



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

##### HB4184

Introduced 1/23/2004, by Patricia Reid Lindner

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-149	from Ch. 108 1/2, par. 16-149
40 ILCS 5/16-149.1	from Ch. 108 1/2, par. 16-149.1
40 ILCS 5/16-149.2	from Ch. 108 1/2, par. 16-149.2
40 ILCS 5/16-149.6 new	
30 ILCS 805/8.28 new	

Amends the Downstate Teacher Article of the Illinois Pension Code. Provides that a teacher who (i) has been receiving a disability, occupational disability, or disability retirement benefit for at least one year and (ii) remains unable to resume regular full-time teaching due to disability, but is able to engage in limited or part-time employment as a teacher, may engage in such limited or part-time employment as a teacher without loss of the disability, occupational disability, or disability retirement benefit, provided that the teacher's earnings for that limited or part-time employment, when added to the amount of the benefit, do not exceed 100% of the salary rate upon which the benefit is based. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB093 14651 LRD 40175 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT in relation to public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing  
5 Sections 16-149, 16-149.1, and 16-149.2 and by adding Section  
6 16-149.6 as follows:

7 (40 ILCS 5/16-149) (from Ch. 108 1/2, par. 16-149)  
8 Sec. 16-149. Disability benefit.

9 (a) A disability benefit is payable to a member who was in  
10 active service on or after June 30, 1977 and has at least 3  
11 years of creditable service. Part-time and substitute teachers  
12 who are in active service on or after July 1, 1990 must have  
13 worked as a teacher for at least 340 hours in either the school  
14 year in which the disability occurs or in the preceding school  
15 year.

16 The benefit is payable upon application of a member who is  
17 not receiving a benefit under either Section 16-133, Section  
18 16-149.1 or Section 16-149.2. The benefit shall be granted only  
19 if the member is found by medical examination to be  
20 incapacitated to perform the duties of his or her position as a  
21 teacher and only if the commencement of the incapacity occurred  
22 while the member was employed as a teacher or within 90 days of  
23 such employment.

24 A member shall be considered disabled only when the System  
25 has received (1) a written certificate by at least 2 licensed  
26 and practicing physicians designated by the System, certifying  
27 that the member is disabled and unable to properly perform the  
28 duties of his or her position at the time of disability, except  
29 in the case of disability due to pregnancy where a written  
30 certificate from only one licensed and practicing physician is  
31 required; (2) a written statement from the employer certifying  
32 that the member is not eligible to receive a salary; and (3) a

1 certification from the member that he or she is not and has not  
2 been engaged in gainful employment during the period of  
3 disability.

4 The benefit shall begin to accrue on the 31st day of  
5 absence from service on account of disability, except that when  
6 an application is made more than 90 days subsequent to the  
7 later of the commencement of disability or the date eligibility  
8 for salary ceases, it shall begin to accrue from the date of  
9 application, and shall be payable during the time the member  
10 does not receive a retirement annuity. The benefit is not  
11 payable to a member who is receiving or has a right to receive  
12 any salary as a teacher, or is employed in any capacity as a  
13 teacher by the employers included under this System or in an  
14 equivalent capacity in any other public or private school,  
15 college or university, except as provided in Section 16-149.6.

16 Service credits under the State Employees' Retirement  
17 System of Illinois, the State Universities Retirement System  
18 and the Illinois Municipal Retirement Fund shall be considered  
19 in determining the member's eligibility for a disability  
20 benefit and the total period during which the disability  
21 benefit is payable.

22 (b) The disability benefit shall be 40% of the greater of  
23 the member's most recent annual contract salary rate at the  
24 time the disability benefit becomes payable or the member's  
25 annual contract rate on the date the disability commenced.  
26 Prior to July 1, 1990, if the most recent period of service of  
27 any member was rendered on a less than full-time but not less  
28 than half-time basis, the amount of the disability benefit  
29 payable to such member shall be computed on the basis of the  
30 salary received by such member for the member's last year of  
31 service on a full-time basis if such salary was greater than  
32 the member's most recent salary. For part-time and substitute  
33 members after June 30, 1990, the disability benefit shall be  
34 40% of the greater of the member's most recent annualized  
35 salary rate at the time the disability benefit becomes payable  
36 or the annualized salary rate or contract salary rate at the

1 time the disability commenced.

2 In addition to the above benefit, the member shall receive  
3 creditable service and credit for contributions that the member  
4 would have made in active employment during any period of  
5 disability for which benefits are paid by the System on the  
6 basis of the annual salary rate used in computing the benefit,  
7 except as provided in Section 16-149.6.

8 (c) Effective January 1, 1988, the disability benefit shall  
9 continue until the time one of the following events first  
10 occurs: (1) disability ceases; (2) the member requests  
11 termination of the benefit; (3) the aggregate period for which  
12 disability payments made during the member's entire period of  
13 service equals 1/4 of the total period of creditable service,  
14 not including the time he or she has received the disability  
15 payments; or (4) the member is engaged or found to be able to  
16 engage in gainful employment, other than limited employment  
17 under Section 16-149.6. If the disability benefit is  
18 discontinued under item (4) but the member is subsequently  
19 found to be unable to be gainfully employed due to the  
20 disability which was the cause for his or her most recent  
21 incapacity to perform the duties of a teacher, the disability  
22 benefit will be resumed, upon notification of the System, as  
23 soon as the member is not eligible to receive salary.

24 A disabled member who receives disability benefits for the  
25 maximum period specified above or who requests that the  
26 disability benefits be terminated may be retired on a  
27 disability retirement annuity.

28 (d) The board shall prescribe rules governing the filing,  
29 investigation, control, and supervision of disability claims.  
30 The rules shall include specific standards to be used when  
31 requesting additional medical examinations, hospital records  
32 or other data necessary for determining the employment capacity  
33 and condition of the member. Costs incurred by a claimant in  
34 connection with completing a claim for disability benefits  
35 shall be paid by the claimant.

36 (Source: P.A. 86-272; 86-273; 86-1028; 87-794; 87-1265.)

1 (40 ILCS 5/16-149.1) (from Ch. 108 1/2, par. 16-149.1)

2 Sec. 16-149.1. Occupational disability benefit.

3 (a) A member who becomes totally and immediately  
4 incapacitated for duty as the proximate result of bodily  
5 injuries sustained or a hazard undergone while in the  
6 performance and within the scope of his or her duties, if such  
7 injuries or hazard were not the consequence of the member's  
8 willful negligence, shall receive an occupational disability  
9 benefit upon making proper application. If application is made  
10 more than 90 days subsequent to the later of the commencement  
11 of disability or the date eligibility for salary ceases,  
12 benefits shall begin to accrue from the date of application,  
13 but service credit and credit for contributions will be earned  
14 from the date of disability. The benefit is not payable to, and  
15 credit for service and contributions may not be earned under  
16 this Section by, a member who is receiving a benefit under  
17 Section 16-133, 16-149, or 16-149.2, or who is receiving salary  
18 as a teacher, or is employed in any capacity as a teacher by  
19 the employers included under this System or in an equivalent  
20 capacity in any other public or private school, college or  
21 university, except as provided in Section 16-149.6.

22 Proper proof of disability shall consist of: (1) a written  
23 certificate by at least 2 licensed and practicing physicians  
24 designated by the System, certifying that member is disabled  
25 and unable to perform assigned duties; (2) a written statement  
26 from the employer certifying that the member is disabled and  
27 not receiving a salary, and related information as to the cause  
28 and commencement of disability; and (3) a written statement  
29 from the member certifying that the member is not and has not  
30 been engaged in gainful employment.

31 Occupational disability benefits under this Section shall  
32 be payable only if (1) on the basis of a claim filed by the  
33 applicant with the Industrial Commission of Illinois, it is  
34 determined by the Commission that the disability was incurred  
35 while in the performance and within the scope of assigned

1 duties, under the terms of the Illinois Workers' Compensation  
2 or Occupational Diseases Act, whichever applies, and the claim  
3 is adjudicated as compensable by the Commission under either of  
4 the aforesaid Acts; or (2) on the basis of a claim filed by the  
5 applicant with an insurance carrier with which the employer of  
6 the applicant has a workers' compensation insurance policy, it  
7 is determined under the terms of the aforesaid policy that the  
8 disability was incurred while in the performance and within the  
9 scope of the member's assigned duties and the claim is approved  
10 as compensable.

11 (b) The occupational disability benefit shall be the  
12 greater of 60% of the member's contract salary rate at the time  
13 the disability benefit becomes payable or the member's annual  
14 contract rate on the date the disability commenced, and shall  
15 be payable monthly in equal installments. For part-time and  
16 substitute teachers after June 30, 1990, the benefit shall be  
17 the greater of the member's most recent annualized salary rate  
18 at the time the disability benefit becomes payable or the  
19 annualized salary rate or annual contract rate at the time the  
20 disability commenced.

21 Any amounts provided for a member or a member's dependents  
22 under the Illinois Workers' Compensation Act, the Illinois  
23 Occupational Diseases Act or a workers' compensation insurance  
24 policy provided by the employer shall be applied as an offset  
25 to any occupational benefit provided under this Section in such  
26 manner as may be prescribed by the board.

27 In addition to the above benefit, the member shall receive  
28 creditable service and credit for contributions that the member  
29 would have made in active employment during the period of  
30 disability, except as provided in Section 16-149.6. Creditable  
31 service and credit for contributions shall be calculated on the  
32 basis of the annual salary rate used in computing the benefit;  
33 however, such credit shall not be used in the determination of  
34 the period for which disability benefits are payable. A member  
35 who remains disabled after the termination of benefits due to  
36 age or the expiration of the maximum period for which benefits

1 are payable shall be entitled to the retirement annuity  
2 provided under Section 16-133, notwithstanding that the member  
3 may not have the required minimum period of creditable service  
4 prescribed for such annuity.

5 (c) Effective January 1, 1988, the occupational disability  
6 benefit shall continue until the time one of the following  
7 first occurs: (1) disability ceases; (2) the member requests  
8 termination of the benefit; or (3) the member is engaged or  
9 found to be able to engage in gainful employment, other than  
10 limited employment under Section 16-149.6. If the disability  
11 benefit is discontinued under item (3) but the member is  
12 subsequently found to be unable to be gainfully employed due to  
13 the disability which was the cause for his or her most recent  
14 incapacity to perform the duties of a teacher, the disability  
15 benefit will be resumed, upon notification of the System, as  
16 soon as the member is not eligible to receive salary.

17 (d) The board shall prescribe rules governing the filing,  
18 investigation, control, and supervision of disability claims.  
19 Costs incurred by a claimant in connection with completing a  
20 claim for disability benefits shall be paid by the claimant.

21 (Source: P.A. 86-272; 86-273; 86-1488; 87-794; 87-1265.)

22 (40 ILCS 5/16-149.2) (from Ch. 108 1/2, par. 16-149.2)  
23 Sec. 16-149.2. Disability retirement annuity.

24 (a) A member whose disability benefit has been terminated  
25 under the provisions of Section 16-149 may be retired on a  
26 disability retirement annuity payable effective the day  
27 following such termination provided the member remains  
28 disabled under the standard of disability provided in Section  
29 16-149.

30 The disability retirement annuity shall be payable upon  
31 receipt of written certificates from at least 2 licensed  
32 physicians designated by the System verifying the continuation  
33 of the disability condition. A disability retirement annuity  
34 shall not be paid during any period for which the member  
35 receives benefits under Section 16-133, Section 16-149, or

1 Section 16-149.1 or has a right to receive a salary as a  
2 teacher, or is employed in any capacity as a teacher by the  
3 employers included under this System or in an equivalent  
4 capacity in any other public or private school, college or  
5 university, except as provided in Section 16-149.6.

6 (b) The disability retirement annuity shall be equal to the  
7 larger of: (1) 35% of the most recent annual contract salary  
8 rate or for part-time and substitute members after June 30,  
9 1990, the most recent annualized salary rate; or (2) if  
10 disability commences prior to the member's attainment of age  
11 55, the amount computed in accordance with Section 16-133,  
12 provided the amount computed under paragraph (B) of Section  
13 16-133 shall be reduced by 1/2 of 1% for each month that the  
14 member is less than age 55; or (3) if disability commences  
15 after the member's attainment of age 55, and the member is not  
16 receiving a retirement annuity under Section 16-133, the amount  
17 computed in accordance with Section 16-133.

18 Prior to July 1, 1990, if the most recent period of service  
19 of any member eligible to receive a disability retirement  
20 annuity was rendered on a less than full-time but not less than  
21 half-time basis, the amount of the disability retirement  
22 annuity payable shall be computed on the basis of the salary  
23 received by such member for the member's last year of service  
24 on a full-time basis if such salary was greater than the  
25 member's most recent salary.

26 (c) If an annuitant receiving a disability retirement  
27 annuity under this Section is engaged in or able to engage in  
28 gainful employment (including limited employment under Section  
29 16-149.6) paying more than the difference between the  
30 disability retirement annuity and the salary rate upon which  
31 the disability benefit is based, with no salary to be  
32 considered less than the minimum prescribed in Section 24-8 of  
33 the School Code, the disability retirement annuity shall be  
34 reduced to an amount which together with the amount earned by  
35 the annuitant, equals the salary rate upon which the disability  
36 benefit is based. However, for the purposes of this subsection



1 (c) only, the salary rate upon which the benefit is based shall  
2 be deemed to increase by 15% on the tenth anniversary of the  
3 commencement of the annuity.

4 Once each year during the first 5 years following  
5 retirement on a disability retirement annuity, and once in  
6 every 3-year period thereafter, the System may require an  
7 annuitant to undergo a medical examination, by a physician or  
8 physicians designated by the System. If the annuitant refuses  
9 to submit to such medical examination, the annuity shall be  
10 discontinued until such time as the annuitant consents to the  
11 examination, and if refusal continues for one year, all the  
12 rights to the annuity shall be revoked.

13 (d) If an annuitant in receipt of a disability retirement  
14 annuity returns to active service as a teacher (other than  
15 limited employment under Section 16-149.6) or is no longer  
16 disabled, such annuity shall cease and the annuitant shall  
17 again become a member of the Retirement System and, if in  
18 active service as a teacher, shall make regular contributions.  
19 All service for which the annuitant had credit on the date of  
20 disability shall be properly reestablished.

21 An annuitant in receipt of a disability retirement annuity  
22 who returns to active service as a teacher and who again  
23 becomes disabled shall not be entitled to a recomputation of  
24 the disability retirement annuity based on amendments enacted  
25 while the annuitant was in receipt of the annuity unless at  
26 least one year of creditable service is rendered after the  
27 latest re-entry into service.

28 (e) An annuitant in receipt of a disability retirement  
29 annuity may, upon reaching retirement age as specified in  
30 Section 16-132, apply for a retirement annuity which is to be  
31 calculated as specified in Section 16-133. The disability  
32 retirement annuity shall be discontinued upon commencement of  
33 the retirement annuity.

34 (f) The board shall prescribe rules governing the filing,  
35 investigation, control, and supervision of disability  
36 retirement claims. The rules shall include specific standards

1 to be used when requesting additional medical examinations,  
2 hospital records or other data necessary for determining the  
3 employment capacity and condition of the annuitant. Costs  
4 incurred by a claimant in connection with completing a claim  
5 for disability benefits shall be paid by the claimant.

6 The changes to this Section made by this amendatory Act of  
7 1991 shall apply not only to persons who on or after its  
8 effective date are in service as a teacher under the System,  
9 but also to persons whose status as a teacher terminated prior  
10 to that date, whether or not the person is an annuitant on that  
11 date.

12 (Source: P.A. 93-469, eff. 8-8-03.)

13 (40 ILCS 5/16-149.6 new)

14 Sec. 16-149.6. Limited employment during disability.

15 (a) A teacher who (i) has been receiving a disability,  
16 occupational disability, or disability retirement benefit  
17 under Section 16-149, 16-149.1, or 16-149.2 for at least one  
18 year and (ii) remains unable to resume regular full-time  
19 teaching due to disability, but is able to engage in limited or  
20 part-time employment as a teacher, may engage in such limited  
21 or part-time employment as a teacher without loss of the  
22 disability, occupational disability, or disability retirement  
23 benefit, provided that the teacher's earnings for that limited  
24 or part-time employment, when added to the amount of the  
25 benefit, do not exceed 100% of the salary rate upon which the  
26 benefit is based.

27 (b) A disabled teacher who engages in limited or part-time  
28 teaching under this Section and earns service and contribution  
29 credits for that teaching shall not receive duplicate service  
30 or contribution credits under Section 16-149 or 16-149.1.

31 Section 90. The State Mandates Act is amended by adding  
32 Section 8.28 as follows:

33 (30 ILCS 805/8.28 new)

1       Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8  
2       of this Act, no reimbursement by the State is required for the  
3       implementation of any mandate created by this amendatory Act of  
4       the 93rd General Assembly.

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