

FILED  
5/23/2024 4:31 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2024CH01708  
Calendar, 4  
27830366

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

PATRICIA KIEVLAN and NATOSHA TOLLER )

Plaintiffs, )

v. )

JUDGES RETIREMENT SYSTEM OF ILLINOIS; )  
BOARD OF TRUSTEES OF THE JUDGES )  
RETIREMENT SYSTEM OF ILLINOIS; )  
TIMOTHY B. BLAIR, in his official capacity as )  
Executive Secretary of the Judges Retirement )  
System of Illinois; CHARLES M. FENNEY III, )  
MICHAEL FRERICHS, THOMAS HOFFMAN, )  
CATHERINE M. SHANNON, MARY JANE )  
THEIS, DEBRA B. WALKER, and KAREN )  
WALL, in their official capacities as Board )  
Members of the Judges Retirement System of )  
Illinois, )

Defendants. )

Case No. 2024 CH 01708

Judge Alison C. Conlon  
Presiding

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICUS CURIAE* STATE UNIVERSITIES  
ANNUITANTS ASSOCIATION IN SUPPORT OF PLAINTIFFS AND  
BRIEF IN EXCESS OF THE COURT'S STANDING ORDER**

**MOTION EXHIBIT A**

FILED DATE: 5/23/2024 4:31 PM 2024CH01708

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

PATRICIA KIEVLAN and NATOSHA TOLLER )

Plaintiffs, )

v. )

Case No. 2024 CH 01708

JUDGES RETIREMENT SYSTEM OF ILLINOIS; )

Judge Alison C. Conlon

BOARD OF TRUSTEES OF THE JUDGES )

Presiding

RETIREMENT SYSTEM OF ILLINOIS; )

TIMOTHY B. BLAIR, in his official capacity as )

Executive Secretary of the Judges Retirement )

System of Illinois; CHARLES M. FENNEY III, )

MICHAEL FRERICHS, THOMAS HOFFMAN, )

CATHERINE M. SHANNON, MARY JANE )

THEIS, DEBRA B. WALKER, and KAREN )

WALL, in their official capacities as Board )

Members of the Judges Retirement System of )

Illinois, )

Defendants. )

**BRIEF OF *AMICUS CURIAE*  
STATE UNIVERSITIES ANNUITANTS ASSOCIATION  
IN SUPPORT OF PLAINTIFFS**

Eric M. Madiar  
Madiar Government Relations, LLC  
217 South Third Street, Suite 101  
Springfield, IL 62704  
(217) 503-4107  
ARDC #6273355  
emadiar@madiar.com  
*Counsel for the proposed Amicus Curiae*

TABLE OF CONTENTS

---

	<u>Page</u>
INTEREST OF <i>AMICUS CURIAE</i> .....	1
OVERVIEW .....	2
ARGUMENT.....	5
I.    Legal Background: Public Act 96-889—The Tier 2 Law .....	5
II.   Plaintiffs Secured Constitutional Protection Under the Pension Clause in the Benefit Formula Found in the Judges Retirement System’s Article of the Pension Code (Article 18) When They Initially Joined Their First Reciprocal Retirement Systems Under Article 20 of the Code In 1997 and 2005, Respectively .....	9
A.   The most plausible reading of the Retirement Systems Reciprocal Act based on its text and purpose is that Plaintiffs’ proportional retirement annuities are calculated according to the benefit formula in effect when they joined their first reciprocal systems.....	9
B.   Under Illinois court decisions, any lack of clarity in the Retirement Systems Reciprocal Act regarding which benefit formula to use must be resolved in favor of Plaintiffs.....	12
III.  The Judges Retirement System’s Decisions Violate the Pension Clause and Contradict Illinois Supreme Court Precedent.....	17
CONCLUSION.....	21

### INTEREST OF AMICUS CURIAE

The State Universities Annuity Association (“SUAA”) is a not-for-profit organization founded in 1971 and located in Springfield, Illinois. SUAA represents over 12,000 members who are current faculty and staff, retired individuals, their spouses, and their survivors who will or are receiving benefits from the State Universities Retirement System (“SURS”) for their service at Illinois public universities and community colleges. SUAA has 53 chapters located at 40 community colleges and 13 public universities.

SUAA was formed by faculty, staff, and retirees of Illinois state universities after their success in spearheading the effort to have delegates at the Illinois Constitutional Convention add the Pension Protection Clause, Article XIII, Section 5, to the Illinois Constitution of 1970. Madiar, *Is Welching on Public Pension Promises an Option for Illinois? An Analysis of Article XIII, Section of the Illinois Constitution*, 48 J. Marshall L. Rev. 167, 185-90 & n. 91 (2014).

SUAA advocates on behalf of its members before the Illinois General Assembly, Illinois public universities and community colleges, and other government entities with a unified message dedicated to preserving and protecting a strong public pension system, healthcare benefits, higher education, and the general well-being of its membership. Consistent with its advocacy, SUAA was one of the successful plaintiff organizations challenging the constitutionality of the 2013 Pension Reform Law (Public Act 98-599) under the Pension Protection Clause decided in *In re Pension Reform Litigation*, 2015 IL118585.

A significant portion of SUAA members are active faculty and staff who entered SURS prior to January 1, 2011, which is one of thirteen reciprocal retirement systems under the Illinois Pension Code, along with the Judges Retirement System (JRS). This litigation involves the impact of Public Act 96-889 on the pension benefits of these SUAA members and the constitutionality of

this Act under the Pension Protection Clause. Public Act 96-889 generally cuts the pension benefits provided to certain public employees and officials in the State's five retirement systems hired on or after January 1, 2011. SUAA opposed the passage of this legislation in 2010 as adverse to the interests of SUAA members.

Indeed, many SUAA members have the potential to find themselves in the same adverse position as Plaintiff Keivlan who initially joined SURS prior to January 1, 2011, and became a judge and member of JRS after that date. Accordingly, the results of this litigation for Plaintiff Keivlan will directly impact the scope of pension benefits that these SUAA members may also enjoy.

### **OVERVIEW**

This is an important case of first impression involving Public Act 96-889, which is known as the "Tier 2 law," and the scope of the Pension Protection Clause ("Pension Clause" or "Clause") found in Article XIII, Section 5 of the Illinois Constitution of 1970. The Tier 2 law took effect on January 1, 2011. In this case, the Judges' Retirement System ("JRS") applied the Tier 2 law to reduce the benefit formula—a protected benefit under the Clause—used to calculate Plaintiffs' proportional retirement annuities under Article 20 of the Illinois Pension Code ("Code") for their service as judges after the Tier 2 law took effect.

Plaintiffs, however, initially became members of public pension systems before the enactment of the Tier 2 law. Plaintiff Kievlan joined the State Universities Retirement System ("SURS") under Article 15 of the Code in 1997, while Plaintiff Toller joined the County Employees' and Officers' Annuity and Benefit Fund of Cook County ("CCPF") under Article 9 of the Code in 2005. Complaint at ¶¶31, 37, 56.

Article 20 of the Code creates the Retirement Systems Reciprocal Act (“Reciprocal Act”). 20 ILCS 5/20-101 *et seq.* When Plaintiffs became members of SURS and CCPF, they simultaneously became “employees” of reciprocal retirement systems under the Reciprocal Act at that time because both SURS and CCPF have adopted the provisions of the Act.<sup>1</sup> As “employees” under the Reciprocal Act, Plaintiffs received the benefit of an optional right to combine their future service in two or more pension systems into a proportional retirement annuity for systems adopting the Act. 40 ILCS 5/20-101; 40 ILCS 20-115. After the Tier 2 law took effect, Plaintiffs became judges and members of the JRS, which is also a reciprocal system under the Reciprocal Act. 40 ILCS 5/18-157.

The novel legal question at issue here turns on whether Plaintiffs secured protection under the Pension Clause in the benefit formula found in JRS for their proportional retirement annuity under the Reciprocal Act when Plaintiffs first joined their reciprocal retirement systems (SURS and CCPF) in 1997 and 2005, respectively.

Defendant Board of Trustees (Board) of JRS concluded that the text of the Tier 2 law required Plaintiffs to receive only the lower Tier 2 benefit formula for their judicial service. See Complaint Exhibit 10 at 3-5 (JRS Kievlan Decision); Complaint Exhibit 11 at 4-6 (JRS Toller Decision). The JRS Board further concluded that applying the Tier 2 law to Plaintiffs does not violate the Clause because Plaintiffs did not obtain “vested rights” protected by the Clause in the benefit formula found in JRS until Plaintiffs became judges after the Tier 2 law took effect. *Id.*

---

<sup>1</sup> See 40 ILCS 5/20-104 (defining “employees”); 40 ILCS 5/20-129 (requiring retirement systems to adopt Article 20 of the Code and incorporate it into the system’s respective article of the Code); 40 ILCS 5/15-192 (SURS’s adoption of Article 20); 40 ILCS 5/9-236 (CCPF’s adoption of Article 20).

As discussed below, Plaintiffs secured constitutional protection under the Clause for their proportional retirement annuity under the Reciprocal Act in the benefit formula found in JRS as of 1997 and 2005, respectively. This conclusion follows from the Illinois Supreme Court’s consistent instruction that the Clause’s protection “attach[es] once an individual first embarks upon employment in a position covered by a public retirement system, not when the employee ultimately retires.” *Arlington Heights Police Pension Fund v. Pritzker*, 2024 IL 129471, ¶ 20. And “if something qualifies as a benefit of the enforceable contractual relationship resulting from membership *in one of the State’s pension or retirement systems*, it cannot be diminished or impaired.” *Kanerva v. Weems*, 2014 IL 115811, ¶ 38 (emphasis added).

The Clause protects these benefits even if the employee “had not yet exercised the option before the amendments of the Act took effect.” *Carmichael v. Laborer’ and Retirement Bd.*, 2018 IL 122793, ¶27. Accordingly, the Clause bars the legislature from imposing new adverse limitations or requirements on receiving public pension benefits that did not exist when the employee joined the pension system. *Williamson County Bd. of Comm’rs v. IMRF*, 2020 IL 125330, ¶47.

While Plaintiffs could not, of course, exercise their optional right to a proportional retirement annuity under the Reciprocal Act for their future service in JRS when they initially joined SURS and CCPF in 1997 or 2005, respectively, that optional right nonetheless became protected or vested under the Clause when they initially joined. As such, Plaintiffs secured a constitutionally protected expectation that their future service for their annuities under the Reciprocal Act would be calculated based on the benefit formula in effect in each reciprocal system—including JRS—at the time of their initial membership. Plaintiffs secured constitutional protection in the benefit formula in effect in 1997 and 2005, respectively, because the Reciprocal

Act legally tethered the Plaintiffs to JRS and the other reciprocal systems by virtue of Plaintiffs also becoming “employees” under the Act when they initially joined SURS and CCPF.

In 1997 and 2005, JRS's article of the Pension Code did not condition its benefit formula on a person “first serv[ing] as a judge” before January 1, 2011. That requirement was added by the Tier 2 law as a new condition that did not exist when Plaintiffs first became “employees” of reciprocal systems under the Reciprocal Act in 1997 and 2005, respectively. The Pension Clause, though, unmistakably bars the legislature from imposing new adverse limitations or requirements on receiving public pension benefits if those limitations or requirements did not exist when the employee joined the pension system.

As a result, JRS’ application of the Tier 2 law to Plaintiffs constitutes an unconstitutional new condition that diminishes their pension benefits under the Clause. For these reasons, this Court should declare the Tier 2 law invalid and remand this matter to JRS to recalculate Plaintiffs respective proportional retirement annuities for their judicial service based on the JRS benefit formula in effect when Plaintiffs joined SURS and CCPF in 1997 and 2005, respectively.

### ARGUMENT

#### **I. Legal Background: Public Act 96-889—The Tier 2 Law**

The General Assembly enacted the Tier 2 law in 2010 to lower the pension benefits of public officials and employees who were *first hired* and *first became* members of certain pension systems *on or after January 1, 2011*. 40 ILCS 5/1-160 as enacted in Public Act 96-889.<sup>2</sup> Persons

---

<sup>2</sup> The Tier 2 law creates a lower tier of pension benefits for public officials and employees who were first hired and first became members of pension systems under Articles 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 22 of the Pension Code on or after January 1, 2011. 40 ILCS 5/1-160 as enacted by Public Act 96-889. The Tier 2 law did not apply to police officers and firefighters who were members of pension systems under Articles 3, 4, 5, 6, and 7 of the Pension Code because the General Assembly had enacted a separate Tier 2 law for police officers and firefighters hired

who were first hired and first became members of these systems *on or after January 1, 2011* are known as “Tier 2 members,” while persons who entered these systems *before January 1, 2011* are known as “Tier 1 members.” *In re Pension Reform Litigation*, 2015 ILC 118585 ¶ 5 (2015).

One of the hallmarks of the Tier 2 law, though, is that Tier 1 members, generally, can continue to earn pension benefits based on the benefit formula in effect at the time they initially joined the pension system before the Tier 2 law took effect on January 1, 2011. 40 ILCS 5/1-160 as enacted in Public Act 96-889.

For example, a Tier 1 member participating in the State Universities Retirement System (SURS) under Article 15 of the Pension Code *before* January 1, 2011, can continue to earn pension benefits in SURS based on the higher benefit formula in effect when the member joined *after* the Tier 2 law took effect on January 1, 2011. Similarly, a Tier 1 member participating in SURS *before* January 1, 2011, can later become a Tier 1 member of the County Employees’ and Officers’ Annuity and Benefit Fund of Cook County (“CCPF”) under Article 9 of the Pension Code *after* January 1, 2011, and earn pension benefits in CCPF based on its Tier 1 benefit formula. This hallmark of the Tier 2 law is known as the “once a Tier 1 member, always a Tier 1 member” rule.

The Tier 2 law, however, creates a different rule for Tier 1 members who later become members of the Judges Retirement System (JRS) under Article 18 of the Pension Code *after* the Tier 2 law took effect on January 1, 2011.<sup>3</sup> See 40 ILCS 5/18-124, 18-125, 18-125.1, 18-127, 18-

---

on or after January 1, 2011, in Public Act 96-1495. See Public Act 96-1495: <https://www.ilga.gov/legislation/publicacts/96/PDF/096-1495.pdf>.

<sup>3</sup> The Tier 2 law applied the same rule for persons who first became judges on or after January 1, 2011, to any persons who first became members of the General Assembly Retirement System (GARS) under Article 2 of the Pension Code on or after January 1, 2011. See 40 ILCS 5/2-108.1, 2-119, 2-119.01, 2-119.1, 2-121.1, and 2-122 as amended by Public Act 96-889. Accordingly, the Tier 2 law provided that any person who first became a participant of GARS on or after January 1, 2011, could only earn the Tier 2 law’s lower pension benefits under Article 2.

128.01 as amended by Public Act 96-889. The text of the Tier 2 law provides that any person who “*first serves as a judge*” on or after January 1, 2011, can only earn the Tier 2 law’s lower benefit formula under Article 18 of the Code. *Id.*

As interpreted by the JRS Board in this matter, this includes any persons, such as Plaintiffs and by extension SUAA members, who were Tier 1 members in pension systems other than JRS before January 1, 2011. See Complaint Exhibit 10 at 3-5 (JRS Kievlan Decision); Complaint Exhibit 11 at 4-6 (JRS Toller Decision).

The Tier 2 law provides significantly lower pension benefits for persons first entering certain pension systems on or after January 1, 2011, as compared to those benefits in effect for persons who entered these systems prior to that date. Under the Tier 2 law, a judge participating in JRS under Article 18 of the Code may retire and receive a pension at age 67 after providing eight years of service or receive a reduced pension at age 62 with eight years of service. 40 ILCS 5/18-124. Prior to the Tier 2 law, a judge could retire under JRS and receive a pension at age 60 with 10 years, for example, or a receive a reduced pension at age 55 with 10 years of service. *Id.*

Under the Tier 2 law, the pensionable salary of a Tier 2 judge is tied to the Social Security Wage Base of \$106,800 and adjusted for inflation (currently \$138,093.50)<sup>4</sup> even though annual judicial salaries exceed \$220,000.<sup>5</sup> 40 ILCS 5/18-125. Prior to the Tier 2 law, there was no cap on a Tier 1 Judges pensionable salary. *Id.*

---

*Id.* This included persons who were Tier 1 members in pension systems other than GARS before January 1, 2011. *Id.*

<sup>4</sup> Judges Retirement System, JRS Tier 2 Salary Limits, Salary Limitations/COLA Increase: <https://ilsrs.illinois.gov/jrs/tier-2-retirement/tier-2-salary-limits.html> (last visited May 18, 2024).

<sup>5</sup> Illinois Supreme Court, State and Local Funding for the Illinois Courts: <https://www.illinoiscourts.gov/public/state-and-local-funding-for-the-illinois-courts/> (last visited May 18, 2024).

The salary used to calculate a Tier 2 Judges pension is an average of the highest 96 consecutive months of service within the last 120 months of service, while the salary used to calculate a Tier 1 Judges pension is essentially the salary on their last day of service.<sup>6</sup> 40 ILCS 5/18-125(b)(5) & (b-5). Tier 2 judges accrue 3% of their final average salary for each year of service, while Tier 1 judges accrue 3.5% of final average salary for each of the first 10 years of service, plus 5% of such salary for each year of service in excess of 10 years. *Id.*

In addition, the maximum retirement annuity a Tier 2 judge can receive is 60% of their final average salary, while for a Tier 1 judge it is 85% of their final average salary. *Id.* Finally, a Tier 2 Judges pension is annually increased by the lesser of 3% simple interest or one-half the annual increase in the Consumer Price Index-U, while a Tier 1 Judges pension is annually increased by 3% compounded interest. 40 ILCS 5/18-125.1.

In sum, a judge retiring under JRS with Tier 2 benefits will receive a significantly lower retirement annuity as compared to a judge receiving such an annuity based on the benefit formula in effect prior to the Tier 2 law. As explained below, the Pension Clause bars the application of the Tier 2 law to Plaintiffs in this case.

---

<sup>6</sup> A year before the Tier 2 law passed, the General Assembly enacted Public Act 96-0207, which amended Section 18-125. Public 96-0207, <https://www.ilga.gov/legislation/publicacts/96/PDF/096-0207.pdf>. This Act, among other things, changed the final average salary for persons “who first serve as a judge on or after [August 10, 2009]” to “the average monthly salary obtained by dividing the total salary of the participant during the period of: (1) the 48 consecutive months of service within the last 120 months of service in which the total compensation was the highest, or (2) the total period of service, if less than 48 months, by the number of months of service in that period.” JRS erroneously applied Public Act 96-0207 to Plaintiff Kievlan in purportedly calculating her “Tier 1” JRS pension. Complaint Exhibit 3. Plaintiff secured Pension Clause protection in the JRS benefit formula in effect when she initially joined SURS in 1997. On remand, the Court should instruct JRS to calculate Plaintiff Kievlan’s JRS pension based on the benefit formula in effect *before* Public Act 96-0207.

**II. Plaintiffs Secured Constitutional Protection Under the Pension Clause in The Benefit Formula Found in The Judges Retirement System's Article of the Pension Code (Article 18) When They Initially Joined Their First Reciprocal Retirement Systems Under Article 20 of the Code In 1997 and 2005, Respectively.**

As detailed below, Plaintiffs secured constitutional protection via the Pension Clause in the benefit formula found in JRS' Article of the Pension Code for their proportional retirement annuity under the Reciprocal Act when Plaintiffs initially joined their first reciprocal system (SURS and CCPF) in 1997 and 2005, respectively. Plaintiffs secured this protection because the Reciprocal Act legally tethers Plaintiffs to JRS and each of the other reciprocal systems by virtue of Plaintiffs also becoming "employees" under the Act when they initially joined SURS and CCPF. The discussion that follows outlines the key provisions of the Reciprocal Act, the court decisions supporting this conclusion, and reasons why JRS' decisions in this proceeding violate Plaintiffs' rights under the Pension Clause.

**A. The most plausible reading of the Retirement Systems Reciprocal Act based on its text and purpose is that Plaintiffs' proportional retirement annuities are calculated according to the benefit formula in effect when they joined their first reciprocal systems.**

The Reciprocal Act is found in Article 20 of the Pension Code. 40 ILCS 5/20-101 *et seq.* The legislature enacted the forerunner of the Reciprocal Act in 1955 (1955 Ill. Laws 1605-10) and that Act was ultimately codified as Article 20 of the Illinois Pension Code in 1963. See 1963 Ill. Laws. 690-97.

The Reciprocal Act's stated purpose "is to assure full and continuous pension credit for all service in public employment which is covered by a retirement system." 40 ILCS 5/20-101. The Act does this by providing "employees" with the optional right to combine their pension credits from their future service in two or more pension systems into a proportional retirement annuity for their combined service in systems that have adopted the Act. 40 ILCS 5/20-101; 40 ILCS 20-115.

To that end, the Act was established as “a plan for the continuity and preservation of pension credit.” 40 ILCS 5/20-101.

The Act defines an “employee” as “any person in the service of an employer *on or after* [July 1, 1955], who has pension credit because of service *previous or subsequent to* [July 1, 1955], who is an active or inactive member or participant of a retirement system.” 40 ILCS 5/20-104 (emphasis added). An “employer” is defined as the “State of Illinois, any agency or instrumentality thereof, or any governmental unit in this State.” 40ILCS 5/20-105.

Thirteen pension systems under the Illinois Pension Code have adopted the Act, including SURS, CCPF, and JRS, and that adoption occurred in 1963.<sup>7</sup> 40 ILCS 5/20-129 (requiring systems to adopt Article 20); 40 ILCS 5/15-192 (SURS’ acceptance of Article 20); 40 ILCS 5/9-236 (CCPF’s acceptance of Article 20); 40 ILCS 5/18-157 (JRS’ acceptance of Article 20). When a pension system adopts the Reciprocal Act, it becomes a “participating system,” and the provisions of Article 20 are expressly incorporated by reference into each system’s respective article of the Pension Code. 40 ILCS 5/20-129. Importantly, when a person initially becomes a member of one of the participating systems, the person also simultaneously becomes an “employee” under the Act at that time of initial membership. 40 ILCS 5/20-104.

---

<sup>7</sup> The other 10 pension systems that adopted Article 20 are the *General Assembly Retirement System* (40 ILCS 5/2-150), the *Illinois Municipal Retirement Fund* (40 ILCS 5/7-215), the *Municipal Employees’, Officers’, and Officials’ Annuity and Benefit Fund* (40 ILCS 5/8-236), the *Forest Preserve District Employees’ Annuity and Benefit Fund* (40 ILCS 5/10-108), the *Laborer’s and Retirement Board Employees’ Annuity and Benefit Fund* (40 ILCS 5/11-219), the *Park Employees’ and Retirement Board Employees’ Annuity and Benefit Fund* (40 ILCS 5/12-189), the *Metropolitan Water Reclamation District Retirement Fund* (40 ILCS 5/13-808), the *State Employees’ Retirement System of Illinois* (40 ILCS 5/14-145), the *Teachers’ Retirement System of the State of Illinois* (40 ILCS 5/16-193), and the *Public School Teachers’ Pension and Retirement Fund* (40 ILCS 5/17-152).

The main feature and pension benefit afforded by the Act is the optional proportional retirement annuity that “employees” are eligible to receive at retirement for their combined service in multiple participating systems. 40 ILCS 5/20-101; 40 ILCS 5/20-115. As noted on JRS’ website, “[b]ecause of the ability to use your service credits among reciprocal systems, you could have a larger combined pension and/or begin drawing benefits earlier than if you retire from each system independently.”<sup>8</sup>

An “employee” with at least one year of creditable service in at least two participating systems may use the combined service credit of each for the purpose of meeting the qualifying conditions of each of the pension funds in which that employee has service credit. 40 ILCS 5/20-109. To be eligible to receive a reciprocal retirement benefit, the “employee” must meet the minimum eligibility requirements of the most demanding participating system and must simultaneously retire in all systems. 40 ILCS 5/20-115. Upon retirement, each participating system pays a proportional retirement annuity or survivor’s annuity for the amount of pension credits an employee earned in that system based on its own retirement pension formula and the highest level of earnings in any of the reciprocal plans. 40 ILCS 5/20-121; 40 ILCS 5/20-106 (defining “final average salary”).

While the Reciprocal Act specifies that each participating system will calculate an employee’s pension credits based on the system’s benefit formula, the Act itself does not directly address whether the benefit formula to be used to calculate those credits is the one in effect when the employee joined their first participating system or the one in effect when the employee became a participant of each participating system. See 40 ILCS 5/20-106 (defining “final average salary”);

---

<sup>8</sup> Judges Retirement System, Reciprocal Systems Act Fact Sheet, <https://ilsrs.illinois.gov/content/dam/soi/en/web/srs/jrs/publications/documents/fact-sheets/retirement-systems-reciprocal-act-fact-sheet-jrs.pdf> (last visited May 19, 2024).

40 ILCS 5/20-109 (defining “pension credit”); 40 ILCS 5/20-115 (setting forth eligibility for a proportional annuity); 40 ILCS 5/20-121 (“calculation of proportional retirement annuities”).

The closest the Act comes to addressing this issue is Section 20-121 where it provides that the “computation shall be in accordance with the formula or method prescribed by each participating system which is in effect at the date of the employee’s latest withdrawal from service covered by any of the systems in which he has pension credits which he elects to have considered under this Article.” 40 ILCS 5/20-121. Yet, this Section does not answer the question because the benefit formula “in effect at the date of the employee’s latest withdrawal from service” could be either the one in place when the employee initially joined their first participating system or the one in effect when the employee became a participant of each participating system. *Id.*

Based on the Act’s provisions, the most plausible reading of the Act is that an employee’s proportional retirement annuity is calculated based on the benefit formula in effect when the employee joined their first participating system. This reading follows from the Act’s purpose to “assure full and continuous pension credit for all service in public employment,” and from the Act’s plain text tethering “employees” to each of the 12 other reciprocal systems at the time they joined their first reciprocal system. To the extent there is any doubt, Illinois court decisions answer this question in Plaintiffs’ favor.

**B. Under Illinois court decisions, any lack of clarity in the Retirement Systems Reciprocal Act regarding which benefit formula to use must be resolved in favor of Plaintiffs.**

The Illinois Supreme Court has instructed that “to the extent there is any question as to legislative intent and clarity of the language of a pension statute, it must be liberally construed in favor of the rights of the pensioner.” *Kanerva v. Weems*, 2014 IL 115811, ¶36; *Carmichael v. Laborer’ and Retirement Bd.*, 2018 IL 122793, ¶¶27, 36, 50. Pension laws are liberally construed

in favor of the right of the pensioner because their purpose is beneficial. *Kozak v. Retirement Bd. of Firemen's Annuity and Ben. Fund of Chicago*, 95 Ill.2d 211, 217 (1983).

While Plaintiffs could not, of course, exercise their optional right to a proportional retirement annuity under the Reciprocal Act for their future service in JRS when they initially joined SURS and CCPF in 1997 or 2005, respectively, that optional right nonetheless became protected or vested under the Clause when they initially joined. Retirement annuities are “unquestionably” one of the benefits of membership protected by the Pension Clause. *In re Pension Reform Litigation*, 2015 ILCS 118585, at ¶47.

In addition, the Illinois Supreme Court has held that the benefit formula in effect when a person joins a pension system is protected under the Clause from adverse legislative changes after the persons joins. See *Felt v. Board of Trustees of the Judges' Retirement System*, 107 Ill.2d 158, 160-63, 165, 168 (1985) (invalidating under the Clause legislation that reduced the benefit formula for judges who were in service before the legislation took effect).

It logically follows, then, that Plaintiffs secured a constitutionally protected expectation that their future service for their annuities under the Reciprocal Act would be calculated based on the benefit formula in effect in each reciprocal system at the time of their initial membership, including JRS. Plaintiffs secured constitutional protection in the benefit formula in effect in 1997 and 2005, respectively, because the Reciprocal Act legally tethered the Plaintiffs to JRS and the other reciprocal systems by virtue of Plaintiffs also becoming “employees” under the Act when they initially joined SURS and CCPF. 20 ILCS 5/20-104; 20 ILCS 5/20-129. After all, Illinois courts take “into consideration the entirety of the Illinois Pension Code when determining legislative intent and will only do so by construing statutes as a whole.” *Smith v. Policemen's Annuity and Ben. Fund*, 391 Ill.App.3d 542, 550 (1st Dist. 2009).

This conclusion is reinforced by the Supreme Court’s consistent admonition that the protections afforded by the Pension Clause “attach once an individual first embarks upon employment in a position covered by a public retirement system, not when the employee ultimately retires.” *Arlington Heights Police Pension Fund v. Pritzker*, 2024 IL 129471, ¶20. On that basis, the benefit formula in effect in each participating system at the time a person joins their *first* participating system under the Reciprocal Act constitutes a protected benefit that “flow[s] from the contractual relationship arising from membership in a public retirement system.” *Id.* ¶22

Indeed, this conclusion is a natural outgrowth of the Illinois Supreme Court’s decision in *Kanerva v. Weems*. 2014 IL 115811. In *Kanerva*, the court held that retiree healthcare premium subsidies qualified as protected “benefits” even though the subsidies were “addressed in a statute separate from the law governing retirement annuities” because eligibility for those subsidies was “conditioned on [a person’s] membership in one of specified public retirement systems.” 2014 IL 115811, ¶49. The Clause barred the legislature from reducing those premium subsidies for “those employees, annuitants, and survivors whose rights were governed by [the statute] in effect prior to” Public Act 97-695, which unilaterally reduced those subsidies. *Id.* ¶57.

This conclusion finds further support in the Illinois Supreme Court’s decision in *Buddell v. Board of Trustees, State Universities Retirement System*. 118 Ill.2d 99, 104-06 (1987). In *Buddell*, the court invalidated legislation that imposed a deadline by which a member of SURS could purchase service credit for time spent in the military because the law that was in effect when the member joined SURS contained no such deadline. *Id.* The legislature enacted the deadline before the member exercised his right to purchase such credit. *Id.* As part of its analysis, the court rejected the Attorney General’s argument that the optional benefit to purchase such credit had not “vested” in the SURS member under the Pension Clause just because he failed to exercise the

option before the new deadline. *Id.* at 105. The court explained that because the Pension Code provided that the SURS member could purchase military service credit in the retirement system without a deadline when he joined SURS, “[t]his right to purchase additional credit became a contractual right under the [Pension Clause].” *Id.* The court found that the legislation violated the Clause because it imposed a new condition on the SURS member’s optional benefit that did not exist when they joined SURS. *Id.* at 105-06.

The circumstances of this case are akin to those at issue in *Buddell*. Just as the SURS member in *Buddell* did not need to fulfill the contingency of first purchasing military service credit to have vested protection under the Pension Clause in the optional benefit to purchase such credit, Plaintiffs do not need to fulfill the contingency of “first serv[ing] as a judge” to secure protection under the Clause in the JRS benefit formula. Both the SURS member in *Buddell* and Plaintiffs here secured their respective benefit’s protection at the time they *initially* joined their respective pension systems. For Plaintiffs, this occurred when they initially joined their first reciprocal system (SURS and CCPF) in 1997 and 2005, respectively.

Taken together, these decisions certainly bar the General Assembly from eliminating or reducing the number of participating systems—now 13—under the Reciprocal Act in which an employee could earn future service credit toward a proportional retirement annuity *after* the person initially joined their first participating system. And by extension, the Clause deprives the legislature of the lesser power to change the benefit formula and reduce the benefits an employee could earn through future service toward such an annuity from JRS or any other reciprocal system under the Act *after* they initially joined their first participating system. As a result, Plaintiffs in this matter secured protection under the Clause in the JRS pension benefit formula for their

proportional retirement annuity under the Reciprocal Act when Plaintiffs first joined their reciprocal retirement systems (SURS and CCFP) in 1997 and 2005, respectively.

At the time of Plaintiffs' initial membership in 1997 and 2005, JRS' Article of the Pension Code did not condition the higher benefit formula then in effect on the person "first serv[ing] as a judge" before January 1, 2011.<sup>9</sup> At that time, Section 18-125 of the JRS' Article of the Code, in particular, provided that the pensionable salary "for a participant who *terminates service on or after* the effective date of this amendatory Act of 1995 [which was July 14, 1995],"<sup>10</sup> would be the greater of the participant's salary on their last day of service or the highest salary received for at least 4 consecutive years. 40 ILCS 5/18-125 as of 1997 and 2005. Plaintiffs undoubtedly met the criteria found in Section 18-125 when they joined by *terminating* their judicial service *after* July 14, 1995.

The requirement to first be a judge before January 1, 2011, was added by the Tier 2 law as a new condition that did not exist when Plaintiffs first became "employees" of reciprocal systems under the Reciprocal Act in 1997 and 2005, respectively. *See e.g.*, 40 ILCS 5/18-125 as amended by Public Act 96-889. The Clause, however, unmistakably bars the legislature from imposing new

---

<sup>9</sup> See SUAA Amicus Brief Exhibit 1 (Illinois Statutes Annotated 1997: 40 ILCS 5/18-124; 40 ILCS 5/18-125; 40 ILCS 5/18-125.1; 40 ILCS 5/18-127; 40 ILCS 5/18-127; 40 ILCS 5/18-128.01; 40 ILCS 5/18-157); SUAA Amicus Brief Exhibit 2 (Illinois Statutes Annotated 2005: 40 ILCS 5/18-124; 40 ILCS 5/18-125; 40 ILCS 5/18-125.1; 40 ILCS 5/18-127; 40 ILCS 5/18-127; 40 ILCS 5/18-128.01; 40 ILCS 5/18-157).

<sup>10</sup> Section 5/18-125(b) was amended by the General Assembly in 1995 via Public Act 89-136. 1995 Ill. Laws. 2085, 2118-119. Public Act 89-136 added subsection (b)(5) to Section 18-125 to provide that the "final average salary shall be: \* \* \* (5) for a participant who terminates service *on or after the effective date of this amendatory Act of 1995*, the salary on the last day of employment as a judge, or the highest salary received by the participant for employment as a judge in a position held by the participant for at least 4 consecutive years, whichever is greater." *Id.* Public Act 89-136 was the "amendatory Act of 1995," and its effective date was July 14, 1995. 1995 Ill. Laws. 2120. Public Act 89-136 is set forth in SUAA Amicus Brief Exhibit 3.

limitations or requirements on receiving public pension benefits that did not exist when the employee joined the pension system. *Williamson County*, at ¶ 47. Accordingly, JRS' application of the Tier 2 law to Plaintiffs constitutes an unconstitutional new condition that diminishes their pension benefits under the Clause. For these reasons, this Court should declare the Tier 2 law invalid as it applies to Plaintiffs and other similarly situated persons.

### **III. The Judges Retirement System's Decisions Violate the Pension Clause and Contradict Illinois Court Precedent.**

JRS, of course, takes a different view in its decisions at issue in this proceeding. JRS contends that only when Plaintiffs begin participation in a particular reciprocal system do they secure "vested" protection in the benefit formula in effect for that particular system under the Clause. Complaint Exhibit 10 at 3-5 (JRS Kievlan Decision); Complaint Exhibit 11 at 4-6 (JRS Toller Decision). Under that reasoning, Plaintiffs only secured constitutional protection in JRS' Tier 2 benefit formula because they did not begin their judicial service and participate in JRS until after January 1, 2011. *Id.* As JRS put it, when the Tier 2 law was passed, Plaintiffs "had not attained credit in" or were "not a participant under JRS, such that [their] right to JRS benefits had not yet accrued." *Id.*

To support its conclusion, JRS relies on the Illinois Supreme Court's decision in *Matthews v. Chicago Transit Authority*, 2016 IL 117638, and a 1979 Illinois Attorney General opinion. See Complaint Exhibit 10 at 3-5 (JRS Kievlan Decision); Complaint Exhibit 11 at 4-6 (JRS Toller Decision). JRS' reliance on the *Matthews* decision and the 1979 Illinois Attorney General opinion is misplaced and unavailing for the reasons below.

*First*, JRS cites the *Matthews* decision for the proposition that "in the context of the pension protection clause, a right is not said to be 'vested' if all the necessary qualifications and obligations for enjoyment of the right have not been fulfilled." Complaint Exhibit 10 at 4 (JRS Kievlan

Decision); Complaint Exhibit 11 at 5 (JRS Toller Decision). JRS' claim is incorrect. While it is true the *Matthews* decision does describe this as one connotation of the term "vested," the Supreme Court discussed this and other connotations in the context of whether retiree healthcare rights provided under a public sector collective bargaining agreement were considered "vested" and survived the expiration of that agreement for retirees. *Matthews*, 2016 IL 117638, ¶¶80-89.

Those are not the circumstances in this matter, which involves a straightforward application of the rule also noted in *Matthews* that "the contractual relationship protected by Section 5 of Article XIII is governed by the actual terms of the contract or pension plan in effect at the time the employee becomes a member of the retirement system." *Id.* ¶ 59. Or, as the Supreme Court more recently explained, the Pension Clause "did create one very simple *de facto* vesting rule: Public employees' rights to benefits are constitutionally protected when they begin their jobs." *Williamson County Bd. of Comm'rs v. IMRF*, 2020 IL 125330 ¶41.

Here, again, Plaintiffs' membership in the pension system began in 1997 and 2005, respectively, when they first joined one of the reciprocal systems under the Reciprocal Act, thus securing "vested" Pension Clause protection in the benefit formula in effect in each reciprocal system at that time. See *Thompson v. Retirement Bd. of Policemen's Annuity and Benefit Fd. of Chicago*, 379 Ill.App.3d 498, 505 (1st 2008) ("Pension rights vest when a person enters the pension system or when the Illinois Constitution of 1970 became effective in 1971, whichever is later.").

*Second*, JRS relies on a 1979 Illinois Attorney General opinion to support its conclusion that the possibility of Plaintiffs "serving as a judge at some point in the future does not establish an earned right to Tier 1 JRS benefits because such service is merely speculative." See Complaint Exhibit 10 at 5 (JRS Kievlan Decision); Complaint Exhibit 11 at 6 (JRS Toller Decision). That

opinion has been superseded by subsequent Illinois court decisions interpreting the scope of the Pension Clause.

As noted above, the Illinois Supreme Court has held that the Clause protects all of the benefits found in the Pension Code and other statutes that are “limited to, conditioned on, and flow directly from membership in one of the State’s various public pension systems.” *Kanerva*, 2014 IL 115585, ¶39. These benefits are, in turn, “vested” for purposes of Pension Clause protection when a person joins the pension system per the Clause’s “*de facto* vesting rule.” *Williamson County*, 2020 IL 125330, ¶41. As such, the General Assembly cannot unilaterally and adversely modify or repeal these benefits, including by reducing the value of retirement annuities, after a person becomes a member. *Id.* at ¶41; *In re Pension Reform Litigation*, 2015 IL 118585, ¶47 (finding that the Clause bars the legislature from unilaterally reducing the value of retirement annuities through legislation passed after a person’s membership began).

*Finally*, there is no merit to JRS’ claim that Section 20-115 of the Code dictates that Plaintiffs only secured constitutional protection in JRS’ Tier 2 benefit formula because they did not begin their judicial service and participate in JRS until after January 1, 2011. See Complaint Exhibit 10 at 4 (JRS Kievlan Decision) (citing Section 20-115); Complaint Exhibit 11 at 5 (JRS Toller Decision) (citing Section 20-115). As discussed earlier, the actual terms of Section 20-115 or any other provision of the Reciprocal Act do not support this view. The most plausible reading of the Retirement Systems Reciprocal Act based on its text and purpose is that Plaintiffs’ proportional retirement annuity is calculated according to the benefit formula in effect when they joined their first reciprocal systems. *Supra* at 9-12.

As a result, JRS’ contention only has merit if one accepts the proposition that Section 20-115 impliedly requires Plaintiffs to first become members of JRS before they secure any

constitutional protection in JRS' benefit formula. Even if that proposition were correct, it could not overcome the Pension Clause's *de facto* vesting rule based on Section 9 of the Transition Schedule of the 1970 Illinois Constitution.

Section 9 of the Transition Schedule of the 1970 Illinois Constitution provides in pertinent part that "[a]ll laws, \*\*\* not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution." Ill. Const. 1970, Transition Schedule § 9. Simply put, Section 9 of the Transition Schedule supersedes any statutes in effect prior to the ratification of the Illinois Constitution that conflict with the Constitution's new provisions. *Kannellos v. County of Cook*, 53 Ill.2d 161, 166-67 (1972).

The Illinois Supreme Court has applied Section 9 of the Transition Schedule to supersede provisions of the Pension Code that pre-date the adoption of the Illinois Constitution that are inconsistent with the Pension Clause. See *Jones v. Municipal Employees' Annuity and Benefit Fund of Chicago*, 2016 IL 119618, ¶¶42-46. The Reciprocal Act predates the adoption of the Illinois Constitution as it was enacted in 1963. 1963 Ill. Laws. 690-97.

As shown above, for a person joining a reciprocal pension system under the Reciprocal Act, the operative date securing their constitutionally-protected benefits under the Pension Clause's *de facto* vesting rule is when they joined their first reciprocal system. The Act plainly links that person as an "employee" to each of the 12 other reciprocal systems at the time they joined their first reciprocal system. 40 ILCS 5/20-104; 40 ILCS 5-20-129. Therefore, any implied requirement contained in the Reciprocal Act to the contrary would conflict with the Clause's *de facto* vesting rule and is superseded by that rule pursuant to Section 9 of the Illinois Constitution's Transition Schedule. See *Jones*, 2016 IL 119618, ¶¶42-46 (invalidating Section 22-403 of the

Code to the extent it was inconsistent with the Clause’s mandate that public employers are obligated to pay employees the pension benefits they are due).

If the General Assembly wanted to overcome the Clause’s *de facto* vesting rule in this case, it would have had to amend the Reciprocal Act after the Pension Clause took effect on July 1, 1971, to include clear language informing “employees” under the Act that they were intentionally waiving their right to the *de facto* vesting rule if they chose a proportional retirement annuity under the Act. See *People v. McClanahan*, 191 Ill.2d 127, 137 (2000) (“waivers [of constitutional or statutory rights] must be not only be voluntary, but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences.”). No such clear and unmistakable language, however, is contained in the Reciprocal Act. *Id.*

### CONCLUSION

For these reasons, *Amicus Curiae* SUAA respectfully requests that this Court declare the Tier 2 law invalid under the Pension Clause with respect to Plaintiffs and other similarly situated persons. *Amicus Curiae* SUAA also respectfully requests that this Court remand this matter to the Judges Retirement System to recalculate Plaintiffs respective proportional retirement annuities under the Reciprocal Act for their judicial service based on the benefit formula in effect under Article 18 of the Illinois Pension Code when Plaintiffs joined SURS and CCPF in 1997 and 2005, respectively.

Respectfully submitted,

By:           /s/ Eric M. Madiar            
*Counsel for the proposed Amicus Curiae*

Eric M. Madiar  
Madiar Government Relations, LLC  
217 South Third Street, Suite 101  
Springfield, IL 62704  
(217) 691-6374 (cell)  
ARDC #6273355  
emadiar@madiar.com

**SUAA AMICUS BRIEF  
EXHIBIT 1**

## Illinois Statutes Annotated - 1997

40 ILCS 5/18-124

WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED

CHAPTER 40. PENSIONS

ACT 5. ILLINOIS PENSION CODE

ARTICLE 18. JUDGES RETIREMENT SYSTEM OF ILLINOIS

5/18-124. Retirement annuities—Conditions for eligibility

§ 18-124. Retirement annuities—conditions for eligibility. A participant whose employment as a judge is terminated, regardless of age or cause is entitled to a retirement annuity beginning on the date specified in a written application subject to the following:

(1) the date the annuity begins is subsequent to the date of final termination of employment, or the date 30 days prior to the receipt of the application by the board for annuities based on disability, or one year before the receipt of the application by the board for annuities based on attained age;

(2) the participant is at least age 55, or has become permanently disabled and as a consequence is unable to perform the duties of his or her office;

(3) the participant has at least 10 years of service credit except that a participant terminating service after June 30, 1975, with at least 6 years of service credit, shall be entitled to a retirement annuity at age 62 or over;

(4) the participant is not receiving or entitled to receive, at the date of retirement, any salary from an employer for service currently performed.

### CREDIT(S)

1993 Main Volume

Laws 1963, p. 161, § 18-124, eff. July 1, 1963. Amended by Laws 1967, p. 714, § 1, eff. July 1, 1967; P.A. 77-1449, § 1, eff. Sept. 2, 1971; P.A. 79-379, § 1, eff. Aug. 13, 1975; P.A. 80-653, § 1, eff. Oct. 1, 1977; P.A. 81-948, § 1, eff. Sept. 22, 1979; P.A. 83-1440, § 1, eff. Jan. 1, 1985.

### FORMER REVISED STATUTES CITATION

1993 Main Volume

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-124.

### HISTORICAL AND STATUTORY NOTES

The 1967 amendment added a paragraph which read:

“Effective July 1, 1967, the minimum service credit for a retirement annuity in the case of any participant shall be 10 years.”

P.A. 77-1449 decreased the age requirement to 55 from 60.

P.A. 79-379 added the proviso to the final paragraph (see note for P.A. 81-948).

P.A. 80-653, in subpar. (1), added “in case of annuities based on disability or one year before the receipt of the application by the board in the case of annuities based on attained age”.

P.A. 81-948 substituted “10” for “12” and inserted “provided that a participant who terminates service on or after July 1, 1975, having at least 6 years of service, shall be entitled to a retirement annuity at age 62 or over”, both in subpar. (3), and deleted the final paragraph, which prior thereto read:

“Effective July 1, 1967, the minimum service credit for a retirement annuity in the case of any participant shall be 10 years; provided that a participant who terminates service on or after July 1, 1975, having at least 6 years of service, shall be entitled to a retirement annuity at age 62 or over.”

P.A. 83-1440 substituted gender neutral for gender specific references; deleted gender specific references; in the introductory paragraph, following “age or cause”, deleted “at the time”; following “specified”, deleted “by him”; substituted “subject to the following” for “therefor, provided”; in subpar. (1), substituted “subsequent” for “not prior”; substituted “for” for “in case of” and “in the case of”; in subpar. (3), substituted “except” for “provided”; substituted “terminating” for “who terminates”; substituted “after June 30, 1975, with” for “on or after July 1, 1975, having”; and inserted “credit”.

Prior Laws:

Laws 1941, vol. 1, p. 527, § 5.1.

Laws 1951, p. 205, § 1.

Laws 1953, p. 8, § 1.

Laws 1953, p. 1161, § 1.

Laws 1955, p. 1737, § 1.

Laws 1957, p. 2216, § 1.

Ill.Rev.Stat.1961, ch. 37, ¶ 441.9.

#### LIBRARY REFERENCES

Judges ~~§ 85~~ 22(11).

WESTLAW Topic No. 227.

C.J.S. Judges § 85.

#### NOTES OF DECISIONS

##### In general 1

##### 1. In general

Former county judge, otherwise eligible for pension, could not draw a pension while receiving salary form state funds for services as assistant attorney general. *Peacock v. Judges Retirement System of Ill.*, 1957, 10 Ill.2d 498, 140 N.E.2d 684.

---

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

## Illinois Statutes Annotated - 1997

40 ILCS 5/18-125

WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED

CHAPTER 40. PENSIONS

ACT 5. ILLINOIS PENSION CODE

ARTICLE 18. JUDGES RETIREMENT SYSTEM OF ILLINOIS

5/18-125. Retirement annuity amount

§ 18-125. Retirement annuity amount.

(a) The annual retirement annuity for a participant who terminated service as a judge prior to July 1, 1971 shall be based on the law in effect at the time of termination of service.

(b) Effective July 1, 1971, the retirement annuity for any participant in service on or after such date shall be 3½% of final average salary, as defined in this Section, for each of the first 10 years of service, and 5% of such final average salary for each year of service on excess of 10.

For purposes of this Section, final average salary shall be:

(1) the average salary for the last 4 years of credited service as a judge for a participant who terminates service before July 1, 1975.

(2) for a participant who terminates service after June 30, 1975 and before July 1, 1982, the salary on the last day of employment as a judge.

(3) for any participant who terminates service after June 30, 1982 and before January 1, 1990, the average salary for the final year of service as a judge.

(4) for a participant who terminates service on or after January 1, 1990 but before the effective date of this amendatory Act of 1995, the salary on the last day of employment as a judge.

(5) for a participant who terminates service on or after the effective date of this amendatory Act of 1995, the salary on the last day of employment as a judge, or the highest salary received by the participant for employment as a judge in a position held by the participant for at least 4 consecutive years, whichever is greater.

However, in the case of a participant who elects to discontinue contributions as provided in Section 18-133, the time of such election shall be considered the last day of employment in the determination of final average salary under this subsection.

The maximum retirement annuity for any participant shall be 85% of final average salary.

(c) The retirement annuity for a participant who retires prior to age 60 with less than 28 years of service in the System shall be reduced ½ of 1% for each month the participant's age is under 60 years at the time the annuity commences. The reduction shall not apply in the case of retirement on account of disability.

CREDIT(S)

1993 Main Volume

Laws 1963, p. 161, § 18-125, eff. July 1, 1963. Amended by Laws 1965, p. 3088, § 1, eff. Aug. 17, 1965; Laws 1967, p. 714, § 1, eff. July 1, 1967; P.A. 77-1449, § 1, eff. Sept. 2, 1971; P.A. 78-1150, § 1, eff. Aug. 27, 1974; P.A. 79-379, § 1, eff. Aug. 13, 1975; P.A. 81-948, § 1, eff. Sept. 22, 1979; P.A. 82-768, § 1, eff. Jan. 1, 1983; P.A. 83-1440, § 1, eff. Jan. 1, 1985; P.A. 86-273, § 1, eff. Aug. 23, 1989; P.A. 87-794, § 1, eff. Nov. 19, 1991.

1997 Electronic Pocket Part Update

Amended by P.A. 89-136, § 15, eff. July 14, 1995.

FORMER REVISED STATUTES CITATION

1993 Main Volume

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-125.

HISTORICAL AND STATUTORY NOTES

As originally enacted the section read:

“The annual retirement annuity for a judge who became a participant prior to December 1, 1957, shall be 25%, plus  $\frac{25}{72}$  of 1% for each month of service credit in excess of 12 years, of the average annual rate of salary applicable to him during his last 4 years of employment as a judge. However, for a person becoming a participant after January 1, 1954, the average annual rate shall be that applicable to him during the last 18 years of contributing service or during the total amount of contributing service if the total service is less than 18 years. The annuity shall not exceed 50% of the applicable salary.

“The annual retirement annuity for a judge who becomes a participant after November 30, 1957, shall be 25%, plus 2½% for each year of service credit in excess of 12 years, of the average annual rate of salary for the last 18 years of service but not in excess of 60% of such average annual rate of salary.”

The 1965 amendment rewrote the section to read:

“(a) The annual retirement annuity for a judge who became a participant prior to January 2, 1954, shall be 25%, plus  $\frac{25}{72}$  of 1% for each month of service credit in excess of 12 years, of the average annual rate of salary applicable to him during his last 4 years of employment as a judge. The annuity shall not exceed 50% of the applicable salary.

“(b) The annual retirement annuity for a judge who became a participant on or after January 2, 1954 and prior to December 1, 1957 shall be 25% for the first 12 years of service credit, plus  $4\frac{1}{6}$ % for each year of service in excess of 12 years up to 18 years of service, based upon the average annual rate of salary applicable to the judge during the last 18 years of service or during the total amount of contributing service if total service is less than 18 years, subject to a maximum annuity of 50% of such average salary; provided that any such judge may, at his option, elect to contribute 7½% of salary for retirement annuity, instead of 5% as herein provided, and have his retirement annuity computed upon the basis of his average annual rate of salary for the last 6 years of service together with an increment in the retirement annuity at the rate of 1¼% for each year of service above 18 years based upon the average annual rate of salary for the last 6 years of service, subject to a maximum retirement annuity of 60% of such average salary. Such option must be exercised by the judge on or before December 31, 1965.

“(c) The annual retirement annuity for a judge who becomes a participant after November 30, 1957, shall be 25%, plus 2½% for each year of service credit in excess of 12 years, of the average annual rate of salary for the last 6 years of service but not in excess of 60% of such average annual rate of salary.

“(d) The annual retirement annuity for any participant shall be prorated according to the foregoing rates, whichever apply, for any period of service credit which is less than a full year.”

The 1967 amendment inserted a subpar. (d) which read:

“Effective July 1, 1967, the retirement annuity for any participant shall be 2½% for each of the first 10 years of service, and 5% for each year of service above 10 years based upon the average salary for the last 4 years of credited service. The maximum

retirement annuity for any participant shall be 75% of such average salary. The rates prescribed in this paragraph shall be applicable to any participant from and after the aforesaid date.”

P.A. 77-1449, in subpar. (d), substituted “1971” for “1967”, “in service on or after such date shall be 3½%” for “shall be 2½%”, “85%” for “75%”; and added a proviso which read, “provided that the retirement annuity payable to a participant whose retirement occurs prior to the attainment of age 60, except for disability, shall be reduced ½ of 1% for each month the participant's age is under 60 years”.

P.A. 78-1150, in subpar. (d), following “4 years of credited service”, inserted “as a judge; provided, that when a participant elects to discontinue contributions as provided in Section 127, that the salary in effect at the time of such election shall be considered the final salary for purposes of annuity computations made under this subsection.”

P.A. 79-379, in subd. (d), inserted the first proviso relating to July 1, 1975 (see note for P.A. 83-1440).

P.A. 81-948, in subd. (d), substituted “18-127” for “127” and inserted “with at least 10 years of service” (see note for P.A. 83-1440).

P.A. 82-768 added the last two paragraphs to subd. (d) (see note for P.A. 83-1440).

P.A. 83-1440 rewrote the section which prior thereto read:

“(a) The annual retirement annuity for a judge who became a participant prior to January 2, 1954, shall be 25%, plus  $\frac{25}{72}$  of 1% for each month of service credit in excess of 12 years, of the average annual rate of salary applicable to him during his last 4 years of employment as a judge. The annuity shall not exceed 50% of the applicable salary.

“(b) The annual retirement annuity for a judge who became a participant on or after January 2, 1954 and prior to December 1, 1957 shall be 25% for the first 12 years of service credit, plus  $4\frac{1}{6}$ % for each year of service in excess of 12 years up to 18 years of service, based upon the average annual rate of salary applicable to the judge during the last 18 years of service or during the total amount of contributing service if total service is less than 18 years, subject to a maximum annuity of 50% of such average salary; provided that any such judge may, at his option, elect to contribute 7½% of salary for retirement annuity, instead of 5% as herein provided, and have his retirement annuity computed upon the basis of his average annual rate of salary for the last 6 years of service together with an increment in the retirement annuity at the rate of 1¼% for each year of service above 18 years based upon the average annual rate of salary for the last 6 years of service, subject to a maximum retirement annuity of 60% of such average salary. Such option must be exercised by the judge on or before December 31, 1965.

“(c) The annual retirement annuity for a judge who becomes a participant after November 30, 1957, shall be 25%, plus 2½% for each year of service credit in excess of 12 years, of the average annual rate of salary for the last 6 years of service but not in excess of 60% of such average annual rate of salary.

“(d) Effective July 1, 1971, the retirement annuity for any participant in service on or after such date shall be 3½% for each of the first 10 years of service, and 5% for each year of service above 10 years based upon the average salary for the last 4 years of credited service as a judge; provided, that effective July 1, 1975, the salary base to be used for the computation of a retirement annuity for any participant in service on or after such date shall be the salary on the last day of employment as a judge, and provided further, that when a participant elects to discontinue contributions as provided in Section 18-127, that the salary in effect at the time of such election shall be considered the final salary for purposes of annuity computations made under this subsection. The maximum retirement annuity for any participant shall be 85% of such average salary. The rates prescribed in this paragraph shall be applicable to any participant from and after the aforesaid date, provided that the retirement annuity payable to a participant whose retirement occurs prior to the attainment of age 60 with at least 10 years of service, except for disability, shall be reduced ½ of 1% for each month the participant's age is under 60 years.

“Effective July 1, 1982 the salary base to be used for the computation of a retirement annuity for any participant in service on or after such date shall be the average salary for the final year of service as a judge.

“If a participant elects to discontinue contributions as provided in Section 18-127, the time of such election shall be considered the time of retirement for purposes of annuity computations made under this subsection.

“(e) The annual retirement annuity for any participant shall be prorated according to the foregoing rates, whichever apply, for any period of service credit which is less than a full year.”

P.A. 86-273 rewrote the second paragraph of subd. (b) which formerly provided:

“For purposes of this Section, final average salary shall be the average salary for the last 4 years of credited service as a judge for a participant who terminates service before July 1, 1975. For a participant in service after June 30, 1975, final average salary shall be the salary on the last day of employment as a judge. Effective July 1, 1982, final average salary for any participant in service on or after such date shall be the average salary for the final year of service as a judge. However, in the case of a participant who elects to discontinue contributions as provided in Section 18-133, the time of such election shall be considered the last day of employment in the determination of final average salary under this subsection.”

P.A. 87-794, in the subdivision relating to the retirement annuity for a participant who retires prior to age 60, substituted “less than 28 years of service in the System” for “at least 10 years of service”.

P.A. 89-136, in subsec. (b)(4), inserted “but before the effective date of this amendatory Act of 1995”; and added subsec. (b)(5).

Prior Laws:

Laws 1941, vol. 1, p. 527, § 5.1.  
Laws 1951, p. 205, § 1.  
Laws 1953, p. 8, § 1.  
Laws 1953, p. 1161, § 1.  
Laws 1955, p. 1737, § 1.  
Laws 1957, p. 2216, § 1.  
Ill.Rev.Stat.1961, ch. 37, ¶ 441.9.

NOTES OF DECISIONS

In general 2

Validity 1

1. Validity

Amendment to Pension Code [S.H.A. ch. 108½, ¶ 18-125], changing salary base used to compute annuity from salary of judge on final day of service to average salary over last year in service, effected reduction or impairment in retirement benefits of members of judicial retirement system at time of effective date of amendment, in violation of State Constitution, and was an unconstitutional impairment of contract. *Felt v. Board of Trustees of Judges Retirement System*, 1985, 89 Ill.Dec. 855, 107 Ill.2d 158, 481 N.E.2d 698.

2. In general

Under provision of present Retirement Systems Reciprocal Act (¶ 20-117 of former chapter 108½), a judge upon retirement receives no more than the 85 percent that he is entitled to under Illinois Judges Retirement System with refund of contribution to another fund whose credits are not used, and thus there was no basis in dissolution proceeding for raising present value of husband's IJRS pension by reference to so-called conversion rights which allegedly allowed husband to substantially increase

present value of his interest in IJRS by transferring years of service under county pension fund. In re Marriage of Bentivenga, App. 2 Dist.1982, 65 Ill.Dec. 423, 109 Ill.App.3d 967, 441 N.E.2d 336.

---

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

## Illinois Statutes Annotated - 1997

40 ILCS 5/18-125.1

WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED

CHAPTER 40. PENSIONS

ACT 5. ILLINOIS PENSION CODE

ARTICLE 18. JUDGES RETIREMENT SYSTEM OF ILLINOIS

### 5/18-125.1. Automatic increase in retirement annuity

§ 18-125.1. Automatic increase in retirement annuity. A participant who retires from service after June 30, 1969, shall, in January of the year next following the year in which the first anniversary of retirement occurs, and in January of each year thereafter, have the amount of his or her originally granted retirement annuity increased as follows: for each year up to and including 1971, 1½%; for each year from 1972 through 1979 inclusive, 2%; and for 1980 and each year thereafter, 3%.

This Section is not applicable to a participant who retires before he or she has made contributions at the rate prescribed in Section 18-133 for automatic increases for not less than the equivalent of one full year, unless such a participant arranges to pay the system the amount required to bring the total contributions for the automatic increase to the equivalent of one year's contribution based upon his or her last year's salary.

This Section is applicable to all participants in service after June 30, 1969 unless a participant has elected, prior to September 1, 1969, in a written direction filed with the board not to be subject to the provisions of this Section. Any participant in service on or after July 1, 1992 shall have the option of electing prior to April 1, 1993, in a written direction filed with the board, to be covered by the provisions of the 1969 amendatory Act. Such participant shall be required to make the aforesaid additional contributions with compound interest at 4% per annum.

Any participant who has become eligible to receive the maximum rate of annuity and who resumes service as a judge after receiving a retirement annuity under this Article shall have the amount of his or her retirement annuity increased by 3% of the originally granted annuity amount for each year of such resumed service, beginning in January of the year next following the date of such resumed service, upon subsequent termination of such resumed service.

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 previous increases granted under this Article.

CREDIT(S)

1993 Main Volume

Laws 1963, p. 161, § 18-125.1, added by P.A. 76-745, § 1, eff. Aug. 15, 1969. Amended by P.A. 77-1449, § 1, eff. Sept. 2, 1971; P.A. 78-784, § 1, eff. Oct. 1, 1973; P.A. 78-1150, § 1, eff. Aug. 27, 1974; P.A. 78-1297, § 58, eff. March 4, 1975; P.A. 80-1343, § 1, eff. Oct. 1, 1978; P.A. 81-453, § 1, eff. Jan. 1, 1980; P.A. 81-1187, § 1, eff. Jan. 1, 1981; P.A. 81-1509, Art. I, § 62, eff. Sept. 26, 1980; P.A. 81-1536, § 1, eff. Jan. 1, 1981; P.A. 82-960, § 1, eff. Aug. 25, 1982; P.A. 83-1440, § 1, eff. Jan. 1, 1985; P.A. 84-1472, § 1, eff. Jan. 23, 1987; P.A. 86-273, § 1, eff. Aug. 23, 1989.

1997 Electronic Pocket Part Update

Amended by P.A. 87-1265, § 1, eff. Jan. 25, 1993.

FORMER REVISED STATUTES CITATION

1993 Main Volume

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-125.1.

HISTORICAL AND STATUTORY NOTES

P.A. 77-1449, in the first paragraph, substituted “provided that beginning January 1, 1972, the rate of increase shall be 2% per year” for “up to a maximum increase of 30% over a period of 20 years”; in provisions now contained in the third paragraph, preceding “July 1, 1969”, inserted “or after”; preceding “unless a participant”, inserted “and only to the retirement annuity”; and added the sentences relating to election options for participants in service on or after July 1, 1971.

Both P.A. 78-784 and P.A. 78-1150, in the former last paragraph, substituted “July 1, 1973” for “July 1, 1971” and “January 1, 1974” for “January 1, 1972”.

The 1974 Revisory Act, P.A. 78-1297, § 58, provided:

“Each of the several sections of Acts enumerated in this Section were amended by more than one Act of the 78th General Assembly but the Public Act specified with reference to each such Section incorporates in one form the text of that Section as marked by those several amendatory Acts.”

P.A. 80-1343 substituted “1978” for “1973” and “1979” for “1974” in the second sentence of the former last paragraph.

P.A. 81-453 added to the first paragraph “and provided further that effective as of January 1, 1980, the rate of increase shall be 3% per year.”

P.A. 81-1187 substituted “who retires before contributions have been made by him or on his behalf” for “who retires before he as made contributions” in the first sentence of the second paragraph.

Art. I, § 1 of P.A. 81-1509 provided in part:

“This Article provides for the nonsubstantive revision or renumbering or repeal of Sections of Acts necessitated by the amendment, addition or repeal of Sections by two or more Public Acts of the 81st General Assembly, through Public Act 81-1224, which multiple action was not resolved by one of the Acts affecting the particular Section.”

P.A. 81-1536 in the first sentence of the second paragraph substituted “he has made contributions” for “contributions have been made by him or on his behalf”.

P.A. 82-960, in the second sentence of the former last paragraph, substituted “1982” for “1978” and “1983” for “1979”.

P.A. 83-1440 rewrote the section which prior thereto read:

“A participant who retires from service after June 30, 1969, shall, in the month of January of the year next following the year in which the first anniversary of retirement occurs, have the amount of his then fixed retirement annuity, payable monthly, increased by 1½%, and such fixed retirement annuity as granted at retirement increased by a further 1½% in January of each year thereafter provided that beginning January 1, 1972, the rate of increase shall be 2% per year; and provided further that effective as of January 1, 1980, the rate of increase shall be 3% per year.

“The foregoing provision is not applicable to any member who retires before he has made contributions (at the rate of 1% as hereinafter provided in Section 18-133) for this additional annuity for not less than the equivalent of 1 full year. Such participant shall make arrangements to pay to the system a balance of such contributions based upon his last salary as will bring the 1% contributions, computed without interest, to the equivalent of or completion of 1 year's contributions.

“Beginning July 1, 1969, in addition to the rates of contribution prescribed in Section 18-133, each participant shall contribute 1% towards the automatic increase in retirement annuity provided in this Section. This contribution shall be made concurrently with contributions otherwise made for annuity purposes. Each such additional contribution shall be credited in an account entitled ‘automatic annuity increase reserve’ to be used together with equivalent State contributions to defray the cost of the

specified annuity increments. Any balance in such reserve as of the beginning of each fiscal year shall be credited with interest at 4% per annum.

“The provisions of this Section shall be fully applicable to all participants in service on or after July 1, 1969, and only to the retirement annuity, unless a participant elects prior to September 1, 1969, in a written direction filed with the board not to be subject to the provisions thereof. Any participant in service on or after July 1, 1982 shall have the option of electing prior to January 1, 1983, in a written direction filed with the board, to be covered by the provisions of the 1969 amendatory Act. Such participant shall be required to make the aforesaid additional contributions with compound interest at 4% per annum.”

P.A. 84-1472 substituted “July 1, 1986” for “July 1, 1982” and “April 1, 1987” for “January 1, 1983”; and added the paragraph for retirement annuity increases for years of resumed service.

P.A. 86-273 added the last paragraph.

P.A. 87-1265, in the third paragraph, substituted “July 1, 1992” for “July 1, 1986”, and substituted “April 1, 1993” for “April 1, 1987” in the second sentence.

#### NOTES OF DECISIONS

##### Construction and application 1

###### 1. Construction and application

Automatic increase in judge's retirement annuities was not applicable to annuity granted judge's widow under provisions of the Judges Retirement Act. *Corcoran v. Judges Retirement System of Ill.*, App.1972, 6 Ill.App.3d 229, 285 N.E.2d 557.

Decision of the board of trustees of the judges retirement system that judge's widow was not entitled to “automatic increase” in her annuity was an exercise of power within scope of statutory grant. *Corcoran v. Judges Retirement System of Ill.*, App.1972, 6 Ill.App.3d 229, 285 N.E.2d 557.

## Illinois Statutes Annotated - 1997

40 ILCS 5/18-127

WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED

CHAPTER 40. PENSIONS

ACT 5. ILLINOIS PENSION CODE

ARTICLE 18. JUDGES RETIREMENT SYSTEM OF ILLINOIS

5/18-127. Retirement annuity—Suspension on reemployment

§ 18-127. Retirement annuity—suspension on reemployment.

(a) A participant receiving a retirement annuity who is regularly employed for compensation by an employer other than a county, in any capacity, shall have his or her retirement annuity payments suspended during such employment. Upon termination of such employment, retirement annuity payments at the previous rate shall be resumed.

If such a participant resumes service as a judge, he or she shall receive credit for any additional service. Upon subsequent retirement, his or her retirement annuity shall be the amount previously granted, plus the amount earned by the additional judicial service under the provisions in effect during the period of such additional service. However, if the participant was receiving the maximum rate of annuity at the time of re-employment, he or she may elect, in a written direction filed with the board, not to receive any additional service credit during the period of re-employment. In such case, contributions shall not be required during the period of re-employment. Any such election shall be irrevocable.

(b) Beginning January 1, 1991, any participant receiving a retirement annuity who accepts temporary employment from an employer other than a county for a period not exceeding 75 working days in any calendar year shall not be deemed to be regularly employed for compensation or to have resumed service as a judge for the purposes of this Article. A day shall be considered a working day if the annuitant performs on it any of his duties under the temporary employment agreement.

(c) Except as provided in subsection (a), beginning January 1, 1993, retirement annuities shall not be subject to suspension upon resumption of employment for an employer, and any retirement annuity that is then so suspended shall be reinstated on that date.

(d) The changes made in this Section by this amendatory Act of 1993 shall apply to judges no longer in service on its effective date, as well as to judges serving on or after that date.

CREDIT(S)

1993 Main Volume

Laws 1963, p. 161, § 18-127, eff. July 1, 1963. Amended by Laws 1963, p. 2034, § 1, eff. July 25, 1963; P.A. 77-1449, § 1, eff. Sept. 2, 1971; P.A. 78-1150, § 1, eff. Aug. 27, 1974; P.A. 82-342, § 1, eff. Jan. 1, 1982; P.A. 83-1440, § 1, eff. Jan. 1, 1985; P.A. 86-1488, § 1, eff. Jan. 14, 1991.

1997 Electronic Pocket Part Update

Amended by P.A. 87-1265, § 1, eff. Jan. 25, 1993.

FORMER REVISED STATUTES CITATION

1993 Main Volume

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-127.

HISTORICAL AND STATUTORY NOTES

The 1963 amendment made clerical corrections.

P.A. 77-1449 added the proviso to the first paragraph (see note for P.A. 83-1440).

P.A. 78-1150, in the proviso in the first paragraph (see note for P.A. 83-1440), inserted “or of any other person who continues to serve as a judge after becoming eligible to receive the maximum rate of annuity”; inserted “or continued employment”; and substituted “cases during reemployment or continued employment as a judge. Any such option elected by a judge shall be irrevocable” for “a case during reemployment”.

P.A. 82-342 deleted an exception from the first sentence which read, “except that in the case of a judge becoming a participant after November 30, 1957, suspension of the annuity shall also occur if such person is employed as a judge of any Court of the United States of America”; and added the second paragraph (see note for P.A. 83-1440).

P.A. 83-1440 rewrote the section which prior thereto read:

“Any person receiving a retirement annuity who is regularly employed for compensation by an employer, in any capacity, shall have his retirement annuity payments suspended during such employment. Annuity payments at the previous rate shall be resumed from the date of termination of such employment. If such person resumes service as a judge for an employer, he shall receive credit for additional service, and upon subsequent retirement, his retirement annuity shall be the amount previously granted, plus the amount earned by the additional judicial service under the provisions governing service during such additional service; provided, however, at the option of such person, or of any other person who continues to serve as a judge after becoming eligible to receive the maximum rate of annuity, in a written direction filed with the board, no such additional service credit shall accrue during reemployment or continued employment if such person was eligible to receive or was receiving the maximum rate of annuity prior to or at the time of reemployment or continued employment as a judge nor shall contributions to the retirement system be required in such cases during reemployment or continued employment as a judge. Any such option elected by a judge shall be irrevocable.

“This amendatory Act of 1981 applies to judges no longer in service on its effective date as well as to judges then serving. Payment of annuity to a judge whose benefits have been suspended by reason of employment as a judge of a court of the United States shall be resumed or commenced as of the effective date of this amendatory Act of 1981.”

P.A. 86-1488 inserted the subdivision providing that any participant receiving a retirement annuity who accepts temporary employment not exceeding seventy-five working days in any calendar year shall not be deemed to be regularly employed for compensation or to have resumed service.

P.A. 87-1265, in subsecs. (a) and (b), inserted the exceptions for county employees; inserted subsec. (c), relating to the termination of suspension of annuities; and redesignated former subsec. (c) as subsec. (d), and rewrote the subsection.

**Prior Laws:**

Laws 1941, vol. 1, p. 527, § 5.1.

Laws 1951, p. 205, § 1.

Laws 1953, p. 8, § 1.

Laws 1953, p. 1161, § 1.

Laws 1955, p. 1737, § 1.

Laws 1957, p. 2216, § 1.

Ill.Rev.Stat.1961, ch. 37, ¶ 441.9.

## Illinois Statutes Annotated - 1997

40 ILCS 5/18-128.01

WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED

CHAPTER 40. PENSIONS

ACT 5. ILLINOIS PENSION CODE

ARTICLE 18. JUDGES RETIREMENT SYSTEM OF ILLINOIS

5/18-128.01. Amount of survivor's annuity

§ 18-128.01. Amount of survivor's annuity. (a) Upon the death of an annuitant, his or her surviving spouse shall be entitled to a survivor's annuity of  $66\frac{2}{3}\%$  of the annuity the annuitant was receiving immediately prior to his or her death, inclusive of annual increases in the retirement annuity to the date of death.

(b) Upon the death of an active participant, his or her surviving spouse shall receive a survivor's annuity of  $66\frac{2}{3}\%$  of the annuity earned by the participant as of the date of his or her death, determined without regard to whether the participant had attained age 60 as of that time, or  $7\frac{1}{2}\%$  of the last salary of the decedent, whichever is greater.

(c) Upon the death of a participant who had terminated service with at least 10 years of service, his or her surviving spouse shall be entitled to a survivor's annuity of  $66\frac{2}{3}\%$  of the annuity earned by the deceased participant at the date of death.

(d) Upon the death of an annuitant, active participant, or participant who had terminated service with at least 10 years of service, each surviving child under the age of 18 or disabled as defined in Section 18-128 shall be entitled to a child's annuity in an amount equal to 5% of the decedent's final salary, not to exceed in total for all such children the greater of 20% of the decedent's last salary or  $66\frac{2}{3}\%$  of the annuity received or earned by the decedent as provided under subsections (a) and (b) of this Section. This child's annuity shall be paid whether or not a survivor's annuity was elected under Section 18-123.

(e) The changes made in the survivor's annuity provisions by Public Act 82-306 shall apply to the survivors of a deceased participant or annuitant whose death occurs on or after August 21, 1981.

(f) Beginning January 1, 1990, every survivor's annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity, or (2) in other cases, on each January 1 occurring on or after the first anniversary of the commencement of the annuity, by an amount equal to 3% of the current amount of the annuity, including any previous increases under this Article. Such increases shall apply without regard to whether the deceased member was in service on or after the effective date of this amendatory Act of 1991, but shall not accrue for any period prior to January 1, 1990.

### CREDIT(S)

1993 Main Volume

Laws 1963, p. 161, § 18-128.01, added by P.A. 83-1440, § 1, eff. Jan. 1, 1985. Amended by P.A. 86-273, § 1, eff. Aug. 23, 1989; P.A. 86-1488, § 1, eff. Jan. 14, 1991.

### FORMER REVISED STATUTES CITATION

1993 Main Volume

Formerly Ill.Rev.Stat.1991, ch. 108  $\frac{1}{2}$ , ¶ 18-128.01.

### HISTORICAL AND STATUTORY NOTES

Provisions relating to survivors' annuity amounts were formerly contained in 40 ILCS 5/18-128.

P.A. 86-273 added subd. (f).

P.A. 86-1488, in the subdivision added by P.A. 86-273, inserted "(1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity, or (2) in other cases", and added a sentence requiring increases to apply without regard to whether the deceased member was in service on or after the effective date of the amendatory Act of 1991.

LIBRARY REFERENCES

Judges ~~10~~22(11).

WESTLAW Topic No. 227.

C.J.S. Judges § 85.

---

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

## Illinois Statutes Annotated - 1997

40 ILCS 5/18-157

WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED

CHAPTER 40. PENSIONS

ACT 5. ILLINOIS PENSION CODE

ARTICLE 18. JUDGES RETIREMENT SYSTEM OF ILLINOIS

5/18-157. Retirement Systems Reciprocal Act

§ 18-157. Retirement Systems Reciprocal Act. The "Retirement Systems Reciprocal Act", being Article 20 of this Code, [FN1] is adopted and made a part of this Article; provided that Section 20-131 shall not apply to this system.

CREDIT(S)

1993 Main Volume

Laws 1963, p. 161, § 18-157, eff. July 1, 1963. Amended by P.A. 83-1440, § 1, eff. Jan. 1, 1985.

FORMER REVISED STATUTES CITATION

1993 Main Volume

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-157.

[FN1] 40 ILCS 5/20-101 et seq.

HISTORICAL AND STATUTORY NOTES

P.A. 83-1440 substituted "is adopted" for "as now enacted or hereafter amended, is hereby"; and substituted "20-131" for "20-122 of Article 20 of this Code".

**Prior Laws:**

Laws 1941, vol. 1, p. 527, § 5.3.

Laws 1955, p. 1432, § 1.

Laws 1961, p. 3108, § 1.

Ill.Rev.Stat.1961, ch. 37, ¶ 441.9b.

LIBRARY REFERENCES

Judges ~~22~~22(2), 22(11).

WESTLAW Topic No. 227.

C.J.S. Judges §§ 75, 77, 84, 85.

---

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

**SUAA AMICUS BRIEF  
EXHIBIT 2**

## Illinois Statutes Annotated - 2005

40 ILCS 5/18-124

West's Smith-hurd Illinois Compiled Statutes Annotated Currentness

Chapter 40. Pensions

Act 5. Illinois Pension Code

Article 18. Judges Retirement System of Illinois (Refs & Annos)

**5/18-124. Retirement annuities—conditions for eligibility**

Formerly cited as IL ST CH 108½ ¶ 18-124

§ 18-124. Retirement annuities—conditions for eligibility. A participant whose employment as a judge is terminated, regardless of age or cause is entitled to a retirement annuity beginning on the date specified in a written application subject to the following:

(1) the date the annuity begins is subsequent to the date of final termination of employment, or the date 30 days prior to the receipt of the application by the board for annuities based on disability, or one year before the receipt of the application by the board for annuities based on attained age;

(2) the participant is at least age 55, or has become permanently disabled and as a consequence is unable to perform the duties of his or her office;

(3) the participant has at least 10 years of service credit except that a participant terminating service after June 30, 1975, with at least 6 years of service credit, shall be entitled to a retirement annuity at age 62 or over;

(4) the participant is not receiving or entitled to receive, at the date of retirement, any salary from an employer for service currently performed.

### CREDIT(S)

Laws 1963, p. 161, § 18-124, eff. July 1, 1963. Amended by Laws 1967, p. 714, § 1, eff. July 1, 1967; P.A. 77-1449, § 1, eff. Sept. 2, 1971; P.A. 79-379, § 1, eff. Aug. 13, 1975; P.A. 80-653, § 1, eff. Oct. 1, 1977; P.A. 81-948, § 1, eff. Sept. 22, 1979; P.A. 83-1440, § 1, eff. Jan. 1, 1985.

### FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-124.

### HISTORICAL AND STATUTORY NOTES

The 1967 amendment added a paragraph which read:

“Effective July 1, 1967, the minimum service credit for a retirement annuity in the case of any participant shall be 10 years.”

P.A. 77-1449 decreased the age requirement to 55 from 60.

P.A. 79-379 added the proviso to the final paragraph.

P.A. 80-653, in subpar. (1), added “in case of annuities based on disability or one year before the receipt of the application by the board in the case of annuities based on attained age”.

P.A. 81-948 substituted “10” for “12” and inserted “provided that a participant who terminates service on or after July 1, 1975, having at least 6 years of service, shall be entitled to a retirement annuity at age 62 or over”, both in subpar. (3), and deleted the final paragraph, which prior thereto read:

“Effective July 1, 1967, the minimum service credit for a retirement annuity in the case of any participant shall be 10 years; provided that a participant who terminates service on or after July 1, 1975, having at least 6 years of service, shall be entitled to a retirement annuity at age 62 or over.”

P.A. 83-1440 substituted gender neutral for gender specific references; deleted gender specific references; in the introductory paragraph, following “age or cause”, deleted “at the time”; following “specified”, deleted “by him”; substituted “subject to the following” for “therefor, provided”; in subpar. (1), substituted “subsequent” for “not prior”; substituted “for” for “in case of” and “in the case of”; in subpar. (3), substituted “except” for “provided”; substituted “terminating” for “who terminates”; substituted “after June 30, 1975, with” for “on or after July 1, 1975, having”; and inserted “credit”.

Prior Laws:

Laws 1941, vol. 1, p. 527, § 5.1.  
Laws 1951, p. 205, § 1.  
Laws 1953, p. 8, § 1.  
Laws 1953, p. 1161, § 1.  
Laws 1955, p. 1737, § 1.  
Laws 1957, p. 2216, § 1.  
Ill.Rev.Stat.1961, ch. 37, ¶ 441.9.

LIBRARY REFERENCES

Judges ~~§§~~22(11).  
Westlaw Topic No. 227.  
C.J.S. Judges § 85.

RESEARCH REFERENCES

Encyclopedias

Illinois Law and Practice Judges § 8, Compensation; Retirement.

NOTES OF DECISIONS

Construction and application 1

1. Construction and application

Former county judge, otherwise eligible for pension, could not draw a pension while receiving salary from state funds for services as assistant attorney general. *Peacock v. Judges Retirement System of Ill.*, 1957, 10 Ill.2d 498, 140 N.E.2d 684.

Current through P.A. 93-1102 of the 2004 Reg. Sess.

## Illinois Statutes Annotated - 2005

40 ILCS 5/18-125

West's Smith-hurd Illinois Compiled Statutes Annotated Currentness

Chapter 40. Pensions

Act 5. Illinois Pension Code

Article 18. Judges Retirement System of Illinois (Refs & Annos)

**5/18-125. Retirement annuity amount**

Formerly cited as IL ST CH 108½ ¶ 18-125

§ 18-125. Retirement annuity amount.

(a) The annual retirement annuity for a participant who terminated service as a judge prior to July 1, 1971 shall be based on the law in effect at the time of termination of service.

(b) Effective July 1, 1971, the retirement annuity for any participant in service on or after such date shall be 3 ½% of final average salary, as defined in this Section, for each of the first 10 years of service, and 5% of such final average salary for each year of service on excess of 10.

For purposes of this Section, final average salary shall be:

- (1) the average salary for the last 4 years of credited service as a judge for a participant who terminates service before July 1, 1975.
- (2) for a participant who terminates service after June 30, 1975 and before July 1, 1982, the salary on the last day of employment as a judge.
- (3) for any participant who terminates service after June 30, 1982 and before January 1, 1990, the average salary for the final year of service as a judge.
- (4) for a participant who terminates service on or after January 1, 1990 but before the effective date of this amendatory Act of 1995, the salary on the last day of employment as a judge.
- (5) for a participant who terminates service on or after the effective date of this amendatory Act of 1995, the salary on the last day of employment as a judge, or the highest salary received by the participant for employment as a judge in a position held by the participant for at least 4 consecutive years, whichever is greater.

However, in the case of a participant who elects to discontinue contributions as provided in subdivision (a)(2) of Section 18-133, the time of such election shall be considered the last day of employment in the determination of final average salary under this subsection.

The maximum retirement annuity for any participant shall be 85% of final average salary.

(c) The retirement annuity for a participant who retires prior to age 60 with less than 28 years of service in the System shall be reduced ½ of 1% for each month that the participant's age is under 60 years at the time the annuity commences. However, for a participant who retires on or after the effective date of this amendatory Act of the 91st General Assembly, the percentage reduction in retirement annuity imposed under this subsection shall be reduced by  $\frac{5}{12}$  of 1% for every month of service in this System in excess of 20 years, and therefore a participant with at least 26 years of service in this System may retire at age 55 without any reduction in annuity.

The reduction in retirement annuity imposed by this subsection shall not apply in the case of retirement on account of disability.

CREDIT(S)

Laws 1963, p. 161, § 18-125, eff. July 1, 1963. Amended by Laws 1965, p. 3088, § 1, eff. Aug. 17, 1965; Laws 1967, p. 714, § 1, eff. July 1, 1967; P.A. 77-1449, § 1, eff. Sept. 2, 1971; P.A. 78-1150, § 1, eff. Aug. 27, 1974; P.A. 79-379, § 1, eff. Aug. 13, 1975; P.A. 81-948, § 1, eff. Sept. 22, 1979; P.A. 82-768, § 1, eff. Jan. 1, 1983; P.A. 83-1440, § 1, eff. Jan. 1, 1985; P.A. 86-273, § 1, eff. Aug. 23, 1989; P.A. 87-794, § 1, eff. Nov. 19, 1991; P.A. 89-136, § 15, eff. July 14, 1995; P.A. 91-653, § 5, eff. Dec. 10, 1999.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-125.

HISTORICAL AND STATUTORY NOTES

As originally enacted the section read:

“The annual retirement annuity for a judge who became a participant prior to December 1, 1957, shall be 25%, plus  $\frac{25}{72}$  of 1% for each month of service credit in excess of 12 years, of the average annual rate of salary applicable to him during his last 4 years of employment as a judge. However, for a person becoming a participant after January 1, 1954, the average annual rate shall be that applicable to him during the last 18 years of contributing service or during the total amount of contributing service if the total service is less than 18 years. The annuity shall not exceed 50% of the applicable salary.

“The annual retirement annuity for a judge who becomes a participant after November 30, 1957, shall be 25%, plus 2½% for each year of service credit in excess of 12 years, of the average annual rate of salary for the last 18 years of service but not in excess of 60% of such average annual rate of salary.”

The 1965 amendment rewrote the section to read:

“(a) The annual retirement annuity for a judge who became a participant prior to January 2, 1954, shall be 25%, plus  $\frac{25}{72}$  of 1% for each month of service credit in excess of 12 years, of the average annual rate of salary applicable to him during his last 4 years of employment as a judge. The annuity shall not exceed 50% of the applicable salary.

“(b) The annual retirement annuity for a judge who became a participant on or after January 2, 1954 and prior to December 1, 1957 shall be 25% for the first 12 years of service credit, plus  $4\frac{1}{6}$ % for each year of service in excess of 12 years up to 18 years of service, based upon the average annual rate of salary applicable to the judge during the last 18 years of service or during the total amount of contributing service if total service is less than 18 years, subject to a maximum annuity of 50% of such average salary; provided that any such judge may, at his option, elect to contribute 7½% of salary for retirement annuity, instead of 5% as herein provided, and have his retirement annuity computed upon the basis of his average annual rate of salary for the last 6 years of service together with an increment in the retirement annuity at the rate of 1¼% for each year of service above 18 years based upon the average annual rate of salary for the last 6 years of service, subject to a maximum retirement annuity of 60% of such average salary. Such option must be exercised by the judge on or before December 31, 1965.

“(c) The annual retirement annuity for a judge who becomes a participant after November 30, 1957, shall be 25%, plus 2½% for each year of service credit in excess of 12 years, of the average annual rate of salary for the last 6 years of service but not in excess of 60% of such average annual rate of salary.

“(d) The annual retirement annuity for any participant shall be prorated according to the foregoing rates, whichever apply, for any period of service credit which is less than a full year.”

The 1967 amendment inserted a subpar. (d) which read:

“Effective July 1, 1967, the retirement annuity for any participant shall be 2½% for each of the first 10 years of service, and 5% for each year of service above 10 years based upon the average salary for the last 4 years of credited service. The maximum retirement annuity for any participant shall be 75% of such average salary. The rates prescribed in this paragraph shall be applicable to any participant from and after the aforesaid date.”

P.A. 77-1449, in subpar. (d), substituted “1971” for “1967”, “in service on or after such date shall be 3½%” for “shall be 2½%”, “85%” for “75%”; and added a proviso which read, “provided that the retirement annuity payable to a participant whose retirement occurs prior to the attainment of age 60, except for disability, shall be reduced ½ of 1% for each month the participant’s age is under 60 years”.

P.A. 78-1150, in subpar. (d), following “4 years of credited service”, inserted “as a judge; provided, that when a participant elects to discontinue contributions as provided in Section 127, that the salary in effect at the time of such election shall be considered the final salary for purposes of annuity computations made under this subsection.”

P.A. 79-379, in subpar. (d), inserted the first proviso relating to July 1, 1975.

P.A. 81-948, in subpar. (d), substituted “18-127” for “127” and inserted “with at least 10 years of service”.

P.A. 82-768 added the last two paragraphs to subpar. (d).

P.A. 83-1440 rewrote the section which prior thereto read:

“(a) The annual retirement annuity for a judge who became a participant prior to January 2, 1954, shall be 25%, plus  $\frac{25}{72}$  of 1% for each month of service credit in excess of 12 years, of the average annual rate of salary applicable to him during his last 4 years of employment as a judge. The annuity shall not exceed 50% of the applicable salary.

“(b) The annual retirement annuity for a judge who became a participant on or after January 2, 1954 and prior to December 1, 1957 shall be 25% for the first 12 years of service credit, plus  $4\frac{1}{6}$ % for each year of service in excess of 12 years up to 18 years of service, based upon the average annual rate of salary applicable to the judge during the last 18 years of service or during the total amount of contributing service if total service is less than 18 years, subject to a maximum annuity of 50% of such average salary; provided that any such judge may, at his option, elect to contribute 7½% of salary for retirement annuity, instead of 5% as herein provided, and have his retirement annuity computed upon the basis of his average annual rate of salary for the last 6 years of service together with an increment in the retirement annuity at the rate of 1¼% for each year of service above 18 years based upon the average annual rate of salary for the last 6 years of service, subject to a maximum retirement annuity of 60% of such average salary. Such option must be exercised by the judge on or before December 31, 1965.

“(c) The annual retirement annuity for a judge who becomes a participant after November 30, 1957, shall be 25%, plus 2½% for each year of service credit in excess of 12 years, of the average annual rate of salary for the last 6 years of service but not in excess of 60% of such average annual rate of salary.

“(d) Effective July 1, 1971, the retirement annuity for any participant in service on or after such date shall be 3½% for each of the first 10 years of service, and 5% for each year of service above 10 years based upon the average salary for the last 4 years of credited service as a judge; provided, that effective July 1, 1975, the salary base to be used for the computation of a retirement annuity for any participant in service on or after such date shall be the salary on the last day of employment as a judge, and provided further, that when a participant elects to discontinue contributions as provided in Section 18-127, that the salary in effect at the time of such election shall be considered the final salary for purposes of annuity computations made under this subsection. The maximum retirement annuity for any participant shall be 85% of such average salary. The rates prescribed in this paragraph shall be applicable to any participant from and after the aforesaid date, provided that the retirement annuity payable to a participant whose retirement occurs prior to the attainment of age 60 with at least 10 years of service, except for disability, shall be reduced ½ of 1% for each month the participant’s age is under 60 years.

“Effective July 1, 1982 the salary base to be used for the computation of a retirement annuity for any participant in service on or after such date shall be the average salary for the final year of service as a judge.

“If a participant elects to discontinue contributions as provided in Section 18-127, the time of such election shall be considered the time of retirement for purposes of annuity computations made under this subsection.

“(e) The annual retirement annuity for any participant shall be prorated according to the foregoing rates, whichever apply, for any period of service credit which is less than a full year.”

P.A. 86-273 rewrote the second paragraph of subsec. (b) which formerly provided:

“For purposes of this Section, final average salary shall be the average salary for the last 4 years of credited service as a judge for a participant who terminates service before July 1, 1975. For a participant in service after June 30, 1975, final average salary shall be the salary on the last day of employment as a judge. Effective July 1, 1982, final average salary for any participant in service on or after such date shall be the average salary for the final year of service as a judge. However, in the case of a participant who elects to discontinue contributions as provided in Section 18-133, the time of such election shall be considered the last day of employment in the determination of final average salary under this subsection.”

P.A. 87-794, in the subsection relating to the retirement annuity for a participant who retires prior to age 60, substituted “less than 28 years of service in the System” for “at least 10 years of service”.

P.A. 89-136, in subsec. (b)(4), inserted “but before the effective date of this amendatory Act of 1995”; and added subsec. (b)(5).

P.A. 91-653, in subsec. (b), in the third paragraph, inserted “subdivision (a)(2) of”; in subsec. (c), in the first sentence, inserted “that” and added the second sentence; and in the last paragraph, inserted “in retirement annuity imposed by this subsection”.

**Prior Laws:**

Laws 1941, vol. 1, p. 527, § 5.1.

Laws 1951, p. 205, § 1.

Laws 1953, p. 8, § 1.

Laws 1953, p. 1161, § 1.

Laws 1955, p. 1737, § 1.

Laws 1957, p. 2216, § 1.

Ill.Rev.Stat.1961, ch. 37, ¶ 441.9.

**LIBRARY REFERENCES**

Judges ~~§~~ 22(11).

Westlaw Topic No. 227.

C.J.S. Judges § 85.

**NOTES OF DECISIONS**

Construction under prior law 2

Validity 1

1. Validity

Amendment to Pension Code [S.H.A. ch. 108½, ¶ 18-125], changing salary base used to compute annuity from salary of judge on final day of service to average salary over last year in service, effected reduction or impairment in retirement benefits of members of judicial retirement system at time of effective date of amendment, in violation of State Constitution, and was an

unconstitutional impairment of contract. *Felt v. Board of Trustees of Judges Retirement System*, 1985, 89 Ill.Dec. 855, 107 Ill.2d 158, 481 N.E.2d 698. Constitutional Law ¶ 140(2); Judges ¶ 22(11)

2. Construction under prior law

Under provision of present Retirement Systems Reciprocal Act (¶ 20-117 of former chapter 108½), a judge upon retirement receives no more than the 85 percent that he is entitled to under Illinois Judges Retirement System with refund of contribution to another fund whose credits are not used, and thus there was no basis in dissolution proceeding for raising present value of husband's IJRS pension by reference to so-called conversion rights which allegedly allowed husband to substantially increase present value of his interest in IJRS by transferring years of service under county pension fund. *In re Marriage of Bentivenga*, App. 2 Dist.1982, 65 Ill.Dec. 423, 109 Ill.App.3d 967, 441 N.E.2d 336. Judges ¶ 22(11)

Current through P.A. 93-1102 of the 2004 Reg. Sess.

---

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

FILED DATE: 5/23/2024 4:31 PM 2024CH01708

## Illinois Statutes Annotated - 2005

40 ILCS 5/18-125.1

West's Smith-hurd Illinois Compiled Statutes Annotated Currentness

Chapter 40. Pensions

Act 5. Illinois Pension Code

Article 18. Judges Retirement System of Illinois (Refs & Annos)

**5/18-125.1. Automatic increase in retirement annuity**

Formerly cited as IL ST CH 108½ ¶ 18-125.1

§ 18-125.1. Automatic increase in retirement annuity. A participant who retires from service after June 30, 1969, shall, in January of the year next following the year in which the first anniversary of retirement occurs, and in January of each year thereafter, have the amount of his or her originally granted retirement annuity increased as follows: for each year up to and including 1971, 1½%; for each year from 1972 through 1979 inclusive, 2%; and for 1980 and each year thereafter, 3%.

This Section is not applicable to a participant who retires before he or she has made contributions at the rate prescribed in Section 18-133 for automatic increases for not less than the equivalent of one full year, unless such a participant arranges to pay the system the amount required to bring the total contributions for the automatic increase to the equivalent of one year's contribution based upon his or her last year's salary.

This Section is applicable to all participants in service after June 30, 1969 unless a participant has elected, prior to September 1, 1969, in a written direction filed with the board not to be subject to the provisions of this Section. Any participant in service on or after July 1, 1992 shall have the option of electing prior to April 1, 1993, in a written direction filed with the board, to be covered by the provisions of the 1969 amendatory Act. Such participant shall be required to make the aforesaid additional contributions with compound interest at 4% per annum.

Any participant who has become eligible to receive the maximum rate of annuity and who resumes service as a judge after receiving a retirement annuity under this Article shall have the amount of his or her retirement annuity increased by 3% of the originally granted annuity amount for each year of such resumed service, beginning in January of the year next following the date of such resumed service, upon subsequent termination of such resumed service.

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 previous increases granted under this Article.

CREDIT(S)

Laws 1963, p. 161, § 18-125.1, added by P.A. 76-745, § 1, eff. Aug. 15, 1969. Amended by P.A. 77-1449, § 1, eff. Sept. 2, 1971; P.A. 78-784, § 1, eff. Oct. 1, 1973; P.A. 78-1150, § 1, eff. Aug. 27, 1974; P.A. 78-1297, § 58, eff. March 4, 1975; P.A. 80-1343, § 1, eff. Oct. 1, 1978; P.A. 81-453, § 1, eff. Jan. 1, 1980; P.A. 81-1187, § 1, eff. Jan. 1, 1981; P.A. 81-1509, Art. I, § 62, eff. Sept. 26, 1980; P.A. 81-1536, § 1, eff. Jan. 1, 1981; P.A. 82-960, § 1, eff. Aug. 25, 1982; P.A. 83-1440, § 1, eff. Jan. 1, 1985; P.A. 84-1472, § 1, eff. Jan. 23, 1987; P.A. 86-273, § 1, eff. Aug. 23, 1989; P.A. 87-1265, § 1, eff. Jan. 25, 1993.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-125.1.

HISTORICAL AND STATUTORY NOTES

P.A. 77-1449, in the first paragraph, substituted “provided that beginning January 1, 1972, the rate of increase shall be 2% per year” for “up to a maximum increase of 30% over a period of 20 years”; in provisions now contained in the third paragraph, preceding “July 1, 1969”, inserted “or after”; preceding “unless a participant”, inserted “and only to the retirement annuity”; and added the sentences relating to election options for participants in service on or after July 1, 1971.

Both P.A. 78-784 and P.A. 78-1150, in the former last paragraph, substituted “July 1, 1973” for “July 1, 1971” and “January 1, 1974” for “January 1, 1972”.

The 1974 Revisory Act, P.A. 78-1297, § 58, provided:

“Each of the several sections of Acts enumerated in this Section were amended by more than one Act of the 78th General Assembly but the Public Act specified with reference to each such Section incorporates in one form the text of that Section as marked by those several amendatory Acts.”

P.A. 80-1343 substituted “1978” for “1973” and “1979” for “1974” in the second sentence of the former last paragraph.

P.A. 81-453 added to the first paragraph “and provided further that effective as of January 1, 1980, the rate of increase shall be 3% per year.”

P.A. 81-1187 substituted “who retires before contributions have been made by him or on his behalf” for “who retires before he as made contributions” in the first sentence of the second paragraph.

Art. I, § 1 of P.A. 81-1509 provided in part:

“This Article provides for the nonsubstantive revision or renumbering or repeal of Sections of Acts necessitated by the amendment, addition or repeal of Sections by two or more Public Acts of the 81st General Assembly, through Public Act 81-1224, which multiple action was not resolved by one of the Acts affecting the particular Section.”

P.A. 81-1536 in the first sentence of the second paragraph substituted “he has made contributions” for “contributions have been made by him or on his behalf”.

P.A. 82-960, in the second sentence of the former last paragraph, substituted “1982” for “1978” and “1983” for “1979”.

P.A. 83-1440 rewrote the section which prior thereto read:

“A participant who retires from service after June 30, 1969, shall, in the month of January of the year next following the year in which the first anniversary of retirement occurs, have the amount of his then fixed retirement annuity, payable monthly, increased by 1½%, and such fixed retirement annuity as granted at retirement increased by a further 1½% in January of each year thereafter provided that beginning January 1, 1972, the rate of increase shall be 2% per year; and provided further that effective as of January 1, 1980, the rate of increase shall be 3% per year.

“The foregoing provision is not applicable to any member who retires before he has made contributions (at the rate of 1% as hereinafter provided in Section 18-133) for this additional annuity for not less than the equivalent of 1 full year. Such participant shall make arrangements to pay to the system a balance of such contributions based upon his last salary as will bring the 1% contributions, computed without interest, to the equivalent of or completion of 1 year's contributions.

“Beginning July 1, 1969, in addition to the rates of contribution prescribed in Section 18-133, each participant shall contribute 1% towards the automatic increase in retirement annuity provided in this Section. This contribution shall be made concurrently with contributions otherwise made for annuity purposes. Each such additional contribution shall be credited in an account entitled ‘automatic annuity increase reserve’ to be used together with equivalent State contributions to defray the cost of the specified annuity increments. Any balance in such reserve as of the beginning of each fiscal year shall be credited with interest at 4% per annum.

“The provisions of this Section shall be fully applicable to all participants in service on or after July 1, 1969, and only to the retirement annuity, unless a participant elects prior to September 1, 1969, in a written direction filed with the board not to be subject to the provisions thereof. Any participant in service on or after July 1, 1982 shall have the option of electing prior to January 1, 1983, in a written direction filed with the board, to be covered by the provisions of the 1969 amendatory Act. Such participant shall be required to make the aforesaid additional contributions with compound interest at 4% per annum.”

P.A. 84-1472 substituted “July 1, 1986” for “July 1, 1982” and “April 1, 1987” for “January 1, 1983”; and added the paragraph for retirement annuity increases for years of resumed service.

P.A. 86-273 added the last paragraph.

P.A. 87-1265, in the third paragraph, substituted “July 1, 1992” for “July 1, 1986”, and substituted “April 1, 1993” for “April 1, 1987” in the second sentence.

#### NOTES OF DECISIONS

##### Construction and application 1

##### 1. Construction and application

Automatic increase in judge's retirement annuities was not applicable to annuity granted judge's widow under provisions of the Judges Retirement Act. *Corcoran v. Judges Retirement System of Ill.*, App.1972, 6 Ill.App.3d 229, 285 N.E.2d 557. Judges ~~22~~ 22(11)

Decision of the board of trustees of the judges retirement system that judge's widow was not entitled to “automatic increase” in her annuity was an exercise of power within scope of statutory grant. *Corcoran v. Judges Retirement System of Ill.*, App.1972, 6 Ill.App.3d 229, 285 N.E.2d 557. Judges ~~22~~ 22(11)

Current through P.A. 93-1102 of the 2004 Reg. Sess.

## Illinois Statutes Annotated - 2005

40 ILCS 5/18-127

West's Smith-hurd Illinois Compiled Statutes Annotated Currentness

Chapter 40. Pensions

Act 5. Illinois Pension Code

Article 18. Judges Retirement System of Illinois (Refs & Annos)

**5/18-127. Retirement annuity—suspension on reemployment**

Formerly cited as IL ST CH 108½ ¶ 18-127

§ 18-127. Retirement annuity—suspension on reemployment.

(a) A participant receiving a retirement annuity who is regularly employed for compensation by an employer other than a county, in any capacity, shall have his or her retirement annuity payments suspended during such employment. Upon termination of such employment, retirement annuity payments at the previous rate shall be resumed.

If such a participant resumes service as a judge, he or she shall receive credit for any additional service. Upon subsequent retirement, his or her retirement annuity shall be the amount previously granted, plus the amount earned by the additional judicial service under the provisions in effect during the period of such additional service. However, if the participant was receiving the maximum rate of annuity at the time of re-employment, he or she may elect, in a written direction filed with the board, not to receive any additional service credit during the period of re-employment. In such case, contributions shall not be required during the period of re-employment. Any such election shall be irrevocable.

(b) Beginning January 1, 1991, any participant receiving a retirement annuity who accepts temporary employment from an employer other than a county for a period not exceeding 75 working days in any calendar year shall not be deemed to be regularly employed for compensation or to have resumed service as a judge for the purposes of this Article. A day shall be considered a working day if the annuitant performs on it any of his duties under the temporary employment agreement.

(c) Except as provided in subsection (a), beginning January 1, 1993, retirement annuities shall not be subject to suspension upon resumption of employment for an employer, and any retirement annuity that is then so suspended shall be reinstated on that date.

(d) The changes made in this Section by this amendatory Act of 1993 shall apply to judges no longer in service on its effective date, as well as to judges serving on or after that date.

(e) A participant receiving a retirement annuity under this Article who serves as a part-time employee in any of the following positions: Legislative Inspector General, Special Legislative Inspector General, employee of the Office of the Legislative Inspector General, Executive Director of the Legislative Ethics Commission, or staff of the Legislative Ethics Commission, but has not elected to participate in the Article 14 System with respect to that service, shall not be deemed to be regularly employed for compensation by an employer other than a county, nor to have resumed service as a judge, on the basis of that service, and the retirement annuity payments and other benefits of that person under this Code shall not be suspended, diminished, or otherwise impaired solely as a consequence of that service. This subsection (e) applies without regard to whether the person is in service as a judge under this Article on or after the effective date of this amendatory Act of the 93rd General Assembly. In this subsection, a "part-time employee" is a person who is not required to work at least 35 hours per week.

(f) A participant receiving a retirement annuity under this Article who has made an election under Section 1-123 and who is serving either as legal counsel in the Office of the Governor or as Chief Deputy Attorney General shall not be deemed to be regularly employed for compensation by an employer other than a county, nor to have resumed service as a judge, on the basis

of that service, and the retirement annuity payments and other benefits of that person under this Code shall not be suspended, diminished, or otherwise impaired solely as a consequence of that service. This subsection (f) applies without regard to whether the person is in service as a judge under this Article on or after the effective date of this amendatory Act of the 93rd General Assembly.

#### CREDIT(S)

Laws 1963, p. 161, § 18-127, eff. July 1, 1963. Amended by Laws 1963, p. 2034, § 1, eff. July 25, 1963; P.A. 77-1449, § 1, eff. Sept. 2, 1971; P.A. 78-1150, § 1, eff. Aug. 27, 1974; P.A. 82-342, § 1, eff. Jan. 1, 1982; P.A. 83-1440, § 1, eff. Jan. 1, 1985; P.A. 86-1488, § 1, eff. Jan. 14, 1991; P.A. 87-1265, § 1, eff. Jan. 25, 1993; P.A. 93-685, § 15, eff. July 8, 2004; P.A. 93-1069, § 5, eff. Jan. 15, 2005.

#### FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-127.

#### HISTORICAL AND STATUTORY NOTES

The 1963 amendment made clerical corrections.

P.A. 77-1449 added the proviso to the first paragraph.

P.A. 78-1150, in the proviso in the first paragraph, inserted “or of any other person who continues to serve as a judge after becoming eligible to receive the maximum rate of annuity”; inserted “or continued employment”; and substituted “cases during reemployment or continued employment as a judge. Any such option elected by a judge shall be irrevocable” for “a case during reemployment”.

P.A. 82-342 deleted an exception from the first sentence which read, “except that in the case of a judge becoming a participant after November 30, 1957, suspension of the annuity shall also occur if such person is employed as a judge of any Court of the United States of America”; and added the second paragraph.

P.A. 83-1440 rewrote the section which prior thereto read:

“Any person receiving a retirement annuity who is regularly employed for compensation by an employer, in any capacity, shall have his retirement annuity payments suspended during such employment. Annuity payments at the previous rate shall be resumed from the date of termination of such employment. If such person resumes service as a judge for an employer, he shall receive credit for additional service, and upon subsequent retirement, his retirement annuity shall be the amount previously granted, plus the amount earned by the additional judicial service under the provisions governing service during such additional service; provided, however, at the option of such person, or of any other person who continues to serve as a judge after becoming eligible to receive the maximum rate of annuity, in a written direction filed with the board, no such additional service credit shall accrue during reemployment or continued employment if such person was eligible to receive or was receiving the maximum rate of annuity prior to or at the time of reemployment or continued employment as a judge nor shall contributions to the retirement system be required in such cases during reemployment or continued employment as a judge. Any such option elected by a judge shall be irrevocable.

“This amendatory Act of 1981 applies to judges no longer in service on its effective date as well as to judges then serving. Payment of annuity to a judge whose benefits have been suspended by reason of employment as a judge of a court of the United States shall be resumed or commenced as of the effective date of this amendatory Act of 1981.”

P.A. 86-1488 inserted the subsection providing that any participant receiving a retirement annuity who accepts temporary employment not exceeding seventy-five working days in any calendar year shall not be deemed to be regularly employed for compensation or to have resumed service.

P.A. 87-1265, in subsecs. (a) and (b), inserted the exceptions for county employees; inserted subsec. (c), relating to the termination of suspension of annuities; and redesignated former subsec. (c) as subsec. (d), and rewrote the subsection, which prior thereto read:

“The changes made in this Section by Public Act 82-342 apply to judges no longer in service on January 1, 1982 as well as to judges then serving. Payment of annuity to a judge whose benefits have been suspended by reason of employment as a judge of a court of the United States shall be resumed or commenced as of January 1, 1982.”

P.A. 93-685, § 15, added subsec. (e).

P.A. 93-1069, § 5 added subsec. (f).

P.A. 93-1069 incorporated amendments by P.A. 93-685.

**Prior Laws:**

Laws 1941, vol. 1, p. 527, § 5.1.

Laws 1951, p. 205, § 1.

Laws 1953, p. 8, § 1.

Laws 1953, p. 1161, § 1.

Laws 1955, p. 1737, § 1.

Laws 1957, p. 2216, § 1.

Ill.Rev.Stat.1961, ch. 37, ¶ 441.9.

**LIBRARY REFERENCES**

Judges 22(11).

Westlaw Topic No. 227.

C.J.S. Judges § 85.

Current through P.A. 93-1102 of the 2004 Reg. Sess.

FILED DATE: 5/23/2024 4:31 PM 2024CH01708

## Illinois Statutes Annotated - 2005

40 ILCS 5/18-128.01

West's Smith-hurd Illinois Compiled Statutes Annotated Currentness

Chapter 40. Pensions

Act 5. Illinois Pension Code

Article 18. Judges Retirement System of Illinois (Refs & Annos)

**5/18-128.01. Amount of survivor's annuity**

Formerly cited as IL ST CH 108½ ¶ **18-128.01**

§ **18-128.01. Amount of survivor's annuity.** (a) Upon the death of an annuitant, his or her surviving spouse shall be entitled to a survivor's annuity of  $66\frac{2}{3}\%$  of the annuity the annuitant was receiving immediately prior to his or her death, inclusive of annual increases in the retirement annuity to the date of death.

(b) Upon the death of an active participant, his or her surviving spouse shall receive a survivor's annuity of  $66\frac{2}{3}\%$  of the annuity earned by the participant as of the date of his or her death, determined without regard to whether the participant had attained age 60 as of that time, or  $7\frac{1}{2}\%$  of the last salary of the decedent, whichever is greater.

(c) Upon the death of a participant who had terminated service with at least 10 years of service, his or her surviving spouse shall be entitled to a survivor's annuity of  $66\frac{2}{3}\%$  of the annuity earned by the deceased participant at the date of death.

(d) Upon the death of an annuitant, active participant, or participant who had terminated service with at least 10 years of service, each surviving child under the age of 18 or disabled as defined in Section 18-128 shall be entitled to a child's annuity in an amount equal to 5% of the decedent's final salary, not to exceed in total for all such children the greater of 20% of the decedent's last salary or  $66\frac{2}{3}\%$  of the annuity received or earned by the decedent as provided under subsections (a) and (b) of this Section. This child's annuity shall be paid whether or not a survivor's annuity was elected under Section 18-123.

(e) The changes made in the survivor's annuity provisions by Public Act 82-306 shall apply to the survivors of a deceased participant or annuitant whose death occurs on or after August 21, 1981.

(f) Beginning January 1, 1990, every survivor's annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity, or (2) in other cases, on each January 1 occurring on or after the first anniversary of the commencement of the annuity, by an amount equal to 3% of the current amount of the annuity, including any previous increases under this Article. Such increases shall apply without regard to whether the deceased member was in service on or after the effective date of this amendatory Act of 1991, but shall not accrue for any period prior to January 1, 1990.

CREDIT(S)

Laws 1963, p. 161, § **18-128.01**, added by P.A. 83-1440, § 1, eff. Jan. 1, 1985. Amended by P.A. 86-273, § 1, eff. Aug. 23, 1989; P.A. 86-1488, § 1, eff. Jan. 14, 1991.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ **18-128.01**.

HISTORICAL AND STATUTORY NOTES

Provisions relating to survivors' annuity amounts were formerly contained in 40 ILCS 5/18-128.

P.A. 86-273 added subsec. (f).

P.A. 86-1488, in the subsection added by P.A. 86-273, inserted "(1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity, or (2) in other cases", and added a sentence requiring increases to apply without regard to whether the deceased member was in service on or after the effective date of the amendatory Act of 1991.

LIBRARY REFERENCES

Judges ~~§~~22(11).  
Westlaw Topic No. 227.  
C.J.S. Judges § 85.

Current through P.A. 93-1102 of the 2004 Reg. Sess.

---

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

## Illinois Statutes Annotated - 2005

40 ILCS 5/18-157

West's Smith-hurd Illinois Compiled Statutes Annotated Currentness

Chapter 40. Pensions

Act 5. Illinois Pension Code

Article 18. Judges Retirement System of Illinois (Refs & Annos)

**5/18-157. Retirement Systems Reciprocal Act**

Formerly cited as IL ST CH 108½ ¶ 18-157

§ 18-157. Retirement Systems Reciprocal Act. The "Retirement Systems Reciprocal Act", being Article 20 of this Code, [FN1] is adopted and made a part of this Article; provided that Section 20-131 shall not apply to this system.

CREDIT(S)

Laws 1963, p. 161, § 18-157, eff. July 1, 1963. Amended by P.A. 83-1440, § 1, eff. Jan. 1, 1985.

FORMER REVISED STATUTES CITATION

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 18-157.

[FN1] 40 ILCS 5/20-101 et seq.

HISTORICAL AND STATUTORY NOTES

P.A. 83-1440 substituted "is adopted" for "as now enacted or hereafter amended, is hereby"; and substituted "20-131" for "20-122 of Article 20 of this Code".

Prior Laws:

Laws 1941, vol. 1, p. 527, § 5.3.

Laws 1955, p. 1432, § 1.

Laws 1961, p. 3108, § 1.

Ill.Rev.Stat.1961, ch. 37, ¶ 441.9b.

LIBRARY REFERENCES

Judges ~~18-157~~22(11).

Westlaw Topic No. 227.

C.J.S. Judges § 85.

Current through P.A. 93-1102 of the 2004 Reg. Sess.

---

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.



**SUAA AMICUS BRIEF  
EXHIBIT 3**

**LAWS**  
OF THE  
STATE OF ILLINOIS

**EIGHTY-NINTH  
GENERAL ASSEMBLY**

**1995**

**PUBLIC ACT 89-1  
THRU  
PUBLIC ACT 89-443**

Jurisdiction of the Illinois Commerce Commission, a statement to the effect that the approval of such proposed taking has been secured from such Commission, and attaching to such motion a certified copy of the order of such Commission granting such approval. If the schedule or plan of operation is not set forth fully in the motion, a copy of such schedule or plan shall be attached to the motion.

In any proceeding for the purpose specified in the motion, Accelerator Land Acquisition Act or for the acquisition by the Department of Energy and Natural Resources of land to accommodate the construction, maintenance and operation of a Superconducting Super Collider, the motion need not state or have attached thereto a formally adopted schedule or plan of operation.

(Source: P.A. 87-5; 87-7; 87-435; 87-733; 87-846; 87-866; 87-895; 87-1252; 88-486; 88-526; 88-670, eff. 12-2-94.)  
Section 999. Effective date. This Act takes effect upon becoming law.

Passed in the General Assembly May 23, 1995.  
Approved July 14, 1995.  
Effective July 14, 1995.

**PUBLIC ACT 89-0135)**  
(Senate Bill No. 109)

AN ACT to amend the Probate Act of 1975 by changing Section 13-3.

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

Section 5. The Probate Act of 1975 is amended by changing Section 13-3 as follows:

(755 ILCS 5/13-3) (from Ch. 110 1/2, par. 13-3)

Sec. 13-3. Compensation of public administrator.  
(a) In counties having a population in excess of 1,000,000 the public administrator may receive as his only compensation an annual salary of \$20,000 payable only from the fees of his office actually collected and he shall pay the balance of all the fees collected by the office into the county treasury. Each year, the county board shall appropriate an amount to be paid to the public administrator as compensation for the public administrator's performance of his or her duties and such compensation shall be paid at a minimum level of \$20,000 annually. That amount shall be paid from the fees collected by the office of the public administrator. The county board in such counties shall fix the amount for the public administrator's compensation and the necessary clerk hire, assistants, and office expense in the annual county budget and appropriation ordinances, which shall be paid from the county treasury. In such counties all fees of the office of public administrator are subject to audit the same as are fees of other county officers.

(b) In counties having a population of 1,000,000 or less the public administrator may receive all the fees of his office and shall bear the expenses connected with the operation of such office. (Source: P.A. 79-328.)

Section 99. Effective date. This Act takes effect upon becoming law.  
Passed in the General Assembly May 23, 1995.

New matter indicated by italics - deletions by ~~strikeout~~.

Approved July 14, 1995.  
Effective July 14, 1995.

**PUBLIC ACT 89-0136**  
(Senate Bill No. 114)

AN ACT in relation to public employee pensions, amending named acts,

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

Section 5. The State Finance Act is amended by changing Section 14.1 as follows:

(30 ILCS 105/14.1) (from Ch. 127, par. 150.1)

Sec. 14.1. Appropriations for State contributions to the State Employees' Retirement System; payroll requirements.

(a) Appropriations for State contributions to the State Employees' Retirement System of Illinois shall be expended in the manner provided in this Section. At the time of each payment of salary to an employee under the personal services line item, payment shall be made to the State Employees' Retirement System, from the amount appropriated for State contributions to the State Employees' Retirement System, of an amount calculated at the rate certified for the applicable fiscal year by the Board of Trustees of the State Employees' Retirement System under Section 14-135.08 of the Illinois Pension Code. If a line item appropriation to an employer for this purpose is unavailable or exhausted, the amounts shall be paid under the continuing appropriation for this purpose contained in the State Pension Funds Continuing Appropriation Act.

(b) The State Comptroller shall not approve for payment any payroll voucher that (1) includes payments of salary to eligible employees who are participants (or serving a qualifying period required for participation) in the State Employees' Retirement System of Illinois and (2) does not include the corresponding payment of state contributions to that retirement system at the full rate certified under Section 14-135.08 for that fiscal year for eligible employees these participants, including any employees who are serving a qualifying period that is required for participation, unless the balance in the fund on which the payroll voucher is drawn is insufficient to pay the total payroll voucher. If the State Comptroller approves a payroll voucher under this Section for which the fund balance is insufficient to pay the full amount of the required State contribution to the State Employees' Retirement System, the Comptroller shall promptly so notify the Retirement System.

(Source: P.A. 88-593, eff. 8-22-94.)

Section 10. The Illinois Pension Code is amended by adding Section 1-117 as follows:

(40 ILCS 5/1-117 new)

Sec. 1-117. Annual earnings limitation.

(a) Notwithstanding any other provision of this Code, except as provided in subsection (b), beginning on the first day of the plan year beginning in 1996, the annual earnings of a person that may be taken into account in any year for any purpose under this Code shall not exceed the maximum dollar limitation specified in Section 401(a)(17) of the Internal Revenue Code of 1986, as that

New matter indicated by italics - deletions by ~~strikeout~~.

Section may be amended from time to time and as that compensation limit may be adjusted from time to time by the Commissioner of Internal Revenue.

(b) In the case of a person who first began participating in a pension fund or retirement system governed by this Code before the first day of the plan year beginning in 1996, the dollar limitation under Section 401(a)(17) of the Internal Revenue Code of 1986 does not apply to the extent that the earnings that may be taken into account by that fund or system under this Code would be reduced below the amount that was allowed to be taken into account under its governing Article of this Code or under Article 1 or Article 20 of this Code, as those Articles were in effect on July 1, 1993.

(c) This Section takes effect on December 31, 1995.

Section 15. The Illinois Pension Code is amended by changing Sections 2-121, 4-110, 4-110.1, 4-114, 5-212, 6-128.4, 6-143, 6-159, 6-164, 6-164.1, 6-165, 6-210.1, 7-118, 7-174, 7-175, 7-201, 7-205, 7-206, 7-208, 7-209, 14-110, 14-123.1, 14-131, 14-135.08, 14-138, 16-176, 17-137, 17-138, 17-139, 18-125, and 18-133 and adding Sections 1-116.1, 5-237, 9-121.13, and 12-133.4 as follows:

(40 ILCS 5/1-116.1 new)  
 Sec. 1-116.1. Required distributions. Notwithstanding any other provision of this Code, all pension funds and retirement systems established under Articles 2 through 18 of this Code have the authority to make any involuntary distributions that are required by federal law under Section 401(a)(9) of the Internal Revenue Code of 1986, as now or hereafter amended. A distribution shall be deemed to be required if failure to make the distribution could affect the qualified plan status of the pension fund or retirement system or could result in the imposition of a substantial penalty on the taxpayer or on the pension fund or retirement system. (40 ILCS 5/2-121) (from Ch. 108 1/2, par. 2-121)

Sec. 2-121. Survivor's annuity - conditions for payment.  
 (a) A survivor's annuity shall be payable for a surviving spouse or eligible child (1) upon the death in service of a participant with at least 2 years of service credit, or (2) upon the death of an annuitant in receipt of a retirement annuity, or (3) upon the death of a participant who terminated service with at least 4 9 years of service credit.

The change in this subsection (a) made by this amendatory Act of 1995 applies to survivors of participants who die on or after December 1, 1994, without regard to whether or not the participant was in service on or after the effective date of this amendatory Act of 1995.

(b) To be eligible for the survivor's annuity, the spouse and the participant or annuitant must have been married for a continuous period of at least one year immediately preceding the date of death, but need not have been married on the day of the participant's last termination of service, regardless of whether such termination occurred prior to the effective date of this amendatory Act of 1995.

(c) The annuity shall be payable beginning on the date of a participant's death, or the first of the month following an annuitant's death, if the spouse is then age 50 or over, or beginning at age 50 if the spouse is then under age 50. If an eligible child or children of the participant or annuitant also survive, and the child or children are under the care of the

New matter indicated by italics - deletions by ~~strikeout~~.

eligible spouse, the annuity shall begin as of the date of a participant's death, or the first of the month following an annuitant's death, without regard to the spouse's age.

(d) For the purposes of this Section and Section 2-121.1, "eligible child" means a child of the deceased participant or annuitant who is at least one of the following:

- (1) unmarried and under the age of 18;
- (2) unmarried, a full-time student, and under the age of 22;
- (3) dependent by reason of physical or mental disability.

The inclusion of unmarried students under age 22 in the calculation of survivor's annuities by this amendatory Act of 1991 shall apply to all eligible students beginning January 1, 1992, without regard to whether the deceased participant or annuitant was in service on or after the effective date of this amendatory Act of 1991.

Adopted children shall have the same status as children of the participant or annuitant, but only if the proceedings for adoption are commenced at least one year prior to the date of the participant's or annuitant's death.

(e) Remarriage of a surviving spouse prior to attainment of age 55 shall disqualify the surviving spouse from the receipt of a survivor's annuity.  
 (Source: P.A. 86-273; 87-794.)  
 (40 ILCS 5/4-110) (from Ch. 108 1/2, par. 4-110)

Sec. 4-110. Disability pension - Line of duty. If a firefighter, as the result of sickness, accident or injury incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty, is found, pursuant to Section 4-112, to be physically or mentally permanently disabled for service in the fire department, so as to render necessary his or her being placed on disability pension, the firefighter shall be entitled to a disability pension of 65% of the monthly salary attached to the rank held by him or her in the fire department at the date he or she is removed from the municipality's fire department payroll. A firefighter shall be considered "on duty" while on any assignment approved by the chief of the fire department, even though away from the municipality he or she serves as a firefighter, if the assignment is related to the fire protection service of the municipality.

Such firefighter shall also be entitled to a child's disability benefit of \$20 a month on account of each unmarried child less than 18 years of age and dependent upon the firefighter for support, either the issue of the firefighter or legally adopted by him or her. The total amount of child's disability benefit payable to the firefighter, when added to his or her disability pension, shall not exceed 75% of the amount of salary which the firefighter was receiving at the date of retirement.

Benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged to be disabled persons pursuant to Article X(a) of the Probate Act of 1975, except for persons receiving benefits under

New matter indicated by italics - deletions by ~~strikeout~~.

Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.

If a firefighter dies while still disabled and receiving a disability pension under this Section, the disabled and receiving a pension shall continue to be paid to the firefighter's survivors but shall, from the date of death, become subject to the requirements, including limitations on amount, that are provided for pensions to survivors under Section 4-114. A pension previously granted for survivors under Section 4-114 to a survivor of a firefighter who died while receiving a disability pension under this Section shall be deemed to be a continuation of the pension provided under this Section and shall be deemed to be in the nature of worker's compensation payments. The changes to this Section made by this amendatory Act of 1995 are intended to be retroactive and are not limited to persons in service on or after its effective date. (Source: P.A. 83-1440.)

(40 ILCS 5/4-110.1) (from Ch. 108 1/2, par. 4-110.1)

Sec. 4-110.1. Occupational disease disability pension. The General Assembly finds that service in the fire department requires firefighters in times of stress and danger to perform unusual tasks; that firefighters are subject to exposure to extreme heat or extreme cold in certain seasons while performing their duties; that they are required to work in the midst of and are subject to heavy smoke fumes, and carcinogenic, poisonous, toxic or chemical gases from fires and that these conditions exist and arise out of or in the course of employment.

An active firefighter with 5 or more years of creditable service who is found, pursuant to Section 4-112, unable to perform his or her duties in the fire department by reason of heart disease, tuberculosis or any disease of the lungs or respiratory tract, resulting from service as a firefighter, is entitled to an occupational disease disability pension during any period of such disability for which he or she has no right to receive salary.

Any active firefighter who has completed 5 or more years of service and is unable to perform his or her duties in the fire department by reason of a disabling cancer, which develops or manifests itself during a period while the firefighter is in the service of the fire department, shall be entitled to receive an occupational disease disability benefit during any period of such disability for which he or she does not have a right to receive salary. In order to receive this occupational disease disability benefit, the type of cancer involved must be a type which may be defined by exposure to heat, radiation or a known carcinogen as defined by the International Agency for Research on Cancer.

A firefighter who enters the service after August 27, 1971 shall be examined by one or more practicing physicians appointed by the board. If the examination discloses impairment of the heart, lungs or respiratory tract, or the existence of any cancer, the firefighter shall not be entitled to the occupational disease disability pension unless and until a subsequent examination reveals no such impairment or cancer.

The occupational disease disability pension shall be 65% of the salary attached to the rank held by the firefighter in the fire service at the time of his or her removal from the municipality's fire department payroll.

The firefighter is also entitled to a child's disability

New matter indicated by italics - deletions by ~~strikeout~~.

benefit of \$20 a month for each natural or legally adopted unmarried child less than age 18 dependent upon the firefighter for support. The total child's disability benefit when added to the occupational disease disability pension shall not exceed 75% of the firefighter's salary at the time of the grant of occupational disease disability pension.

The occupational disease disability pension is payable to the firefighter during the period of the disability. If the disability ceases before the death of the firefighter, the disability pension payable under this Section shall also cease and the firefighter thereafter shall receive such pension benefits as are provided in accordance with other provisions of this Article.

If a firefighter dies while still disabled and receiving a disability pension under this Section, the disability pension shall continue to be paid to the firefighter's survivors but shall, from the date of death, become subject to the requirements, including limitations on amount, that are provided for pensions to survivors under Section 4-114. A pension previously granted for survivors under Section 4-114 to a survivor of a firefighter who died while receiving a disability pension under this Section shall be deemed to be a continuation of the pension provided under this Section and shall be deemed to be in the nature of worker's occupational disease compensation payments. The changes to this Section made by this amendatory Act of 1995 are intended to be retroactive and are not limited to persons in service on or after its effective date.

The child's disability benefit shall terminate if the disability ceases while the firefighter is alive or when he or she is married, whichever event occurs first, except that benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged as a disabled person pursuant to Article XIA of the Probate Act of 1975, except for persons receiving benefits under Article III of 1975, Illinois Public Aid Code, shall be eligible to receive benefits under this Act. (Source: P.A. 83-1362; 83-1440.)

(40 ILCS 5/4-114) (from Ch. 108 1/2, par. 4-114)

Sec. 4-114. Pension to survivors. If a firefighter who is not receiving a disability pension under Section 4-110 or 4-110.1 dies while in receipt of any illness or accident, or (2) from any cause during retirement after 20 years service, under this Article, or (3) in receipt of a pension payable under subsection (b) of Section 4-109, or (5) while a deferred pensioner, having made all required contributions, a pension shall be paid to his or her survivors, based on the monthly salary attached to the firefighter's rank on the last day of service in the fire department, as follows:

- (a) To the surviving spouse, a monthly pension of 40% of the monthly salary, and to the guardian of any minor child or children including a child which has been conceived but not yet born, 12% of the monthly salary for each such child until attainment of age 18 or until the child's marriage, whichever occurs first. Beginning July 1, 1993, the monthly pension to the surviving spouse shall be

New matter indicated by italics - deletions by ~~strikeout~~.

54% of the monthly salary for all persons receiving a surviving spouse pension under this Article, regardless of whether the deceased firefighter was in service on or after the effective date of this amendatory Act of 1993.

The pension to the surviving spouse shall terminate in the event of the surviving spouse's remarriage prior to July 1, 1993, remarriage on or after that date does not affect the surviving spouse's pension, regardless of whether the deceased firefighter was in service on or after the effective date of this amendatory Act of 1993.

The surviving spouse's pension shall be subject to the minimum established in Section 4-109.2.

(b) Upon the death of the surviving spouse leaving one or more minor children, to the duly appointed guardian of each such child, for support and maintenance of each such child until the child reaches age 18 or marries, whichever occurs first, a monthly pension of 20% of the monthly salary.

(c) If a deceased firefighter leaves no surviving spouse or unmarried minor children under age 18, but leaves a dependent father or mother, to each dependent parent a monthly pension of 18% of the monthly salary. To qualify for the pension, a dependent parent must furnish satisfactory proof that the deceased firefighter was at the time of his or her death the sole supporter of the parent or that the parent was the deceased's dependent for federal income tax purposes.

(d) The total pension provided under paragraphs (a), (b) and (c) of this Section shall not exceed 75% of the monthly salary of the deceased firefighter (1) when paid to the survivor of a firefighter who has attained 20 or more years of service credit and who receives or is eligible to receive a retirement pension under this Article, or (2) when paid to the survivor of a firefighter who dies as a result of illness or accident, or (3) when paid to the survivor of a firefighter who dies from any cause while in receipt of a disability pension under this Article, or (4) when paid to the survivor of a deferred pensioner. For all other survivors of deceased firefighters, the total pension provided under paragraphs (a), (b) and (c) of this Section shall not exceed 50% of the retirement annuity the firefighter would have received on the date of death.

(e) If a firefighter leaves no eligible survivors under paragraphs (a), (b) and (c), the board shall refund to the firefighter's estate the amount of his or her accumulated contributions, less the amount of pension payments, if any, made to the firefighter while living.

(f) An adopted child is eligible for the pension provided under paragraph (a) if the child was adopted before the firefighter attained age 50.

(g) If a judgment of dissolution of marriage between a firefighter and spouse is judicially set aside subsequent to the firefighter's death, the surviving spouse is eligible for the pension provided in paragraph (a) only if the judicial proceedings are filed within 2 years after the date of the dissolution of marriage and within one year after the firefighter's death and the board is made a party to the proceedings. In such case the pension shall be payable only from the date of the court's order setting aside the judgment of dissolution of marriage.

New matter indicated by italics - deletions by ~~strikeout~~.

(h) Benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged as a disabled person pursuant to Article Xla of the Probate Act of 1975, except for persons receiving benefits under Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.

(Source: P.A. 87-1265.)

(40 ILCS 5/5-212) (from Ch. 108 1/2, par. 5-212)

Sec. 5-212. Computation of service. In computing the service rendered by a policeman prior to the effective date, the following periods shall be counted, in addition to all periods during which he performed the duties of his position, as periods of service for annuity purposes only: all periods of (a) vacation; (b) leave of absence with whole or part pay; (c) leave of absence during which the policeman was engaged in the military or naval service of the United States of America; (d) the time that the policeman was engaged in the military or naval service of the United States of America, during which he was passed over on any eligible list posted from an entrance examination, due to the fact that he was in such military or naval service at the time he was called for appointment to the Police Department, to be computed from the date he was passed over on any eligible list and would have been first sworn in as a policeman had he not been engaged in the military or naval service of the United States of America, until the date of his discharge from such military or naval service; provided that such policeman shall pay into this Fund the same amount that would have been deducted from his salary had he been a policeman during the aforementioned portion of such military or naval service; (e) disability for which the policeman receives any disability benefit; (f) disability for which the policeman receives whole or part pay; and (g) service for which credits and creditable service have been transferred to this Fund under Section 9-121.1, 14-105.1 or 15-134.3 of this Code.

In computing the service rendered by a policeman on or after the effective date, the following periods shall be counted, in addition to all periods during which he performed the duties of his position, as periods of service for annuity purposes only: all periods of (a) vacation; (b) leave of absence with whole or part pay; (c) leave of absence during which the policeman was engaged in the military or naval service of the United States of America; (d) the time that the policeman was engaged in the military or naval service of the United States of America, during which he was passed over on any eligible list posted from an entrance examination, due to the fact that he was in such military or naval service at the time he was called for appointment to the Police Department, to be computed from the date he was passed over on any eligible list and would have been first sworn in as a policeman had he not been engaged in the military or naval service of the United States of America, until the date of his discharge from such military or naval service; provided that such policeman shall pay into this Fund the same amount that would have been deducted from his salary had he been a policeman during the aforementioned portion of such military or naval service; (e) disability for which the policeman receives any disability benefit; (f) disability for which the policeman receives whole or part pay; and (g) service for which credits and creditable service have been transferred to this Fund under Section 9-121.1, 14-105.1 or 15-134.3 of this Code.

In computing service on or after the effective date for ordinary disability benefit, all periods described in the preceding paragraph, except any such period for which a policeman receives ordinary disability benefit, shall be counted as periods of service. In computing service for any of the purposes of this Article, no credit shall be given for any period during which a policeman was not rendering active service because of his discharge from the service, unless proceedings to test the legality of the discharge are filed in a court of competent jurisdiction within one year from the date of discharge and a final judgment is entered therein

New matter indicated by italics - deletions by ~~strikeout~~.

declaring the discharge illegal.  
No overtime or extra service shall be included in computing service of a policeman and not more than one year or a fractional part thereof of service shall be allowed for service rendered during any calendar year.

In computing service for any of the purposes of this Article, credit shall be given for any periods prior to January 9, 1997, during which a policeman who is a member of the General Assembly is on leave of absence or is otherwise authorized to be absent from duty to enable him or her to perform legislative duties, notwithstanding any reduction in salary for such periods and notwithstanding that the contributions paid by the policeman were based on a reduced salary rather than the full amount of salary attached to his or her career service rank.  
(Source: P.A. 86-237.)  
(40 ILCS 5/5-237 new)  
Sec. 5-237. Transfer of creditable service to Article 9 fund.

(a) Any person who is an active participant in the pension fund established under Article 9 of this Code and who was employed by the office of the Cook County State's Attorney on January 1, 1995 may apply for transfer of his or her credits and creditable service accumulated in this Fund to that Article 9 fund. Upon receipt of a written application to make this transfer, the Fund shall pay to the Article 9 fund an amount consisting of:

- (1) the amounts credited to the applicant through employee contributions, plus accumulated interest; plus
- (2) an amount representing municipal contributions, equal to the amount determined under item (1); plus
- (3) any interest paid to the Fund in order to reinstate credits and creditable service under subsection (b); participation in this Fund shall terminate on the date of the transfer.

(b) As part of a transfer under subsection (a), a person may reinstate credits and creditable service that was terminated upon receipt of a refund, by paying to the Fund the amount of the refund plus interest thereon at the rate of 6% per year, compounded annually, from the date of the refund to the date of payment.  
(40 ILCS 5/6-128.4) (from Ch. 108 1/2, par. 6-128.4)  
Sec. 6-128.4. Minimum widow's annuities.

(a) Notwithstanding any other provision of this Article, beginning January 1, 1996, the minimum amount of widow's annuity payable to any person who is entitled to receive a widow's annuity under this Article is \$700 per month, without regard to whether the deceased fireman is in service on or after the effective date of this amendatory Act of 1995.

~~Notwithstanding Section 6-128.3, beginning January 1, 1990, the minimum widow's annuity under this Article shall be \$400 per month for (1) all persons receiving widow's annuities on the effective date of this Section, and (2) persons who become eligible for widow's annuities and who are survivors of employees who retired at age 50 or over with at least 20 years of service.~~

~~Notwithstanding Section 6-128.3, beginning January 1, 1997, the minimum widow's annuity under this Article shall be \$500 per month for (1) all persons receiving widow's annuities on that date, and (2) persons who become eligible for widow's annuities and who are survivors of employees who retired at age 50 or over with at~~

New matter indicated by italics - deletions by strikethrough.

~~least 20 years of service.~~

~~Notwithstanding Section 6-128.3, beginning January 1, 1993, the minimum widow's annuity under this Article shall be \$600 per month for (1) all persons receiving widow's annuities on that date who are survivors of employees who retired at age 50 or over with at least 20 years of service, and (2) persons who become eligible for widow's annuities and are survivors of employees who retired at age 50 or over with at least 20 years of service.~~

(b) Notwithstanding Section 6-128.3, beginning January 1, 1994, the minimum widow's annuity under this Article shall be \$700 per month for (1) all persons receiving widow's annuities on that date who are survivors of employees who retired at age 50 or over with at least 20 years of service, and (2) persons who become eligible for widow's annuities and are survivors of employees who retired at age 50 or over with at least 20 years of service.  
(Source: P.A. 86-148; 87-849; 87-1265.)  
(40 ILCS 5/6-143) (from Ch. 108 1/2, par. 6-143)

Sec. 6-143. Widow's remarriage. Any annuity granted to a widow who remarries on or after December 31, 1989 before attaining age 60 shall be suspended when she remarries, unless (1) she remarries after attaining the age of 60 regardless of whether or not the deceased fireman was in service on or after the effective date of this amendatory Act of 1995 or (ii) she has been granted a Section 6-140 annuity as the widow of a fireman killed in performance of duty. An annuity suspended under this Section shall, upon application, be resumed if the subsequent marriage ends by dissolution of marriage, declaration of invalidity of marriage, or the death of the husband; this resumption shall not be retroactive, except that an annuity granted under Section 6-140 shall not be suspended upon remarriage if the remarriage takes place after December 31, 1989. The widow's annuity payments shall be resumed if the subsequent marriage ends either by dissolution of marriage or declaration of invalidity of marriage, or the death of the husband.

If a widow remarries after attaining age 60 or after she has been granted an annuity under Section 6-140 and the remarriage takes place after December 31, 1989, regardless of whether or not the deceased fireman was in service on or after the effective date of this amendatory Act of 1995, the widow's annuity shall continue without interruption.

Any widow's annuity that was previously terminated by reason of remarriage prior to December 31, 1989 or suspended shall, upon application, be resumed, as of the date of the application, upon subsequent marriage ended by dissolution of marriage, declaration of invalidity of marriage, or the death of the husband, regardless of whether or not the deceased fireman was in service on the effective date of this amendatory Act of 1995; this resumption shall not be retroactive.

When a widow dies, if she has not received, in the form of an annuity, an amount equal to the accumulated employee contributions for widow's annuity, the difference between such accumulated contributions and the sum received by her, along with any part of the accumulated contributions for age and service annuity remaining in the fund at her death, shall be refunded to the fireman's children, in equal parts to each; except that if a child is less than age 18, the part of any such amount that is required to pay an annuity to the child shall be transferred to the child's annuity

New matter indicated by italics - deletions by strikethrough.

reserve. If no children or descendants thereof survive the fireman, the refund shall be paid to the estate of the fireman. In making refunds under this section, no interest shall be considered upon either the total of annuity payments made or the amounts subject to refund.

(Source: P.A. 86-273; 86-1488.)

(40 ILCS 5/6-159) (from Ch. 108 1/2, par. 6-159)

Sec. 6-159. Refund - Re-entry into service - Repayment of refund. A fireman who receives a refund, and who subsequently re-enters the service, shall not thereafter receive, benefit or pension widow or parent or parents receive, any annuity, benefit or pension under this Article unless he or his widow, or parent or parents, repays the refund within 2 years after the date of re-entry into service or by January 1, 2000 1992, whichever is later, with interest at the rate of 4% per annum, compounded annually, from the date the refund was received to the date such amount is repaid. The change made in this Section by this amendatory Act of 1995 applies without regard to whether the fireman was in service on or after the effective date of this amendatory Act of 1995.

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

(40 ILCS 5/6-164) (from Ch. 108 1/2, par. 6-164)

Sec. 6-164. Automatic annual increase; retirement after ~~subsequent to~~ September 1, 1959.

(a) A fireman qualifying for a minimum annuity who retires from service after September 1, 1959, shall, upon either the first of the month following the first anniversary of his date of retirement if he is age 60 (age 55 if born before January 1, 1945) years or over on that anniversary ~~with~~ date, or upon the first of the month following his attainment of age 60 (age 55 if born before January 1, 1945) if that ~~with~~ anniversary ~~with~~ date, have his then fixed and payable monthly annuity increased by 1 1/2%, and such first fixed annuity as granted at retirement increased by an additional 1 1/2% in January of each year thereafter up to a maximum increase of 30%. Beginning July 1, 1982 for firemen born before January 1, 1930, and beginning January 1, 1990 for firemen born after December 31, 1929 and before January 1, 1940, and beginning January 1, 1996 for firemen born after December 31, 1939 but before January 1, 1945, such increases shall be 3% and such firemen shall not be subject to the 30% maximum increase.

Any fireman born before January 1, 1945 who qualifies for a minimum annuity and retires after September 1, 1967 but has not received the initial increase under this subsection before January 1, 1996 is entitled to receive the initial increase under this subsection on (1) January 1, 1996, (2) the first anniversary of the date of retirement, or (3) attainment of age 55, whichever occurs last. The changes to this section made by this amendatory Act of 1995 apply beginning January 1, 1996 and apply without regard to whether the fireman or annuitant terminated service before the effective date of this amendatory Act of 1995.

(b) Subsection (a) of this section is ~~the provision~~ shall not be applicable to an employee receiving a term annuity.

(c) To help defray the cost of such increases in annuity, there shall be deducted, beginning September 1, 1959, from each payment of salary to a fireman, 1/8 of 1% of each such salary payment and an additional 1/8 of 1% beginning on September 1, 1961,

New matter indicated by italics - deletions by ~~strikeout~~.

and September 1, 1963, respectively, concurrently with and in addition to the salary deductions otherwise made for annuity purposes.

Each such additional 1/8 of 1% deduction from salary which shall, on September 1, 1963, result in a total increase of 3/8 of 1% of salary, shall be credited to the Automatic Increase Reserve, to be used, together with city contributions as provided in this Article, to defray the cost of the 1 1/2% annuity increments herein specified. Any balance in such reserve as of the beginning of each calendar year shall be credited with interest at the rate of 3% per annum.

The salary deductions provided in this section are not subject to refund, except to the fireman himself, in any case in which a fireman withdraws prior to qualification for minimum annuity and applies for refund, or applies for annuity, and also where a term annuity becomes payable. In such cases, the total of such salary deductions shall be refunded to the fireman, without interest, and charged to the aforementioned reserve.

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

(40 ILCS 5/6-164.1) (from Ch. 108 1/2, par. 6-164.1)

Sec. 6-164.1. Automatic annual increase; retirement on or before September 1, 1959.

(a) A retired fireman, qualifying for minimum annuity or who retired from service with 20 or more years of service, on or before September 1, 1959, at age 50 or over shall have, in January of the year following the year he attains the age of 65, or in January, 1970, if he is then over age 65, his then fixed and payable monthly annuity increased by an amount equal to 2% of the original grant of annuity, for each year he received annuity payments after the year in which he attains age 65. An additional 2% increase in such fixed and payable original granted annuity shall accrue in each January thereafter.

However, beginning January 1, 1996, the increases payable under this subsection (a) to a fireman born before January 1, 1945 shall be at the rate of 3% of the originally granted annuity amount, notwithstanding that the fireman terminated service prior to the effective date of this amendatory Act of 1995.

(b) The provisions of subsection (a) ~~the preceding paragraph~~ of this section apply only to a retired fireman eligible for such increases in his annuity if he contributed to the fund a sum equal to 1% of the final average monthly salary used in the computation of the annuity for each full year of credited service upon which his annuity was computed. All such sums contributed shall be placed in a Supplementary Payment Reserve and used for the purposes of such fund account.

(c) Beginning with the monthly annuity payment due in July, 1982, the monthly annuity payment for any fireman who retired from the service before September 1, 1976 at age 50 or over with 20 or more years of service or who was granted duty disability benefits prior to September 1, 1957 and entitled to an annuity or duty disability benefits on July 1, 1975 shall be not less than \$400.

(d) The difference in amount between the minimum monthly annuity specified in subsection (c) ~~the preceding paragraph~~ and the minimum monthly annuity to which the fireman was entitled before July 1, 1975, in accordance with the provisions of Section 6-128.1, shall be paid as a supplement in the manner set forth in subsection

New matter indicated by italics - deletions by ~~strikeout~~.

(e) ~~the immediately following paragraph.~~  
 (e) To defray the annual cost of the increases indicated in the preceding part of this Section, the annual income accruing from investments held by this fund, above 4% a year, to the extent necessary and available to finance the cost of such increases for the following year, shall be transferred each year beginning with the year 1969 to a fund account designated as the Supplementary Payment Reserve from the interest and investment reserve set forth in Section 6-203.

If the money in the Supplementary Payment Reserve in any year arising from interest income above 4% a year as defined in this Section accruing in the preceding year; and the contributions by retired persons, are insufficient to make the total payments to all persons entitled to the annuity under this Section; and any investment earnings over 4% a year beginning with the year 1969 not previously used to finance such increases and transferred to the Prior Service Annuity Reserve, may be used to the extent necessary and available to provide sufficient funds to finance such increases for the current year. Such sums shall be transferred from the Prior Service Annuity Reserve. If the total money available in the Supplementary Payment Reserve from such sources are insufficient to make the total payments to all persons entitled to such increases for the year, a proportionate amount computed as the ratio of the money available to the total of all the payments specified for that year shall be paid to each person for that year.

No part of any such increase under this Section is an obligation of the fund otherwise established under this Article 6. (Source: P.A. 82-971.)

(40 ILCS 5/6-165) (from Ch. 108 1/2, par. 6-165)

Sec. 6-165. ~~Financing~~, tax. Except as expressly provided in this Section, each city shall levy a tax annually upon all taxable property therein for the purpose of providing revenue for the fund. For the years prior to the year 1960, the tax rate shall be as provided for in the "Firemen's Annuity and Benefit Fund of the Illinois Municipal Code". The tax, from and after January 1, 1968 to and including the year 1971, shall not exceed .0863% of the value, as equalized or assessed by the Department of Revenue, of all taxable property in the city. Beginning with the year 1972 and each year thereafter the city shall levy a tax annually at a rate on the dollar of the value, as equalized or assessed by the Department of Revenue of all taxable property within such city that will produce, when extended, not to exceed an amount equal to the total amount of contributions by the employees to the fund made in the calendar year 2 years prior to the year for which the annual applicable tax is levied, multiplied by 2.23 through the calendar year 1981, and by 2.26 for the year 1982 and for each year thereafter.

To provide revenue for the ordinary death benefit established by Section 6-150 of this Article, in addition to the contributions by the firemen for this purpose, the city council shall for the year 1962 and each year thereafter annually levy a tax, which shall be in addition to and exclusive of the taxes authorized to be levied under the foregoing provisions of this Section, upon all taxable property in the city, as equalized or assessed by the Department of Revenue, at such rate per cent of the value of such property as shall be sufficient to produce for each year the sum of \$142,000.

The amounts produced by the taxes levied annually, together

New matter indicated by italics - deletions by strikethrough.

with the deposit expressly authorized in this Section, shall be sufficient, when added to the amounts deducted from the salaries of firemen and applied to the fund, to provide for the purposes of the fund. The taxes shall be levied and collected in like manner with the general taxes of the city, and shall be in addition to all other taxes which the city may levy upon all taxable property therein and shall be exclusive of and in addition to the amount of tax the city may levy 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 city may levy for general purposes.

The amounts of the taxes to be levied in each year shall be certified to the city council by the board.

As soon as any revenue derived from such taxes is collected, it shall be paid to the city treasurer and held for the benefit of the fund, and all such revenue shall be paid into the fund in accordance with the provisions of this Article.

If the funds available are insufficient during any year to meet the requirements of this Article, the city may issue tax anticipation warrants, against the tax levies herein authorized for the current fiscal year.

The various sums, hereinafter stated, including interest, to be contributed by the city, shall be taken from the revenue derived from the taxes or otherwise as expressly provided in this Section. Except for defraying the cost of administration of the fund during the calendar year in which a city first attains a population of 500,000 and comes under the provisions of this Article and the first calendar year thereafter, any money of the city derived from any source other than these taxes or the sale of tax anticipation warrants shall not be used to provide revenue for the fund, nor to pay any part of the cost of administration thereof, unless applied to make the deposit expressly authorized in this Section.

In lieu of levying all or a portion of the tax required under this Section in any year, the city may deposit with the city treasurer no later than March 1 of that year for the benefit of the fund, to be held in accordance with this Article, an amount that, together with the taxes levied under this Section for that year, is not less than the amount of the city contributions for that year as certified by the board to the city council. The deposit may be derived from any source legally available for that purpose, including, but not limited to, the proceeds of city borrowings. The making of a deposit shall satisfy fully the requirements of this Section for that year to the extent of the amounts so deposited. (Source: P.A. 82-342.)

(40 ILCS 5/6-210.1) (from Ch. 108 1/2, par. 6-210.1)

Sec. 6-210.1. Credit for former employment with the fire department ~~fire service as provided.~~

(a) Any fireman who (1) accumulated service credit in the Article 8 fund for service as an employee of the Chicago Fire Department ~~and received~~ and (2) has terminated that ~~such~~ Article 8 service credit and received a refund of contributions therefor, may establish service credit in this Fund for all or any part of that ~~such~~ period of service ~~as a fireman~~ under the Article 8 fund by making written application to the Board by January 1, 2000 ~~1992~~ and paying to this Fund (1) employee contributions based upon the actual salary received and the rates in effect for members of this

New matter indicated by italics - deletions by strikethrough.

Fund at the time of such service as a paramedic, plus (ii) interest thereon calculated as follows:

(1) For applications received by the Board before the effective date of this amendatory Act of 1995, interest shall be calculated on the amount of employee contributions determined under item (i) above, at the rate of 4% per annum, compounded annually, from the date of termination of such service to the date of payment.

(2) For applications received by the Board on or after the effective date of this amendatory Act of 1995, interest shall be calculated on the amount of employee contributions determined under item (i) above, at the rate of 4% per annum, compounded annually, from the first date of the period for which credit is being established under this subsection (a) to the date of payment.

(b) A fireman who, at any time during the period 1970 through 1983, was an employee of the Chicago Fire Department but did not participate in any pension fund subject to this Code with respect to that employment may establish service credit in this Fund for all or any part of that employment by making written application to the Board by January 1, 2000 and paying to this Fund (i) employee contributions based upon the actual salary received and the rates in effect for members of this Fund at the time of that employment, plus (ii) interest thereon calculated at the rate of 4% per annum, compounded annually, from the first date of the employment for which credit is being established under this subsection (b) to the date of payment.

(c) A fireman may pay the contributions required for service credit under this Section established on or after the effective date of this amendatory Act of 1995 in the form of payroll deductions, in accordance with such procedures and limitations as may be established by Board rule and any applicable rules or ordinances of the employer.

The employer shall not be responsible for making any employer contributions for any credit established under this Section.

(Source: P.A. 86-273; 86-1488.)

(40 ILCS 5/7-118) (from Ch. 108 1/2, par. 7-118)

Sec. 7-118. "Beneficiary":

(a) The surviving spouse of an employee or of an employee annuitant, or if no surviving spouse survives, the person or persons designated by a participating employee or employee annuitant, or if no person so designated survives, or if no designation is on file, the estate of the employee or employee annuitant. The person or persons designated by a beneficiary annuitant, or if no person designated survives, or if no designation is on file, the estate of the beneficiary annuitant. The estate of a surviving spouse annuitant where the employee or employee annuitant filed no designation, or no person designated survives at the death of a surviving spouse annuitant. Designations of beneficiaries shall be in writing on forms prescribed by the board and effective upon filing in the fund offices. The designation forms shall provide for contingent beneficiaries. Divorce, dissolution or annulment of marriage revokes the designation of an employee's former spouse as a beneficiary on a designation executed before entry of judgment for divorce, dissolution or annulment of marriage.

(b) Notwithstanding the foregoing, an employee or employee

~~annuitant—either than an annuitant returning to participating service—may elect to name any person, trust or charity to be the primary beneficiary of any death benefit payable by reason of his death prior to termination of service. Such election shall state specifically whether it is his intention to exclude the spouse, shall be in writing, and may be revoked at any time. Such election or revocation shall take effect upon being filed in the fund offices.~~

(c) If a surviving spouse annuity is payable to a former spouse upon the death of an employee annuitant, the former spouse, unless designated by the employee annuitant after dissolution of the marriage, shall not be the beneficiary for the purposes of the \$3,000 death benefit payable under subparagraph 6 of Section 7-164. This benefit shall be paid to the designated beneficiary of the employee annuitant or, if there is no designation, then to the estate of the employee annuitant.

(Source: P.A. 87-740; 87-850; 87-1265.)

(40 ILCS 5/7-174) (from Ch. 108 1/2, par. 7-174)

Sec. 7-174. Board created.

(a) A board of 8 members shall constitute a board of trustees authorized to carry out the provisions of this Article. Each trustee shall be a participating employee of a participating municipality or participating instrumentality or an annuitant of the Fund and no person shall be eligible to become a trustee after January 1, 1979 who does not have at least 8 years of creditable service.

(b) The board shall consist of representatives of various groups as follows:

1. 4 trustees shall be a chief executive officer, chief finance officer, or other officer, executive or department head of a participating municipality or participating instrumentality, and each such trustee shall be designated as an executive trustee.

2. 3 trustees shall be employees of a participating municipality or participating instrumentality and each such trustee shall be designated as an employee trustee.

3. One trustee shall be an annuitant of the Fund, who shall be designated the annuitant trustee.

(c) A person elected as a trustee shall qualify as a trustee, after declaration by the board that he has been duly elected, upon filing same in the office of the Fund.

(d) The term of office of each trustee shall begin upon January 1 of the year following the year in which he is elected and shall continue for a period of 5 years and until a successor has been elected and qualified, or until prior resignation, death, incapacity or disqualification.

(e) Any elected trustee (other than the annuitant trustee) shall be disqualified immediately upon termination of employment with all participating municipalities and instrumentalities thereof or upon any change in status which removes any such trustee from all employments within the group he represents. The annuitant trustee shall be disqualified upon termination of his or her annuity.

(f) The trustees shall fill any vacancy in the board by appointment, for the period until the next election of trustees, or, if the remaining term is less than 2 years, for the remainder of the

term, and until his successor has been elected and qualified.

(g) Trustees shall serve without compensation, but shall be reimbursed for any reasonable expenses incurred in attending meetings of the board and in performing duties on behalf of the Fund and for the amount of any earnings withheld by any employing municipality or participating instrumentality because of attendance at any board meeting.

(h) Each trustee other than the annuitant trustee shall be entitled to one vote on any and all actions before the board; the annuitant trustee is not entitled to vote on any matter. At least 4 concurring votes shall be necessary for every decision or action by the board at any of its meetings. No decision or action shall become effective unless presented and so approved at a regular or duly called special meeting of the board.

(Source: P.A. 81-1509.)

(40 ILCS 5/7-175) (from Ch. 108 1/2, par. 7-175)

Sec. 7-175. Board elections.

(a) During the period beginning on August 1 and ending on September 15 of each year the board shall accept nominations of candidates for election to the trusteeships for terms beginning the next January 1, new trusteeships or vacancies to be filled by election.

(b) All nominations shall be by petition. Three petitions for an executive trustee shall be signed by governing bodies of contributing participating municipalities or instrumentalities.

A petition for an employee trustee shall be signed by at least 350 participating employees who were participants during July of the current year and who, if their employment status remained unchanged, would be eligible to vote for such candidate at the following election.

A petition for an annuitant trustee shall be signed by at least 100 persons who were annuitants of the Fund during July of the current year and who, if their annuitant status remains unchanged, would be eligible to vote for the candidate at the following election.

(c) A separate ballot shall be used for each class of trustee and the names of all candidates properly nominated in petitions received by the board shall be placed in alphabetical order upon the proper ballot. Where two employee trustees are elected to a full term in the same year, there shall be one election for the two trusteeships and the two candidates getting the highest number of votes shall be elected.

(d) At any election, each contributing participating municipality and participating instrumentalities and each contributing participating employee instrumentalities by such participating municipality or participating instrumentality during September of any year, shall be entitled to vote as follows:

1. The governing body of each such participating municipality and participating instrumentality shall have one vote at any election in which an executive trustee is to be elected, and may cast such vote for any candidate on the executive trustee ballot.

2. Each participating employee shall have one vote at any election in which an employee trustee is to be elected, and may cast such vote for any candidate on the employee trustee ballot.

New matter indicated by italics - deletions by strikethrough.

3. Each annuitant of the Fund shall have one vote at any election in which an annuitant trustee is to be elected, and may cast that vote for any candidate on the annuitant trustee ballot.

4. A vote may be cast for a person not on the ballot by writing in his or her name.

(e) The election shall be by ballot pursuant to the rules and regulations established by the board and shall be completed by December 31 of the year. The results shall be entered in the minutes of the meeting of the board following the tally of votes.

(f) In case of a tie vote, the candidate employed by or retired from the participating municipality or participating instrumentalities having the greatest number of participating employees at the time shall be elected.

(Source: P. A. 76-1819.)

(40 ILCS 5/7-175.1) (from Ch. 108 1/2, par. 7-175.1)

Sec. 7-175.1. Election of employee and annuitant trustees.

(a) The board shall prepare and send ballots and ballot envelopes to the employees and annuitants eligible to vote as of September of that year. The ballots shall contain the names of all candidates in alphabetical order and an appropriate place where a name may be written in on the ballot. The ballot envelope shall have on the outside a form of certificate stating that the person voting the ballot is a participating employee or annuitant entitled to vote.

(b) Employees and annuitants, upon receipt of the ballot, shall vote the ballot and place it in the ballot envelope, seal the envelope, execute the certificate thereon and return the ballot to the Fund.

(c) The board shall set a final date for ballot return, and ballots received prior to that date in a ballot envelope with a properly executed certificate and properly voted, shall be valid ballots.

(d) The board shall set a day for counting the ballots and name judges and clerks of election to conduct the count of ballots, and shall make any such rules and regulations necessary for the conduct of the count.

(Source: P.A. 85-941.)

(40 ILCS 5/7-201) (from Ch. 108 1/2, par. 7-201)

Sec. 7-201. The assets of the fund in excess of the amount of

cash required for current operation as determined by the board shall be invested, subject to the requirements and restrictions set forth in Sections 1-109, 1-109.1, 1-109.2, 1-110, 1-111, 1-114 and 1-115 of this Code.

No bank or savings and loan association shall receive investment funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended. The limitations set forth in such Section 6 shall be applicable only at the time of investment and shall not require the liquidation of any investment at any time.

The board may sell any security belonging to the fund at any time in its judgment that it is necessary or desirable to do so.

The board shall have the authority to enter into such agreements and to execute such documents as it determines to

New matter indicated by italics - deletions by strikethrough.

be necessary to complete any investment transaction.

All investments shall be clearly held and accounted for to indicate ownership by the board. The board may direct the registration of securities or the holding of interests in real property in its own name or in the name of a nominee created for the express purpose of registration of securities or the holding of interests in real property by a savings and loan association or national or State bank or trust company authorized to conduct a trust business and ~~and~~ ~~located~~ in the State of Illinois. The board may hold title to interests in real property in the name of the Fund or in the name of a title holding corporation created for the express purpose of holding title to interests in real property.

Investments shall be carried at cost or at a book value in accordance with generally accepted accounting principles and accounting procedures approved by the board. ~~Adjustments shall be made in investment carrying values for ordinary current market price fluctuations but reserves may be provided to account for possible losses or unrealized gains as determined by the board.~~ The book value of investments held by any pension fund or retirement system in one or more commingled investment accounts shall be the cost of its units of participation in such commingled account or accounts as recorded on the books of the board. (Source: P.A. 87-1265.)

(40 ILCS 5/7-205) (from Ch. 108 1/2, par. 7-205)

Sec. 7-205. Reserves for annuities. Appropriate reserves shall be created for payment of all annuities granted under this Article at the time such annuities are granted and in amounts determined to be necessary under actuarial tables adopted by the Board upon recommendation of the actuary of the fund. All annuities payable shall be charged to the annuity reserve.

1. Amounts credited to annuity reserves shall be derived by transfer of all the employee credits from the appropriate employee reserves and by charges to the municipality reserve of those municipalities in which the retiring employee has accumulated service. If a retiring employee has accumulated service in more than one participating municipality or participating instrumentality, aggregate municipality charges shall be prorated on a basis of the employee's earnings in case of concurrent service and creditable service in other cases.

2. Supplemental annuities shall be handled as a separate annuity and amounts to be credited to the annuity reserve therefor shall be derived in the same manner as a regular annuity.

3. When a retirement annuity is granted to an employee with a spouse eligible for a surviving spouse annuity, there shall be credited to the annuity reserve an amount to fund the cost of both the retirement and surviving spouse annuity as a joint and survivors annuity.

4. Beginning January 1, 1989, when a retirement annuity is awarded, an amount equal to the present value of the \$3,000 death benefit payable upon the death of the annuitant shall be transferred to the annuity reserve from the appropriate municipality reserves in the same manner as the transfer for annuities.

5. All annuity reserves shall be revalued annually as of December 31. Beginning as of December 31, 1973, adjustment required therein by such revaluation shall be charged or credited to the earnings and experience variation reserve.

New matter indicated by italics - deletions by ~~strikeout~~.

6. There shall be credited to the annuity reserve ~~1/2~~ of the payments made by annuitants under Section 7-144.2, plus an additional amount from the earnings and experience variation reserve to fund the cost of the incremental annuities granted to annuitants making these payments.

7. As of December 31, 1972, the excess in the annuity reserve shall be transferred to the municipality reserves. An amount equal to the deficiency in the reserve of participating municipalities and participating instrumentalities which have no participating employees shall be allocated to their reserves. The remainder shall be allocated in amounts proportionate to the present value, as of January 1, 1972, of annuities of annuitants of the remaining participating municipalities and participating instrumentalities. (Source: P.A. 86-820.)

(40 ILCS 5/7-206) (from Ch. 108 1/2, par. 7-206)

Sec. 7-206. Death Reserve. All death benefit payments shall be charged to the Death Reserve, other than \$3,000 death benefits paid after December 31, 1988 upon the death of an annuitant. All contributions for death purposes under Section 7-172(b)4 shall be credited to the same reserve. Whenever the balance in such reserve at the close of a year exceeds 100% of the average annual charges to this account during the 3 preceding calendar years, the basic actuarial assumptions upon which municipality contribution rates for these purposes are based, shall be reviewed and revised in such manner as is deemed necessary to reduce such balance. ~~These shall be credited to the Death Reserve 1/2 of the payments made by annuitants under Section 7-144.2 plus an additional amount from the interest reserve to fund the cost of the \$1,000 death benefits payable upon the death of these annuitants.~~ (Source: P.A. 85-941.)

(40 ILCS 5/7-208) (from Ch. 108 1/2, par. 7-208)

Sec. 7-208. Earnings and experience variation reserve. One ~~an~~ earnings and experience variation reserve shall be maintained. All other accounts for this purpose shall be abolished upon the effective date of this amendatory Act of 1995. Moneys in abolished reserve accounts shall be transferred to the earnings and experience variation reserve. No more than one-half of all interest income and earnings on investments of whatever type, including realized gains on disposition of investments and unrealized gains in market value, shall be credited thereto. All investment earnings expense of whatever type, including realized losses on disposition of investments and unrealized losses in market value, shall be charged thereto. All administrative expenses directly relating to investments may be charged thereto. Excess or deficiencies in the annuity and disability reserves shall be charged or credited to this reserve. Whenever a balance exists in such reserve, it shall be included in the basis used for determining the effective interest rate. ~~For purposes of determining investment income for any year any premium or discount incurred in the purchase of a security shall be amortized in the manner determined by the board and in accordance with generally accepted accounting principles. No adjustments shall be made in investment valuations for ordinary current market price fluctuations. The balance in the reserve shall be distributed as of the end of each year, but a contingency balance of not more than twice the projected interest requirement for the next year 1-1/2% of the assets of the fund may be maintained. If the~~

New matter indicated by italics - deletions by ~~strikeout~~.

balance ever exceeds twice the projected requirement, the excess shall be distributed to municipality reserves.

If the Board determines that the funds available in this reserve, after required transfers, will not be sufficient to provide administrative expenses of the fund, the Board may include in the municipality contribution rate authorized by Section 7-172 a percentage of earnings on the earnings of all participating employees to provide an amount required for the administrative expenses.

Upon adoption of generally accepted accounting procedures that allow for the recognition of unrealized gains or losses in market value, those gains or losses shall be allocated to employer accounts including the earnings and experience variation reserve in the same proportion those accounts were to total assets prior to the implementation of market value accounting.  
(Source: P.A. 81-618.)

(40 ILCS 5/7-209) (from Ch. 108 1/2, par. 7-209)  
Sec. 7-209. Earnings and Interest.

(a) Balances at the beginning of each year which remain in employee reserves at the end of the year shall be credited with interest annually at the prescribed rate.

(b) Municipality reserves shall be charged or credited, as the case may be, with interest at the prescribed rate applied to the balance therein at the beginning of the year.

(c) Municipality accounts receivable shall be charged with interest at a rate of 1/2% per month before July 1, 1984, and 1% per month thereafter on the balance therein unpaid one month or more. The unpaid balance shall include charges established retroactively because of failure of the municipality to report amounts which should be receivable. Credit balances shall be disregarded in this calculation.

(d) The annuity total and permanent disability reserves shall be credited with interest at the prescribed rate at the end of each year. For purposes of this computation, the prescribed rate shall be applied to the balances therein at the beginning of the year.

(e) Amounts credited or charged under subsection (a), (b), (c), or (d) pursuant to the foregoing paragraphs of this Section shall be charged or credited to the earnings and experience variation reserve. Any remaining balance, in excess of the contingency balance established, shall be transferred to the municipality reserves in proportion to present values of the annuities of the annuitants of each participating municipality and participating instrumentality plus the balance in their municipality reserve.

(f) The Board shall fix the rate of interest, to be charged on back, retroactive, or reinstatement contributions.  
(Source: P.A. 83-1112.)

(40 ILCS 5/9-121.13 new)

Sec. 9-121.13. State's Attorney employee transfer of credits. An active participant in the Fund who was employed by the office of the Cook County State's Attorney on January 1, 1995 may transfer to this Fund credits and creditable service accumulated under the pension fund established under Article 5 of this Code, as provided in Section 5-237, by submitting a written application to the Fund and paying to the Fund the amount, if any, by which the amount transferred to the Fund under Section 5-237 is less than the amount

New matter indicated by italics - deletions by ~~strikeout~~.

of employee and employer contributions that would have been received by the Fund if the service being transferred had been served as a participant of this Fund, including interest at the rate of 6% per year, compounded annually, from the date of the service to the date of payment. The applicant may elect to have the service transferred be deemed service as a member of the county police department; if the applicant so elects, the required payment shall be calculated on the basis of the rates applicable to members of the county police department.  
(40 ILCS 5/12-133.4 new)  
Sec. 12-133.4. Early retirement incentives.

(a) To be eligible for the benefits provided in this Section, a person must:

(1) have been, on March 1, 1994, an employee (i) contributing to the Fund in active payroll status in a position of employment under this Article, or (ii) receiving duty or ordinary disability benefits under Section 12-140 or 12-143;

(2) not have begun to receive a retirement annuity under this Article before March 1, 1994;

(3) file with the Board, within 90 days after the effective date of this Section, a written election requesting the benefits provided in this Section;

(4) withdraw from service on or after April 30, 1994 and no later than 90 days after the effective date of this Section;

(5) have attained age 50 on or before the date of withdrawal; and

(6) have at least 25 years of creditable service under this Fund as defined in Sections 12-109 and 12-127 (not including any creditable service established under this Section) by the date of withdrawal.

(b) An eligible person may establish up to 5 years of creditable service under this Article, in increments of one month, by making the contributions specified in subsection (c).

The creditable service established under this Section may be used for all purposes under this Article and the Retirement Systems Reciprocal Act, except for the computation of the highest average annual salary under Section 12-133 or the determination of salary under this or any other Article of this Code.

(c) For each month of creditable service established under this Section, the person must pay to the Fund an employee contribution to be determined by the Fund, equal to 4.50% of the person's monthly salary rate in effect on the date of withdrawal. Subject to the requirements of subsection (d), the person may elect to pay the required employee contribution before the retirement annuity begins or through deduction from the retirement annuity over a period of up to 24 months.

If a person who retires under this Section dies before all payments of employee contribution have been made, the remaining payments shall be deducted from any survivor or death benefits payable to the person's surviving spouse or beneficiary.

All employee contributions paid under this Section shall be deemed employee contributions for the purposes of determining the tax levy under Section 12-149. Employee contributions made under this Section may be refunded under the same terms and conditions as

New matter indicated by italics - deletions by ~~strikeout~~.

other employee contributions under this Article.

(d) In the case of a person who begins receiving a retirement annuity under the other provisions of this Article on or after March 1, 1994 and qualifies for benefits under this Section after that retirement annuity begins, the increase in retirement annuity resulting from this Section shall be applied retroactively to the date the retirement annuity began.

If a person who has retired under this Section receives a retroactive increase in salary, the person's retirement annuity shall be recalculated to reflect the retroactive salary increase, and the resulting increase in retirement annuity, if any, shall be applied retroactively to the date the retirement annuity began. If the retroactive salary increase affects the monthly salary rate that was in effect for the person on the date of withdrawal, the employee contribution required under subsection (c), if any, shall also be recalculated.

The amount due the annuitant as a result of a retroactive increase in retirement annuity under this subsection shall first be applied against any part of the employee contribution required under this Section that remains unpaid; the remainder shall be paid to the annuitant in a lump sum, without interest.

(e) A person who retires under the provisions of this Section shall have his or her retirement annuity calculated under the provisions of Section 12-133, except that the retirement annuity shall not be subject to the reduction for retirement under age 60 that is specified in Section 12-133.

(f) Notwithstanding Section 12-146 of this Article, an annuitant who re-enters service under this Article after receiving a retirement annuity based on the additional benefits provided under this Section thereby forfeits the right to continue to receive those additional benefits and upon again retiring shall have his or her retirement annuity recalculated without the additional benefits provided in this Section.

(40 ILCS 5/14-110) (from Ch. 108 1/2, par. 14-110)

Sec. 14-110. Alternative retirement annuity.

(a) Any member who has withdrawn from service with not less than 20 years of eligible creditable service and has attained age 55, and any member who has withdrawn from service with not less than 25 years of eligible creditable service and has attained age 50, regardless of whether the attainment of either of the specified ages occurs while the member is still in service, shall be entitled to receive at the option of the member, in lieu of the regular or minimum retirement annuity, a retirement annuity computed as follows:

- (1) for periods of service as a noncovered employee, 2 1/4% of final average compensation for each of the first 10 years of creditable service, 2 1/2% for each year above 10 years to and including 20 years of creditable service, and 2 3/4% for each year of creditable service above 20 years; and
  - (ii) for periods of eligible creditable service as a covered employee, 1.67% of final average compensation for each of the first 10 years of such service, 1.90% for each of the next 10 years of such service, 2.10% for each year of such service in excess of 20 but not exceeding 30, and 2.30% for each year in excess of 30.
- Such annuity shall be subject to a maximum of 75% of final

New matter indicated by italics - deletions by ~~strikeout~~.

average compensation. These rates shall not be applicable to any service performed by a member as a covered employee which is not eligible creditable service. Service as a covered employee which is not eligible creditable service shall be subject to the rates and provisions of Section 14-108.

(b) For the purpose of this Section, "eligible creditable service" means creditable service resulting from service in one or more of the following positions:

- (1) State policeman;
- (2) fire fighter in the fire protection service of a department;
- (3) air pilot;
- (4) special agent;
- (5) investigator for the Secretary of State;
- (6) conservation police officer;
- (7) investigator for the Department of Revenue;
- (8) security employee of the Department of Mental Health and Developmental Disabilities;
- (9) Central Management Services security police officer;
- (10) security employee of the Department of Corrections;
- (11) dangerous drugs investigator;
- (12) investigator for the Department of State Police;
- (13) investigator for the Office of the Attorney General;
- (14) controlled substance inspector;
- (15) investigator for the Office of the State's Attorneys Appellate Prosecutor;
- (16) Commerce Commission police officer.

A person employed in one of the positions specified in this subsection is entitled to eligible creditable service for service credit earned under this Article while undergoing the basic police training course approved by the Illinois Local Governmental Law Enforcement Officers Training Board, if completion of that training is required of persons serving in that position. For the purposes of this Code, service during the required basic police training course shall be deemed performance of the duties of the specified position, even though the person is not a sworn peace officer at the time of the training.

(c) For the purposes of this Section:

- (1) The term "state policeman" includes any title or position in the Department of State Police that is held by an individual employed under the State Police Act.
- (2) The term "fire fighter in the fire protection service of a department" includes all officers in such fire protection service including fire chiefs and assistant fire chiefs.
- (3) The term "air pilot" includes any employee whose official job description on file in the Department of Central Management Services, or in the department by which he is employed if that department is not covered by which he is Code, states that his principal duty is the operation of aircraft, and who possesses a pilot's license; however, the change in this definition made by this amendatory Act of 1983 shall not operate to exclude any noncovered employee who was an "air pilot" for the purposes of this Section on January 1,

New matter indicated by italics - deletions by ~~strikeout~~.

1984.

(4) The term "special agent" means any person who by reason of employment by the Division of Narcotic Control, the Bureau of Investigation or, after July 1, 1977, the Division of Criminal Investigation, the Division of Internal Investigation or any other Division or organizational entity in the Department of State Police is vested by law with duties to maintain public order, investigate violations of the criminal law of this State, enforce the laws of this State, make arrests and recover property. The term "special agent" includes any title or position in the Department of State Police that is held by an individual employed under the State Police Act.

(5) The term "investigator for the Secretary of State" means any person employed by the Office of the Secretary of State and vested with such investigative duties as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act.

A person who became employed as an investigator for the Secretary of State between January 1, 1967 and December 31, 1975, and who has served as such until attainment of age 60, either continuously or with a single break in service of not more than 3 years duration, which break terminated before January 1, 1976, shall be entitled to have his retirement annuity calculated in accordance with subsection (a), notwithstanding that he has less than 20 years of credit for such service.

(6) The term "Conservation Police Officer" means any person employed by the Division of Law Enforcement of the Department of Conservation and vested with such law enforcement duties as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D), and 218(1)(1) of that Act. The term "Conservation Police Officer" includes the positions of Chief Conservation Police Administrator and Assistant Conservation Police Administrator.

(7) The term "investigator for the Department of Revenue" means any person employed by the Department of Revenue and vested with such investigative duties as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act.

(8) The term "security employee of the Department of Mental Health and Developmental Disabilities" means any person employed by the Department of Mental Health and Developmental Disabilities who is employed at the Chester Mental Health Center and has daily contact with the residents thereof, or who is a mental health police officer. "Mental health police officer" means any person employed by the Department of Mental Health and Developmental Disabilities who is vested with such law enforcement duties as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act.

(9) "Central Management Services security police officer" means any person employed by the Department of

Central Management Services who is vested with such law enforcement duties as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act.

(10) The term "security employee of the Department of Corrections" means any employee of the Department of Corrections or the former Department of Personnel, and any member or employee of the Prisoner Review Board, who has daily contact with inmates by working within a correctional facility or who is a parole officer or an employee who has direct contact with committed persons in the performance of his or her job duties.

(11) The term "dangerous drugs investigator" means any person who is employed as such by the Department of Alcoholism and Substance Abuse.

(12) The term "investigator for the Department of State Police" means a person employed by the Department of State Police who is vested under Section 4 of the Narcotic Control Division Abolition Act with such law enforcement powers as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act.

(13) "Investigator for the Office of the Attorney General" means any person who is employed as such by the Office of the Attorney General and is vested with such investigative duties as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act. For the period before January 1, 1989, the term includes all persons who were employed as investigators by the Office of the Attorney General, without regard to social security status.

(14) "Controlled substance inspector" means any person who is employed as such by the Department of Professional Regulation and is vested with such law enforcement duties as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act. The term "controlled substance inspector" includes the Program Executive of Enforcement and the Assistant Program Executive of Enforcement.

(15) The term "investigator for the Office of the State's Attorneys Appellate Prosecutor" means a person employed in that capacity on a full time basis under the authority of Section 7.06 of the State's Attorneys Appellate Prosecutor's Act.

(16) "Commerce Commission police officer" means any person employed by the Illinois Commerce Commission who is vested with such law enforcement duties as render him ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 218(d)(8)(D), and 218(1)(1) of that Act.

(d) A security employee of the Department of Corrections, and a security employee of the Department of Mental Health and Developmental Disabilities who is not a mental health police officer, shall not be eligible for the alternative retirement annuity provided by this Section unless he or she meets the following minimum age and service requirements at the time of

New matter indicated by italics - deletions by ~~strikeout~~.

New matter indicated by italics - deletions by ~~strikeout~~.

retirement: (i) 25 years of eligible creditable service and age 55; or

(ii) beginning January 1, 1987, 25 years of eligible creditable service and age 54, or 24 years of eligible creditable service and age 55; or

(iii) beginning January 1, 1988, 25 years of eligible creditable service and age 53, or 23 years of eligible creditable service and age 55; or

(iv) beginning January 1, 1989, 25 years of eligible creditable service and age 52, or 22 years of eligible creditable service and age 55; or

(v) beginning January 1, 1990, 25 years of eligible creditable service and age 51, or 21 years of eligible creditable service and age 55; or

(vi) beginning January 1, 1991, 25 years of eligible creditable service and age 50, or 20 years of eligible creditable service and age 55.

Persons who have service credit under Article 16 of this Code for service as a security employee of the Department of Corrections in a position requiring certification as a teacher may count such service toward establishing their eligibility under the service requirements of this Section; but such service may be used only for establishing such eligibility, and not for the purpose of increasing or calculating any benefit.

(e) If a member enters military service while working in a position in which eligible creditable service may be earned, and returns to State service in the same or another such position, and fulfills in all other respects the conditions prescribed in this Article for credit for military service, such military service shall be credited as eligible creditable service for the purposes of the retirement annuity prescribed in this Section.

(f) For purposes of calculating retirement annuities under this Section, periods of service rendered after December 31, 1968 and before October 1, 1975 as a covered employee in the position of special agent, conservation police officer, mental health police officer, or investigator for the Secretary of State, shall be deemed to have been service as a noncovered employee, provided that the employee pays to the System prior to retirement an amount equal to (1) the difference between the employee contributions that would have been required for such service as a noncovered employee, and the amount of employee contributions actually paid, plus (2) if payment is made after July 31, 1987, regular interest on the amount specified in item (1) from the date of service to the date of payment.

For purposes of calculating retirement annuities under this Section, periods of service rendered after December 31, 1968 and before January 1, 1982 as a covered employee in the position of investigator for the Department of Revenue shall be deemed to have been service as a noncovered employee, provided that the employee pays to the System prior to retirement an amount equal to (1) the difference between the employee contributions that would have been required for such service as a noncovered employee, and the amount of employee contributions actually paid, plus (2) if payment is made after January 1, 1990, regular interest on the amount specified in item (1) from the date of service to the date of payment.

New matter indicated by italics - deletions by ~~strikeout~~.

(g) A State policeman may elect, not later than January 1, 1990, to establish eligible creditable service for up to 10 years of his service as a policeman under Article 3, by filing a written election with the Board, accompanied by payment of an amount to be determined by the Board, equal to (i) the difference between the amount of employee and employer contributions transferred to the System under Section 3-110.5, and the amounts that would have been contributed had such contributions been made at the rates applicable to State policemen, plus (ii) interest thereon at the effective rate for each year, compounded annually, from the date of service to the date of payment.

Subject to the limitation in subsection (i), a State policeman may elect, not later than July 1, 1993, to establish eligible creditable service for up to 10 years of his service as a member of the County Police Department under Article 9, by filing a written election with the Board, accompanied by payment of an amount to be determined by the Board, equal to (i) the difference between the amount of employee and employer contributions transferred to the System under Section 9-121.10 and the amounts that would have been contributed had those contributions been made at the rates applicable to State policemen, plus (ii) interest thereon at the effective rate for each year, compounded annually, from the date of service to the date of payment.

(h) Subject to the limitation in subsection (i), a State policeman or investigator for the Secretary of State may elect to establish eligible creditable service for up to 12 years of his service as a policeman under Article 5, by filing a written election with the Board on or before January 31, 1992, and paying to the System by January 31, 1994 an amount to be determined by the Board, equal to (i) the difference between the amount of employee and employer contributions transferred to the System under Section 5-236, and the amounts that would have been contributed had such contributions been made at the rates applicable to State policemen, plus (ii) interest thereon at the effective rate for each year, compounded annually, from the date of service to the date of payment.

Subject to the limitation in subsection (i), a State policeman, conservation police officer, or investigator for the Secretary of State may elect to establish eligible creditable service for up to 10 years of service as a sheriff's law enforcement employee under Article 7, by filing a written election with the Board on or before January 31, 1993, and paying to the System by January 31, 1994 an amount to be determined by the Board, equal to (i) the difference between the amount of employee and employer contributions transferred to the System under Section 7-139.7, and the amounts that would have been contributed had such contributions been made at the rates applicable to State policemen, plus (ii) interest thereon at the effective rate for each year, compounded annually, from the date of service to the date of payment.

(i) The total amount of eligible creditable service established by any person under subsections (g), (h) and (j) of this Section shall not exceed 12 years.

(j) Subject to the limitation in subsection (i), an investigator for the Office of the State's Attorneys Appellate Prosecutor may elect to establish eligible creditable service for up to 10 years of his service as a policeman under Article 3 or a

New matter indicated by italics - deletions by ~~strikeout~~.

sheriff's law enforcement employee under Article 7, by filing a written election with the Board, accompanied by payment of an amount to be determined by the Board, equal to (1) the difference between the amount of employee and employer contributions transferred to the System under Section 3-110.6 or 7-139.8, and the amounts that would have been contributed had such contributions been made at the rates applicable to State policemen, plus (2) interest thereon at the effective rate for each year, compounded annually, from the date of service to the date of payment.  
(Source: P.A. 86-272; 86-273; 86-820; 86-1028; 86-1488; 87-794; 87-1265.)

(40) ILCS 5/14-123.1) (from Ch. 108 1/2, par. 14-123.1)  
Sec. 14-123.1. Temporary disability benefit.

(a) A member who has at least 18 months of creditable service and who becomes physically or mentally incapacitated to perform the duties of his position shall receive a temporary disability benefit, provided that:

(1) the agency responsible for determining the liability of the State (i) has formally denied all employer-paid temporary total disability benefits under the Workers' Compensation Act or the Workers' Occupational Diseases Act and an appeal of that such denial is pending before the Industrial Commission of Illinois, or (ii) has granted and then terminated for any reason an employer-paid temporary total disability benefit and the member has filed a petition for emergency hearing under Section 19(b-1) of the Workers' Compensation Act or Section 19(b-1) of the Workers' Occupational Diseases Act; and

(2) application is made not later than (i) 12 months after the date that the such disability results in loss of pay, (ii) 12 months after the date the agency responsible for determining the liability of the State under the Workers' Compensation Act or Workers' Occupational Diseases Act has formally denied or terminated the employer-paid temporary total disability benefit, or (iii) in the case of termination of an employer-paid temporary total disability benefit, 12 months after the effective date of this amendatory Act of 1995 etiam, whichever occurs last ~~is latest~~; and

(3) proper proof is received from one or more physicians designated by the Board certifying that the member is mentally or physically incapacitated.

(b) In the case of a denial of benefits, the temporary disability benefit shall begin to accrue on the 31st day of absence from work on account of disability, but the benefit shall not become actually payable to the member until the expiration of 31 days from the day upon which the member last received or had a right to receive any compensation.

In the case of termination of an employer-paid temporary total disability benefit, the temporary disability benefit under this Section shall be calculated from the day following the date of termination of the employer-paid benefit or the 31st day of absence from work on account of disability, whichever is later, but shall not become payable to the member until (i) the member's right to an employer-paid temporary total disability benefit is denied as a result of the emergency hearing held under Section 19(b-1) of the Workers' Compensation Act or Section 19(b-1) of the Workers'

New matter indicated by italics - deletions by ~~strikeout~~.

Occupational Diseases Act or (ii) the expiration of 150 days from the date of termination of the employer-paid benefit, whichever occurs first. If a terminated employer-paid temporary total disability benefit is resumed or replaced with another employer-paid disability benefit and the resumed or replacement benefit is later terminated and the member again files a petition for emergency hearing under Section 19(b-1) of the Workers' Compensation Act or Section 19(b-1) of the Workers' Occupational Diseases Act, the member may again become eligible to receive a temporary disability benefit under this Section. The waiting period before the temporary disability benefit under this Section becomes payable applies each time that the benefit is reinstated.

The benefit shall continue to accrue until the first of the following events occurs:

(1) the disability ceases;  
(2) the member engages in gainful employment;  
(3) the end of the month in which the member attains age 65, in the case of benefits commencing prior to attainment of age 60;

(4) the end of the month following the fifth anniversary of the effective date of the benefit in the case of benefits commencing on or after attainment of age 60;

(5) the end of the month in which the death of the member occurs;

(6) the end of the month in which the aggregate period for which temporary disability payments have been made becomes equal to 1/2 of the member's total period of creditable service, not including the time for which he has received a temporary disability benefit or nonoccupational disability benefit; for purposes of this item (6) only, in the case of a member to whom Section 14-108.2a applies and who, at the time disability commences, is performing services for the Illinois Department of Public Health relating to the transferred functions referred to in that Section and has less than 10 years of creditable service under this Article, the member's "total period of creditable service" shall be augmented by an amount equal to (i) one half of the member's period of creditable service in the Fund established under Article 8 (excluding any creditable service over 20 years), minus (ii) the amount of the member's creditable service under this Article;

(7) a payment is made on the member's claim pursuant to a determination made by the agency responsible for determining the liability of the State under the Workers' Compensation Act or the Workers' Occupational Diseases Act;

(8) a final determination is made on the member's claim by the Industrial Commission of Illinois.

(c) The temporary disability benefit shall be 50% of the member's final average compensation at the date of disability. If a covered employee is eligible under the Social Security Act for a disability benefit before attaining age 65, or a retirement benefit on or after attaining age 65, then the amount of the member's temporary disability benefit shall be reduced by the amount of primary benefit the member is eligible to receive under the Social Security Act, whether or not such eligibility came about as the result of service as a covered employee under this Article.

New matter indicated by italics - deletions by ~~strikeout~~.

The Board may make such reduction pending a determination of eligibility if it appears that the employee may be so eligible, and shall make an appropriate adjustment if necessary after such determination has been made. The amount of temporary disability benefit payable under this Article shall not be reduced by reason of any increase in benefits payable under the Social Security Act which occurs after the reduction required by this paragraph has been applied.

(d) The temporary disability benefit provided under this Section is intended as a temporary payment of occupational or nonoccupational disability benefit, whichever is appropriate, in cases in which the occupational or nonoccupational character of the disability has not been finally determined.

When an employer-paid disability benefit is paid or resumed, the Board shall calculate the benefit that is payable under Section 14-123 and shall deduct from the benefit payable under Section 14-123 the amounts already paid under this Section; those amounts shall then be treated as if they had been paid under Section 14-123.

When a final determination of the character of the disability has been made by the Industrial Commission of Illinois, or by settlement between the parties to the disputed claim, the Board shall calculate the benefit that is payable under Section 14-123 or 14-124, whichever is applicable, and shall deduct from such benefit the amounts already paid under this Section; such amounts shall then be treated as if they had been paid under such Section 14-123 or 14-124.

(e) Any excess benefits paid under this Section shall be subject to recovery by the System from benefits payable under the Workers' Compensation Act or the Workers' Occupational Diseases Act or from third parties as provided in Section 14-129, or from any other benefits payable either to the member or on his behalf under this Article. A member who accepts benefits under this Section acknowledges and authorizes these recovery rights of the System.

(f) Service credits under the State Universities Retirement System and the Teachers' Retirement System of the State of Illinois shall be considered for the purposes of determining temporary disability benefit eligibility under this Section, and for determining the total period of time for which such benefits are payable.

(g) The Board shall prescribe rules and regulations governing the filing of claims for temporary disability benefits, and the investigation, control and supervision of such claims.

(h) References in this Section to employer-paid benefits include benefits paid for by the State, either directly or through a program of insurance or self-insurance, whether paid through the member's own department or through some other department or entity; but the term does not include benefits paid by the System under this Article.

(Source: P.A. 88-535.)

(40 ILCS 5/14-131) (from Ch. 108 1/2, par. 14-131)

Sec. 14-131. Contributions by State.  
(a) The State shall make contributions to the System by appropriations of amounts which, together with other employer contributions from trust, federal, and other funds, employee contributions, investment income, and other income, will be sufficient to meet the cost of maintaining and administering the

New matter indicated by italics - deletions by ~~strikeout~~.

System on a 90% funded basis in accordance with actuarial recommendations.

For the purposes of this Section and Section 14-135.08, references to State contributions refer only to employer contributions and do not include employee contributions that are picked up or otherwise paid by the state or a department on behalf of the employee.

(b) The Board shall determine the total amount of State contributions required for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board, using the formula in subsection (e).

The Board shall also determine a State contribution rate for each fiscal year, expressed as a percentage of payroll, based on the total required State contribution for that fiscal year (less the amount received by the System from appropriations under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act, if any, for the fiscal year ending on the June 30 immediately preceding the applicable November 15 certification deadline), the estimated payroll (including all forms of compensation) for personal services rendered by eligible participating employees, and the recommendations of the actuary.

For the purposes of this Section and Section 14.1 of the State Finance Act, the term "eligible employees" includes employees who participate in the System, persons who may elect to participate in the System but have not so elected, persons who are serving a qualifying period that is required for participation, and annuitants employed by a department as described in subdivision (a)(1) or (a)(2) of Section 14-111.

(c) Contributions shall be made by the several departments for each pay period by warrants drawn by the State Comptroller against their respective funds or appropriations based upon vouchers stating the amount to be so contributed. These amounts shall be based on the full rate certified by the Board under Section 14-135.08 for that fiscal year.

(d) If an employee is paid from trust funds or federal funds, the department or other employer shall pay employer contributions from those funds to the System at the certified rate, unless the terms of the trust or the federal-state agreement preclude the use of the funds for that purpose, in which case the required employer contributions shall be paid by the State.

(e) For State fiscal years 2011 through 2045, the minimum contribution to the System to be made by the State for each fiscal year shall be an amount determined by the System to be sufficient to bring the total assets of the System up to 90% of the total actuarial liabilities of the System by the end of State fiscal year 2045. In making these determinations, the required State contribution shall be calculated each year as a level percentage of payroll over the years remaining to and including fiscal year 2045 and shall be determined under the projected unit credit actuarial cost method.

For State fiscal years 1996 through 2010, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments so that by State fiscal year 2011, the State is contributing at the rate required under this Section.

Beginning in State fiscal year 2046, the minimum State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments so that by State fiscal year 2011, the State is contributing at the rate required under this Section.

New matter indicated by italics - deletions by ~~strikeout~~.

contribution for each fiscal year shall be the amount needed to maintain the total assets of the System at 90% of the total actuarial liabilities of the System.

(Source: P.A. 88-593, eff. 8-22-94.)

(40 ILCS 5/14-135.08) (from Ch. 108 1/2, par. 14-135.08)

Sec. 14-135.08. To certify required State contributions and on or before November 15 of each year, the required rate for State contributions to the System for the next State fiscal year, as determined under subsection (b) of section 14-131. The certification to the Governor shall include a copy of the actuarial recommendations upon which the rate is based.

(Source: P.A. 88-593, eff. 8-22-94.)

(40 ILCS 5/14-138) (from Ch. 108 1/2, par. 14-138)

Sec. 14-138. Actuary. The Actuary shall be the technical advisor of the board on matters regarding the operation of the system. The actuary he shall:

(a) for the 7-year period ending June 30, 1997 and every 5 years thereafter, make a general investigation at least ~~once every 5 years~~ of the mortality, retirement, disability, employment, turnover, interest and earnable compensation;

(b) recommend tables to be used for all required actuarial calculations;

(c) make an annual valuation of the liabilities and reserves of the system, make an annual determination of the amount of contributions required from the State under this Article, and certify the results thereof to the board; and

(d) perform such other duties as the board may assign ~~assigns to him~~.

(Source: P.A. 80-841.)

(40 ILCS 5/16-176) (from Ch. 108 1/2, par. 16-176)

Sec. 16-176. To adopt actuarial assumptions. For the 5-year period ending June 30, 1997 and every 5 years thereafter, ~~the~~ ~~actuary~~ ~~shall~~ ~~make~~ an actuarial investigation into the mortality, service and compensation experience of the members, annuitants, and beneficiaries of the retirement system. Based upon the result of that ~~such~~ investigation, the board shall adopt such actuarial assumptions as it deems appropriate.

(Source: P.A. 83-1440.)

(40 ILCS 5/17-137) (from Ch. 108 1/2, par. 17-137)

Sec. 17-137. Board created. There shall be elected a Board of Trustees, herein also referred to as the "board", to administer and control the fund created by this Article. The Board of Trustees shall consist of 12 ~~10~~ members, 2 of whom shall be members of the Board of Education, 6 of whom shall be contributors who are not principals, one of whom shall be a contributor who is a principal, and 3 ~~2~~ of whom shall be pensioners, all to be chosen as ~~these~~ ~~provided in this Article~~.

(Source: P.A. 84-1028.)

(40 ILCS 5/17-138) (from Ch. 108 1/2, par. 17-138)

Sec. 17-138. Board membership. At the first meeting of the Board of Education in November of each year, the Board of Education shall appoint one of its members to serve, while a member of the Board of Education, on the Board of Trustees for a term of 2 years.

New matter indicated by italics - deletions by ~~strikeout~~.

On the last school day of the 4th week of October of each year there shall be elected 2 members of the Board of Trustees from the teachers other than principals, who shall hold office ~~effete~~ for terms of 3 years while retaining their status as teachers other than principals, and other members to fill unexpired terms. In the event that schools are not in session on or during the week prior to the last Friday in October, this election shall be held on the Friday of the first subsequent full week of school. The election shall be by secret ballot and shall be held in such manner as the Board of Trustees by bylaws or rules shall provide. Only teachers who are not principals shall be eligible to vote in the election.

During the first week of November of 1995 and every third year thereafter, one contributor who is a principal shall be elected a member of the Board of Trustees. This trustee shall hold office for a term of 3 years while retaining his or her status as a principal. The election shall be by mail ballot and only contributors who are principals shall be eligible to vote. The election shall be held in the manner provided by the Board of Trustees by rule or bylaw.

During the first week of November of each odd-numbered year there shall be elected 3 ~~2~~ members of the Board of Trustees from the pensioners, who shall hold office for a term of 2 years while retaining their status as pensioners. The election shall be by mail ballot to all service and disability pensioners, and shall be held in such manner as the Board of Trustees by bylaws or rules shall provide.

All trustees, while members of the Board of Education or while principals, teachers other than principals, or pensioners, as the case may be, shall hold their offices until their successors shall have been appointed or elected and qualified by subscribing to the constitutional oath of office at the immediately succeeding regular meeting of the board.

(Source: P.A. 84-1028.)

(40 ILCS 5/17-139) (from Ch. 108 1/2, par. 17-139)

Sec. 17-139. Board elections and vacancies.

(1) ~~+~~ Contributors other than principals election.

Every member who is not a principal may vote at the election for as many persons as there are trustees to be elected by the contributors who are not principals. The name of a ~~no~~ candidate shall not be printed upon the ballot unless he or she has been assigned on a regular certificate for at least 10 years in the Chicago public schools and nominated by a petition signed by not less than 200 contributors who are not principals. Petitions shall be filed with the recording secretary of the fund on or after September 15 of each year and not later than October 1st of that year. No more than one candidate may be nominated by any one petition. If the nominations do not exceed the number of candidates to be elected, the canvassing board shall declare the nominated candidates elected. Otherwise, candidates receiving the highest number of votes cast for their respective terms shall be declared elected. The location and number of polling places shall be designated by the board. The election shall be conducted by the teachers who are not principals, and the judges of the election shall be selected from the teachers who are not principals, in such manner as the board in its bylaws or rules provides. Elections to fill vacancies on the board shall be held at the next annual election.

(2) ~~+~~ Pensioners election. The name of a ~~no~~ candidate shall

New matter indicated by italics - deletions by ~~strikeout~~.

not be printed on the ballot unless he or she has been nominated by a petition signed by not less than 100 pensioners of the fund. Petitions shall be filed with the recording secretary of the fund on or before October 1 of the odd-numbered year. If the nominations do not exceed 2, the mailing of ballots shall be eliminated and the nominated candidates shall be declared elected. Otherwise, the 2 candidates receiving the highest number of votes cast shall be declared elected. The mailing and counting of the ballots shall be conducted by the office of the fund with volunteer assistance from pensioners at the request of the trustees.

(3) *Principals election.* The name of a candidate shall not be printed on the ballot unless he or she has been nominated by a petition signed by at least 25 contributors who are principals. Petitions shall be filed with the recording secretary of the fund on or before October 1 of the election year. If only one eligible candidate is nominated, the election shall not be held and the nominated candidate shall be declared elected. Otherwise, the candidate receiving the highest number of votes cast shall be declared elected. The mailing and counting of the ballots shall be conducted by the office of the fund.

(4) *Vacancies.* The Board of Trustees may fill vacancies occurring in the membership of the Board elected by the principals, teachers other than principals, or pensioners at any regular meeting of the Board. The Board of Education may fill vacancies occurring in the membership of the Board of Trustees appointed by the Board of Education at any regular meeting of the Board of Education. (Source: P.A. 84-1472.)

(40 ILCS 5/18-125) (from Ch. 108 1/2, par. 18-125) Sec. 18-125. Retirement annuity amount.

(a) The annual retirement annuity for a participant who terminated service as a judge prior to July 1, 1971 shall be based on the law in effect at the time of termination of service.

(b) Effective July 1, 1971, the retirement annuity for any participant in service on or after such date shall be 3 1/2% of final average salary, as defined in this Section, for each of the first 10 years of service, and 5% of such final average salary for each year of service on excess of 10.

For purposes of this Section, final average salary shall be: (1) the average salary for the last 4 years of credited service as a judge for a participant who terminates service before July 1, 1975.

(2) for a participant who terminates service after June 30, 1975 and before July 1, 1982, the salary on the last day of employment as a judge.

(3) for any participant who terminates service after June 30, 1982 and before January 1, 1990, the average salary for the final year of service as a judge.

(4) for a participant who terminates service on or after January 1, 1990 but before the effective date of this amendatory Act of 1995, the salary on the last day of employment as a judge.

(5) for a participant who terminates service on or after the effective date of this amendatory Act of 1995, the salary on the last day of employment as a judge, or the highest salary received by the participant for employment as a judge in a position held by the participant for at least

*New matter indicated by italics - deletions by strikeout.*

*consecutive years, whichever is greater.*

However, in the case of a participant who elects to discontinue contributions as provided in Section 18-133, the time of determination of final average salary under this subsection. The maximum retirement annuity for any participant shall be 85% of final average salary.

(c) The retirement annuity for a participant who retires prior to age 60 with less than 28 years of service in the System shall be reduced 1/2 of 1% for each month the participant's age is under 60 years at the time the annuity commences. The reduction shall not apply in the case of retirement on account of disability. (Source: P.A. 86-273, 87-794.)

(40 ILCS 5/18-133) (from Ch. 108 1/2, par. 18-133) Sec. 18-133. Financing; employee contributions.

(a) Effective July 1, 1967, each participant is required to contribute 7 1/2% of each payment of salary toward the retirement annuity. Such contributions shall continue during the entire time the participant is in service, with the following exceptions:

(1) Contributions for the retirement annuity are not required on salary received after 18 years of service by persons who were participants before January 2, 1954.

(2) A participant who continues to serve as a judge after becoming eligible to receive the maximum rate of annuity may elect, through a written direction filed with the Board, to discontinue contributing to the System. Any such option elected by a judge shall be irrevocable unless prior to July 1, 1996 1992, and while continuing to serve as a judge, the judge (A) files with the Board a letter cancelling the direction to discontinue contributing to the System and requesting that such contributing resume, and (B) pays into the System an amount equal to the total of the discontinued contributions plus interest thereon at 5% per annum. Service credits earned in any other "participating system" as defined in Article 20 of this Code shall be considered for purposes of determining a judge's eligibility to discontinue contributions under this subdivision (a)(2).

(b) Beginning July 1, 1969, each participant is required to contribute 1% of each payment of salary towards the automatic increase in annuity provided in Section 18-125.1. However, such contributions need not be made by any participant who has elected prior to September 15, 1969, not to be subject to the automatic increase in annuity provisions.

(c) Effective July 13, 1953, each married participant subject to the survivor's annuity provisions is required to contribute 2 1/2% of each payment of salary, whether or not he or she is required to make any other contributions under this Section. Such contributions shall be made concurrently with the contributions made for annuity purposes. (Source: P.A. 86-273, 87-794.)

Section 90. The State Mandates Act is amended by adding Section 8.19 as follows:

(30 ILCS 805/8.19 new)

Sec. 8.19. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the

*New matter indicated by italics - deletions by strikeout.*

Implementation of any mandate created by this amendatory Act of 1995.

Section 99. Effective date. This Act takes effect upon becoming law, except Section 10 takes effect December 31, 1995.

Approved in the General Assembly May 23, 1995.

Effective July 14, 1995.

Approved July 14, 1995 and December 31, 1995.

**PUBLIC ACT 89-0137**  
(Senate Bill No. 133)

AN ACT amending the Property Tax Code by changing Section 10-155.

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

Section 10-155 as follows:

(35 ILCS 200/10-155)

Sec. 10-155. Open space land; valuation. ~~Except in all counties with 200,000 or more inhabitants which classify property for the purpose of taxation in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made, upon application under Section 10-160, shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.~~

Land is considered used for open space purposes if it is more than 10 acres in area and:

- (a) is actually and exclusively used for maintaining or enhancing natural or scenic resources,
  - (b) protects air or streams or water supplies,
  - (c) promotes conservation of soil, wetlands, beaches, or marshes, including ground cover or planted perennial grasses, trees and shrubs and other natural perennial growth, and including any body of water, whether man-made or natural,
  - (d) conserves landscaped areas, such as public or private golf courses,
  - (e) enhances the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, or
  - (f) preserves historic sites.
- Land is not considered used for open space purposes if it is used primarily for residential purposes.
- (Source: P.A. 80-1364; 88-455.)
- Passed in the General Assembly May 19, 1995.
- Approved July 14, 1995.
- Effective January 1, 1996.

**PUBLIC ACT 89-0138**  
(Senate Bill No. 134)

AN ACT to amend the Property Tax Code by changing Sections 18-185 and 18-246.

New matter indicated by italics - deletions by ~~strikeout~~.

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

Section 5. The Property Tax Code is amended by changing Sections 18-185 and 18-246 as follows:

(35 ILCS 200/18-185)

Sec. 18-185. Short title; Definitions. This Section and Sections 18-190 through 18-245 may be cited as the Property Tax Extension Limitation Law. As used in Sections 18-190 through 18-245: "Consumer Price Index" means the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

"Extension Limitation" means (a) the lesser of 5% or the percentage increase in the Consumer Price Index during the 12-month calendar year preceding the levy year or (b) the rate of increase approved by voters under Section 18-205.

"Affected county" means a county of 3,000,000 or more inhabitants or a county contiguous to a county of 3,000,000 or more inhabitants.

"Taxing district" has the same meaning provided in Section 1-150, except as otherwise provided in this Section. For the 1991 through 1994 levy years only, "taxing district" includes only each non-home rule taxing district having the majority of its 1990 equalized assessed value within any county or counties contiguous to a county with 3,000,000 or more inhabitants. Beginning with the 1995 levy year, "taxing district" includes only each non-home rule taxing district subject to this law before the 1995 levy year and each non-home rule taxing district not subject to this law before the 1995 levy year having the majority of its 1994 equalized assessed value in an affected county or counties.

"Aggregate extension" for taxing districts to which this law applied before the 1995 levy year means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before October 1, 1991; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before October 1, 1991; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to pay interest or principal on bonds issued after October 1, 1991 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before October 1, 1991 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before October 1, 1991, to pay for the building project; (g) made for payments due under installment contracts entered into before October 1, 1991; and (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before

New matter indicated by italics - deletions by ~~strikeout~~.

