age.

(g) A married participant who has not retired may elect at

any time to waive the pre-retirement survivor annuity described in subsection (f). Any such election shall require the consent of the participant's eligible spouse in the manner described in subsection (d). A waiver of the pre-retirement survivor annuity shall increase the lump sum death benefit payable under subsection (b) of Section 15-141. Prior to electing any waiver of the pre-retirement survivor annuity, the participant shall be provided with a written explanation of (1) the terms and conditions of the pre-retirement survivor annuity and the death benefits payable from the system both with and without the pre-retirement survivor annuity, (2) the participant's right to elect a waiver of the pre-retirement survivor annuity coverage subject to his or her spouse's consent, and (3) the participant's right to reinstate pre-retirement survivor annuity coverage at any time by revoking a prior waiver of such coverage.

(h) By filing a timely election with the system, a participant who will be eligible to receive a retirement annuity under this Section may waive the normal form of annuity payment described in subsection (b), subject to obtaining the consent of his or her eligible spouse, if applicable, and elect to receive any one of the following optional forms of payment:

(1) Joint and Survivor Annuity Options: The participant may elect to receive a reduced annuity payable for his or her life and to have a lifetime survivorship annuity in a monthly amount equal to 50%, 75%, or 100% (as

elected by the participant) of that reduced monthly amount, to be paid after the participant's death to his or her contingent annuitant, if the contingent annuitant is alive at the time of the participant's death.

(2) Single-Life Annuity Option (optional for married participants). The participant may elect to receive a single-life annuity payable for his or her life only.

(3) Lump sum retirement benefit. The participant may elect to receive a lump sum retirement benefit that is equal to the amount of a refund payable under Section 15-154(a-2).

All joint and survivor annuity forms shall be in an amount that is the actuarial equivalent of the single-life annuity.

For the purposes of this Section, the term "contingent annuitant" means the beneficiary who is designated by a participant at the time the participant elects a joint and survivor annuity to receive the lifetime survivorship annuity in the event the beneficiary survives the participant at the participant's death.

(i) Under no circumstances may an option be elected, changed, or revoked after the date the participant's retirement annuity commences.

(j) An election made pursuant to subsection (h) shall become inoperative if the participant or the contingent annuitant dies before the date the participant's annuity payments commence, or if the eligible spouse's consent is

required and not given.

(k) (Blank).

(l) The automatic annual increases described in subsection (d) of Section 15-136 shall apply to retirement benefits under the portable benefit package and the automatic annual increases described in subsection (j) of Section 15-145 shall apply to survivor benefits under the portable benefit package.

(Source: P.A. 96-586, eff. 8-18-09.)

(40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

Sec. 15-139. Retirement annuities; cancellation; suspended during employment.

(a) If an annuitant returns to employment for an employer within 60 days after the beginning of the retirement annuity payment period, the retirement annuity shall be cancelled, and the annuitant shall refund to the System the total amount of the retirement annuity payments which he or she received. If the retirement annuity is cancelled, the participant shall continue to participate in the System.

(b) If an annuitant retires prior to age 60 and receives or becomes entitled to receive during any month compensation in excess of the monthly retirement annuity (including any automatic annual increases) for services performed after the date of retirement for any employer under this System, that portion of the monthly retirement annuity provided by employer contributions shall not be payable.

If an annuitant retires at age 60 or over and receives or becomes entitled to receive during any academic year compensation in excess of the difference between his or her highest annual earnings prior to retirement and his or her annual retirement annuity computed under Rule 1, Rule 2, Rule 3, Rule 4, or Rule 5 of Section 15-136, or under Section 15-136.4, for services performed after the date of retirement for any employer under this System, that portion of the monthly retirement annuity provided by employer contributions shall be reduced by an amount equal to the compensation that exceeds such difference.

However, any remuneration received for serving as a member of the Illinois Educational Labor Relations Board shall be excluded from "compensation" for the purposes of this subsection (b), and serving as a member of the Illinois Educational Labor Relations Board shall not be deemed to be a return to employment for the purposes of this Section. This provision applies without regard to whether service was terminated prior to the effective date of this amendatory Act of 1991.

(c) If an employer certifies that an annuitant has been reemployed on a permanent and continuous basis or in a position in which the annuitant is expected to serve for at least 9 months, the annuitant shall resume his or her status as a participating employee and shall be entitled to all rights applicable to participating employees upon filing with the

board an election to forego all annuity payments during the period of reemployment. Upon subsequent retirement, the retirement annuity shall consist of the annuity which was terminated by the reemployment, plus the additional retirement annuity based upon service granted during the period of reemployment, but the combined retirement annuity shall not exceed the maximum annuity applicable on the date of the last retirement.

The total service and earnings credited before and after the initial date of retirement shall be considered in determining eligibility of the employee or the employee's beneficiary to benefits under this Article, and in calculating final rate of earnings.

In determining the death benefit payable to a beneficiary of an annuitant who again becomes a participating employee under this Section, accumulated normal and additional contributions shall be considered as the sum of the accumulated normal and additional contributions at the date of initial retirement and the accumulated normal and additional contributions credited after that date, less the sum of the annuity payments received by the annuitant.

The survivors insurance benefits provided under Section 15-145 shall not be applicable to an annuitant who resumes his or her status as a participating employee, unless the annuitant, at the time of initial retirement, has a survivors insurance beneficiary who could qualify for such benefits.

If the participant's ~~annuitant's~~ employment is terminated because of circumstances other than death before 9 months from the date of reemployment, the provisions of this Section regarding resumption of status as a participating employee shall not apply. The normal and survivors insurance contributions which are deducted during this period shall be refunded to the annuitant without interest, and subsequent benefits under this Article shall be the same as those which were applicable prior to the date the annuitant resumed employment.

The amendments made to this Section by this amendatory Act of the 91st General Assembly apply without regard to whether the annuitant was in service on or after the effective date of this amendatory Act.

(Source: P.A. 91-887 (Sections 10 and 25), eff. 7-6-00; 92-16, eff. 6-28-01.)

(40 ILCS 5/15-153.2) (from Ch. 108 1/2, par. 15-153.2)

Sec. 15-153.2. Disability retirement annuity. A participant whose disability benefits are discontinued under the provisions of clause (6) of Section 15-152 and who is not a participant in the optional retirement plan established under Section 15-158.2 is entitled to a disability retirement annuity of 35% of the basic compensation which was payable to the participant at the time that disability began, provided that the board determines that the participant has a medically

determinable physical or mental impairment that prevents him or her from engaging in any substantial gainful activity, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

The board's determination of whether a participant is disabled shall be based upon:

(i) a written certificate from one or more licensed and practicing physicians appointed by or acceptable to the board, stating that the participant is unable to engage in any substantial gainful activity; and

(ii) any other medical examinations, hospital records, laboratory results, or other information necessary for determining the employment capacity and condition of the participant.

The terms "medically determinable physical or mental impairment" and "substantial gainful activity" shall have the meanings ascribed to them in the federal Social Security Act, as now or hereafter amended, and the regulations issued thereunder.

The disability retirement annuity payment period shall begin immediately following the expiration of the disability benefit payments under clause (6) of Section 15-152 and shall be discontinued for a recipient of a disability retirement annuity when (1) the physical or mental impairment no longer prevents the participant from engaging in any substantial

gainful activity, (2) the participant dies or (3) the participant elects to receive a retirement annuity under Sections 15-135 and 15-136. If a person's disability retirement annuity is discontinued under clause (1), all rights and credits accrued in the system on the date that the disability retirement annuity began shall be restored, and the disability retirement annuity paid shall be considered as disability payments under clause (6) of Section 15-152.

(Source: P.A. 90-14, eff. 7-1-97; 90-65, eff. 7-7-97; 90-511, eff. 8-22-97; 90-766, eff. 8-14-98.)

Section 90. The State Mandates Act is amended by adding Section 8.36 as follows:

(30 ILCS 805/8.36 new)

Sec. 8.36. 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 97th General Assembly.

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