

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 15-113, 15-135, 15-139.5, 15-152, 15-153.2, and 15-168.1 as follows:

(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 Sections ~~Section~~ 15-113.11 through 15-113.12.

(Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12.)

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

(Text of Section WITHOUT the changes made by P.A. 98-599, which has been held unconstitutional)

Sec. 15-135. Retirement annuities - Conditions.

(a) This subsection (a) applies only to a Tier 1 member. 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.

(a-5) A Tier 2 member is entitled to a retirement annuity upon written application if he or she has attained age 67 and has at least 10 years of service credit and is otherwise eligible under the requirements of this Article. A Tier 2 member who has attained age 62 and has at least 10 years of service credit and is otherwise eligible under the requirements of this Article may elect to receive the lower retirement annuity provided in subsection (b-5) of Section 15-136 of this Article.

(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. For a

participant, the date on which the annuity payment period begins, ~~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. For a recipient of a disability retirement annuity, the date on which the annuity payment period begins shall not be prior to the discontinuation of the disability retirement annuity under Section 15-153.2.

(c) An annuity is not payable if the amount provided under Section 15-136 is less than \$10 per month.

(Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12; 98-92, eff. 7-16-13.)

(40 ILCS 5/15-139.5)

Sec. 15-139.5. Return to work by affected annuitant; notice and contribution by employer.

(a) An employer who employs or re-employs a person receiving a retirement annuity from the System in an academic year beginning on or after August 1, 2013 must notify the System of that employment within 60 days after employing the annuitant. The notice must include a summary of the contract of

employment or specify the rate of compensation and the anticipated length of employment of that annuitant. The notice must specify whether the annuitant will be compensated from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name. The notice must include the employer's determination of whether or not the annuitant is an "affected annuitant" as defined in subsection (b).

The employer must also record, document, and certify to the System (i) the amount of compensation paid to the annuitant for employment during the academic year, and (ii) the amount of that compensation, if any, that comes from either federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name.

As used in this Section, "academic year" means the 12-month period beginning September 1.

For the purposes of this Section, an annuitant whose employment by an employer extends over more than one academic year shall be deemed to be re-employed by that employer in each of those academic years.

The System may specify the time, form, and manner of providing the determinations, notifications, certifications, and documentation required under this Section.

(b) A person receiving a retirement annuity from the System becomes an "affected annuitant" on the first day of the academic year following the academic year in which the

annuitant first meets the following conditions:

(1) (Blank).

(2) While receiving a retirement annuity under this Article, the annuitant was employed on or after August 1, 2013 by one or more employers under this Article and received or became entitled to receive during an academic year compensation for that employment in excess of 40% of his or her highest annual earnings prior to retirement; except that compensation paid from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name is excluded.

(3) The annuitant received an annualized retirement annuity under this Article of at least \$10,000.

A person who becomes an affected annuitant remains an affected annuitant, except for (i) any period during which the person returns to active service and does not receive a retirement annuity from the System or (ii) any period on or after the effective date of this amendatory Act of the 100th General Assembly during which an annuitant received an annualized retirement annuity under this Article that is less than \$10,000.

(c) It is the obligation of the employer to determine whether an annuitant is an affected annuitant before employing the annuitant. For that purpose the employer may require the annuitant to disclose and document his or her relevant prior employment and earnings history. Failure of the employer to

make this determination correctly and in a timely manner or to include this determination with the notification required under subsection (a) does not excuse the employer from making the contribution required under subsection (e).

The System may assist the employer in determining whether a person is an affected annuitant. The System shall inform the employer if it discovers that the employer's determination is inconsistent with the employment and earnings information in the System's records.

(d) Upon the request of an annuitant, the System shall certify to the annuitant or the employer the following information as reported by the employers, as that information is indicated in the records of the System: (i) the annuitant's highest annual earnings prior to retirement, (ii) the compensation paid for that employment in each academic year, and (iii) whether any of that employment or compensation has been certified to the System as being paid from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name. The System shall only be required to certify information that is received from the employers.

(e) In addition to the requirements of subsection (a), an employer who employs an affected annuitant must pay to the System an employer contribution in the amount and manner provided in this Section, unless the annuitant is compensated by that employer solely from federal, corporate, foundation, or

trust funds or grants of State funds that identify the principal investigator by name.

The employer contribution required under this Section for employment of an affected annuitant in an academic year shall be equal to 12 times the amount of the gross monthly retirement annuity payable to the annuitant for the month in which the first paid day of that employment in that academic year occurs, after any reduction in that annuity that may be imposed under subsection (b) of Section 15-139.

If an affected annuitant is employed by more than one employer in an academic year, the employer contribution required under this Section shall be divided among those employers in proportion to their respective portions of the total compensation paid to the affected annuitant for that employment during that academic year.

If the System determines that an employer, without reasonable justification, has failed to make the determination of affected annuitant status correctly and in a timely manner, or has failed to notify the System or to correctly document or certify to the System any of the information required by this Section, and that failure results in a delayed determination by the System that a contribution is payable under this Section, then the amount of that employer's contribution otherwise determined under this Section shall be doubled.

The System shall deem a failure to correctly determine the annuitant's status to be justified if the employer establishes

to the System's satisfaction that the employer, after due diligence, made an erroneous determination that the annuitant was not an affected annuitant due to reasonable reliance on false or misleading information provided by the annuitant or another employer, or an error in the annuitant's official employment or earnings records.

(f) Whenever the System determines that an employer is liable for a contribution under this Section, it shall so notify the employer and certify the amount of the contribution. The employer may pay the required contribution without interest at any time within one year after receipt of the certification. If the employer fails to pay within that year, then interest shall be charged at a rate equal to the System's prescribed rate of interest, compounded annually from the 366th day after receipt of the certification from the System. Payment must be concluded within 2 years after receipt of the certification by the employer. If the employer fails to make complete payment, including applicable interest, within 2 years, then the System may, after giving notice to the employer, certify the delinquent amount to the State Comptroller, and the Comptroller shall thereupon deduct the certified delinquent amount from State funds payable to the employer and pay them instead to the System.

(g) If an employer is required to make a contribution to the System as a result of employing an affected annuitant and the annuitant later elects to forgo his or her annuity in that

same academic year pursuant to subsection (c) of Section 15-139, then the required contribution by the employer shall be waived, and if the contribution has already been paid, it shall be refunded to the employer without interest.

(h) Notwithstanding any other provision of this Article, the employer contribution required under this Section shall not be included in the determination of any benefit under this Article or any other Article of this Code, regardless of whether the annuitant returns to active service, and is in addition to any other State or employer contribution required under this Article.

(i) Notwithstanding any other provision of this Section to the contrary, if an employer employs an affected annuitant in order to continue critical operations in the event of either an employee's unforeseen illness, accident, or death or a catastrophic incident or disaster, then, for one and only one academic year, the employer is not required to pay the contribution set forth in this Section for that annuitant. The employer shall, however, immediately notify the System upon employing a person subject to this subsection (i). For the purposes of this subsection (i), "critical operations" means teaching services, medical services, student welfare services, and any other services that are critical to the mission of the employer.

(j) This Section shall be applied and coordinated with the regulatory obligations contained in the State Universities

Civil Service Act. This Section shall not apply to an annuitant if the employer of that annuitant provides documentation to the System that (1) the annuitant is employed in a status appointment position, as that term is defined in 80 Ill. Adm. Code 250.80, and (2) due to obligations contained under the State Universities Civil Service Act, the employer does not have the ability to limit the earnings or duration of employment for the annuitant while employed in the status appointment position.

(Source: P.A. 97-968, eff. 8-16-12; 98-596, eff. 11-19-13; 98-1144, eff. 6-1-15.)

(40 ILCS 5/15-152) (from Ch. 108 1/2, par. 15-152)

Sec. 15-152. Disability benefits - Duration. Disability benefits shall be discontinued when the earliest of the following occurs: (1) when disability ceases, (2) upon refusal of the participant to submit to a reasonable physical examination by a physician approved by the board, (3) upon refusal of the participant to accept any position, assigned in good faith by an employer, the duties of which could reasonably be performed by the participant and the earnings of which would be at least equal to the disability benefit payable under this Article, (4) upon September 1, following the participant's 70th birthday, if the disability benefit commenced prior to attainment of age 65, (5) the end of the month following the fifth anniversary of the date disability benefits commenced, if

such benefits began after the attainment of age 65, ~~or~~ (6) when the total disability benefits paid equal 50% of the participant's total earnings for the entire period of employment for which service has been granted prior to the date disability benefits began to accrue, or (7) upon failure of the participant to provide an earnings verification necessary to determine continuance of benefits. If the disability was caused by an on-the-job accident, and the participant is granted workers' compensation or occupational disease payments from the employer or the State of Illinois, the limitation in clause (6) shall not be applicable.

Service and earnings credits under the State Employees' Retirement System of Illinois and the Teachers' Retirement System of the State of Illinois shall be considered in determining the employee's eligibility for, and the duration of disability benefits.

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 the governmental unit to such employer within 6 months after the transfer of this function, the pension credits in the governmental unit's retirement system which have been validated under Section 20-109, shall be treated the same as pension credits in this Section in determining an employee's eligibility for, and the duration of disability benefits.

(Source: P.A. 86-273.)

(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 recipient ~~participant~~ from engaging in any substantial gainful activity, (2) the recipient ~~participant~~ dies, ~~or~~ (3) the recipient ~~participant~~ elects to receive a retirement annuity under Sections 15-135 and 15-136, (4) the recipient refuses to submit to a reasonable physical examination by a physician approved by the board, or (5) the recipient fails to provide an earnings verification necessary to determine continuance of benefits. 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.

The board shall adopt rules governing the filing, investigation, control, and supervision of disability retirement annuity claims. Costs incurred by a claimant in connection with completing a claim for a disability retirement

annuity shall be paid: (A) by the claimant in the case of the one required medical examination, medical certificate, and any other requirements generally imposed by the board on all disability retirement annuity claimants; and (B) by the System in the case of any additional medical examination or other additional requirement imposed on a particular claimant that is not imposed generally on all disability retirement annuity claimants.

(Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12.)

(40 ILCS 5/15-168.1)

Sec. 15-168.1. Testimony and the production of records. The secretary of the Board shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents and records, including law enforcement records maintained by law enforcement agencies, in conjunction with:

(1) the determination of employer payments required under subsection (g) of Section 15-155;

(2) a disability claim;

(3) an administrative review proceeding;

(4) an attempt to obtain information to assist in the collection of sums due to the System;

(5) obtaining any and all personal identifying information necessary for the administration of benefits;

(6) the determination of the death of a benefit recipient or a potential benefit recipient; or

(7) a felony forfeiture investigation.

The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of this State and shall be paid by the party seeking the subpoena. The Board may apply to any circuit court in the State for an order requiring compliance with a subpoena issued under this Section. Subpoenas issued under this Section shall be subject to applicable provisions of the Code of Civil Procedure.

(Source: P.A. 94-1057, eff. 7-31-06.)

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