**Section 1600.140 Compliance with the Internal Revenue Code**

a) Purpose. This Section is intended to implement qualification requirements under IRC section 401(a) as applicable to governmental plans within the meaning of IRC section 414(d). The System is intended to be a qualified governmental plan under the meaning of those IRC provisions.

b) Exclusive Benefit Rule and Nonreversion of Trust Assets. Prior to the satisfaction of all liabilities to participants or their beneficiaries, no part of the corpus or income of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the System's participants or their beneficiaries. No part of the System's assets may revert to the State of Illinois or any employer except in the case of a good faith mistake of fact as permitted by IRS Revenue Ruling 91-4, 1991-1 C.B. 57.

c) Nonforfeitability. Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of each participant to benefits accrued to the date of the termination or discontinuance are nonforfeitable.

d) USERRA. The provisions of Code Section 1-118 (concerning veterans' rights) shall be effective with respect to the System beginning December 12, 1994.

e) Required Minimum Distributions. The provisions of Code Section 1-116.1 (concerning minimum required distributions) shall be effective with respect to the System beginning January 1, 1987. The System shall pay all benefits in accordance with a reasonable good faith interpretation of the requirements of IRC section 401(a)(9).

f) Federal Contribution and Benefit Limitations. Pursuant to Code Section 1-116, the System shall comply with the applicable contribution and benefit limitations imposed by IRC section 415 for limitation years beginning on or after January 1, 1976.

g) Mortality Tables and Interest Rates. The mortality tables and interest rates adopted by the Board of Trustees of the System from time to time in accordance with Code Sections 15-124 and 15-125 shall apply to the System as though those provisions were fully set forth in Article 15 of the Code. This subsection (g) applies beginning July 1, 1963.

h) Direct Transfer of Eligible Rollover Distributions. For distributions made on or after January 1, 1993, the System shall implement Code Section 1-106(b) (concerning direct rollovers) in accordance with IRC section 401(a)(31), as follows:

1) If a distributee becomes entitled to an eligible rollover distribution, the distributee may elect to have the distribution, or any portion of the distribution, paid directly to an eligible retirement plan specified by the distributee.

2) The election made pursuant to this Section shall be in accordance with the terms and conditions established by the Board.

3) Upon exercise of the election by a distributee pursuant to this subsection (h), the distribution from the System of the amount designated by the distributee shall be made in the form of a direct transfer to the specified eligible retirement plan.

4) For purpose of this subsection (h), "distributee" means a member, a surviving spouse, or a former spouse under a domestic relations order that is treated as a qualified domestic relations order to the extent provided in IRC section 414(p)(11). For plan years beginning on or after January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by IRC section 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.

5) Eligible Rollover Distribution

A) For purposes of this subsection (h), "eligible rollover distribution" means a distribution from the retirement fund that constitutes an eligible rollover distribution within the meaning of IRC section 401(a)(31)(D), i.e., any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made:

• for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary; or

• for a specified period of 10 years or more;

ii) any distribution to the extent the distribution is required under IRC section 401(a)(9);

iii) the portion of any distribution that is not includible in gross income; or

iv) any distribution that is reasonably expected to total less than $200 during the year.

B) Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible distribution merely because a portion consists of after-tax contributions that are not includible in gross income. However, that portion may be transferred only:

i) to an individual retirement account or annuity described in IRC section 408(a) or (b) or to a qualified defined contribution plan described in IRC section 401(a) that agrees to separately account for amounts so transferred (and earnings on those amounts), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;

ii) on or after January 1, 2007, to a qualified defined benefit plan described in IRC section 401(a) or to an annuity contract described in IRC section 403(b) that agrees to separately account for amounts transferred (and earnings on those amounts), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not includible; or

iii) on or after January 1, 2008, to a Roth IRA described in IRC section 408A.

6) For purposes of this subsection (h), "eligible retirement plan" means a plan that constitutes an eligible retirement plan within the meaning of IRC section 401(a)(31)(E), the terms of which permit the acceptance of rollover distribution and is limited to the following:

A) an individual retirement account described in IRC section 408(a);

B) an individual retirement annuity described in IRC section 408(b);

C) an annuity plan described in IRC section 403(a);

D) a qualified trust described in IRC section 401(a);

E) effective January 1, 2002, an annuity contract described in IRC section 403(b);

F) effective January 1, 2002, an eligible deferred compensation plan described in IRC section 457(b) that is maintained by an eligible employer described in IRC section 457(e)(1)(A) that agrees to separately account for amounts transferred into that plan from the System;

G) effective January 1, 2008, a Roth IRA described in IRC section 408A; and

H) effective December 19, 2015, a SIMPLE IRA described in IRC section 408(p)(1), provided that the rollover contribution is made after the 2-year period described in IRC section 72(t)(6).

i) Qualified Illinois Domestic Relations Orders. If benefits are payable pursuant to a QILDRO that satisfies the requirements of "domestic relations order" as defined in IRC section 414(p), then the applicable requirements of IRC section 414(p) shall be followed by the System.

(Source: Amended at 41 Ill. Reg. 11606, effective September 1, 2017)