

AN ACT concerning public employee benefits.

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

Section 5. The Illinois Pension Code is amended by changing Sections 2-114, 3-144.2, 3-148, 4-139, 14-103.19, 18-116, and 21-105.1 and by adding Sections 2-155.1, 2-163, 4-138.10, 14-148.1, 14-153.3, 18-162.1, and 18-170 as follows:

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

Sec. 2-114. Actuarial tables.

"Actuarial tables": Tabular listings of assumed rates of death, disability, retirement and withdrawal from service and mathematical functions derived from such rates combined with an assumed rate of interest based upon the experience of the system as adopted by the board upon recommendation of the actuary.

The adopted actuarial tables shall be used to determine the amount of all benefits under this Article, including any optional forms of benefits. Optional forms of benefits must be the actuarial equivalent of the normal benefit payable under this Article.

(Source: Laws 1963, p. 161.)

(40 ILCS 5/2-155.1 new)

Sec. 2-155.1. Mistake in benefit. If the System mistakenly sets any benefit at an incorrect amount, it shall recalculate the benefit as soon as may be practicable after the mistake is discovered.

If the benefit was mistakenly set too low, the System shall make a lump sum payment to the recipient of an amount equal to the difference between the benefits that should have been paid and those actually paid.

If the benefit was mistakenly set too high, the System may recover the amount overpaid from the recipient thereof, either directly or by deducting such amount from the remaining benefits payable to the recipient. However, if (1) the amount of the benefit was mistakenly set too high, and (2) the error was undiscovered for 3 years or longer, and (3) the error was not the result of incorrect information supplied by the affected member or beneficiary, then upon discovery of the mistake the benefit shall be adjusted to the correct level, but the recipient of the benefit need not repay to the System the excess amounts received in error.

This Section applies to all mistakes in benefit calculations that occur before, on, or after the effective date of this amendatory Act of the 98th General Assembly.

(40 ILCS 5/2-163 new)

Sec. 2-163. Termination of plan. Upon plan termination, a participant's interest in the pension fund will be

nonforfeitable.

(40 ILCS 5/3-144.2) (from Ch. 108 1/2, par. 3-144.2)

Sec. 3-144.2. Mistake in benefit.

(a) If the Fund commits a mistake by setting any benefit at an incorrect amount, it shall adjust the benefit to the correct level as soon as may be practicable after the mistake is discovered. The term "mistake" includes a clerical or administrative error executed by the Fund or participant as it relates to a benefit under this Article; however, in no case shall "mistake" include any benefit as it relates to the reasonable calculation of the benefit or aspects of the benefit based on salary, service credit, calculation or determination of a disability, date of retirement, or other factors significant to the calculation of the benefit that were reasonably understood or agreed to by the Fund at the time of retirement.

(b) If the benefit was mistakenly set too low, the Fund shall make a lump sum payment to the recipient of an amount equal to the difference between the benefits that should have been paid and those actually paid, plus interest at the rate prescribed by the Public Pension Division of the Department of Insurance from the date the unpaid amounts accrued to the date of payment.

(c) If the benefit was mistakenly set too high, the Fund may recover the amount overpaid from the recipient thereof,

either directly or by deducting such amount from the remaining benefits payable to the recipient as is indicated by the recipient. If the overpayment is recovered by deductions from the remaining benefits payable to the recipient, the monthly deduction shall not exceed 10% of the corrected monthly benefit unless otherwise indicated by the recipient.

However, if (i) the amount of the benefit was mistakenly set too high, and (ii) the error was undiscovered for 3 years or longer, and (iii) the error was not the result of fraud committed by the affected participant or beneficiary, then upon discovery of the mistake the benefit shall be adjusted to the correct level, but the recipient of the benefit need not repay to the Fund the excess amounts received in error.

~~The amount of any overpayment, due to fraud, misrepresentation or error, of any pension or benefit granted under this Article may be deducted from future payments to the recipient of such pension or benefit.~~

(Source: P.A. 82-623.)

(40 ILCS 5/3-148) (from Ch. 108 1/2, par. 3-148)

Sec. 3-148. Administrative review. Except as it relates to any time limitation to correct a mistake as provided in Section 3-144.2, the ~~The~~ provisions of the Administrative Review Law, and all amendments and modifications thereof and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative

decisions of the retirement board provided for under this Article. The term "administrative decision" is as defined in Section 3-101 of the Code of Civil Procedure.

(Source: P.A. 82-783.)

(40 ILCS 5/4-138.10 new)

Sec. 4-138.10. Mistake in benefit.

(a) If the Fund commits a mistake by setting any benefit at an incorrect amount, it shall adjust the benefit to the correct level as soon as may be practicable after the mistake is discovered. The term "mistake" includes a clerical or administrative error executed by the Fund or participant as it relates to a benefit under this Article; however, in no case shall "mistake" include any benefit as it relates to the reasonable calculation of the benefit or aspects of the benefit based on salary, service credit, calculation or determination of a disability, date of retirement, or other factors significant to the calculation of the benefit that were reasonably understood or agreed to by the Fund at the time of retirement.

(b) If the benefit was mistakenly set too low, the Fund shall make a lump sum payment to the recipient of an amount equal to the difference between the benefits that should have been paid and those actually paid, plus interest at the rate prescribed by the Public Pension Division of the Department of Insurance from the date the unpaid amounts accrued to the date

of payment.

(c) If the benefit was mistakenly set too high, the Fund may recover the amount overpaid from the recipient thereof, either directly or by deducting such amount from the remaining benefits payable to the recipient as is indicated by the recipient. If the overpayment is recovered by deductions from the remaining benefits payable to the recipient, the monthly deduction shall not exceed 10% of the corrected monthly benefit unless otherwise indicated by the recipient.

However, if (i) the amount of the benefit was mistakenly set too high, and (ii) the error was undiscovered for 3 years or longer, and (iii) the error was not the result of fraud committed by the affected participant or beneficiary, then upon discovery of the mistake the benefit shall be adjusted to the correct level, but the recipient of the benefit need not repay to the Fund the excess amounts received in error.

(40 ILCS 5/4-139) (from Ch. 108 1/2, par. 4-139)

Sec. 4-139. Administrative review. Except as it relates to any time limitation to correct a mistake as provided in Section 4-138.10, the ~~The~~ provisions of the Administrative Review Law, and all amendments and modifications thereof and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the retirement board provided for under this Article. The term "administrative decision" is as defined in

Section 3-101 of the Code of Civil Procedure.

(Source: P.A. 82-783.)

(40 ILCS 5/14-103.19) (from Ch. 108 1/2, par. 14-103.19)

Sec. 14-103.19. Actuarial tables. "Actuarial tables":  
Tables of mathematical functions derived from mortality,  
disability and turn-over rates, combined with interest  
discount factors as adopted by the board on recommendation of  
the actuary.

The adopted actuarial tables shall be used to determine the  
amount of all benefits under this Article, including any  
optional forms of benefits. Optional forms of benefits must be  
the actuarial equivalent of the normal benefit payable under  
this Article.

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

(40 ILCS 5/14-148.1 new)

Sec. 14-148.1. Mistake in benefit. If the System mistakenly  
sets any benefit at an incorrect amount, it shall recalculate  
the benefit as soon as may be practicable after the mistake is  
discovered.

If the benefit was mistakenly set too low, the System shall  
make a lump sum payment to the recipient of an amount equal to  
the difference between the benefits that should have been paid  
and those actually paid.

If the benefit was mistakenly set too high, the System may

recover the amount overpaid from the recipient thereof, either directly or by deducting such amount from the remaining benefits payable to the recipient. However, if (1) the amount of the benefit was mistakenly set too high, and (2) the error was undiscovered for 3 years or longer, and (3) the error was not the result of incorrect information supplied by the affected member or beneficiary, then upon discovery of the mistake the benefit shall be adjusted to the correct level, but the recipient of the benefit need not repay to the System the excess amounts received in error.

This Section applies to all mistakes in benefit calculations that occur before, on, or after the effective date of this amendatory Act of the 98th General Assembly.

(40 ILCS 5/14-153.3 new)

Sec. 14-153.3. Termination of plan. Upon plan termination, a member's interest in the pension fund will be nonforfeitable.

(40 ILCS 5/18-116) (from Ch. 108 1/2, par. 18-116)

Sec. 18-116. Actuarial tables.

"Actuarial tables": Such tabular listings of assumed rates of death, disability, retirement and withdrawal from service and mathematical functions derived from such rates combined with an assumed rate of interest, based upon the experience of the system, as adopted by the board upon recommendation by the actuary.



The adopted actuarial tables shall be used to determine the amount of all benefits under this Article, including any optional forms of benefits. Optional forms of benefits must be the actuarial equivalent of the normal benefit payable under this Article.

(Source: Laws 1963, p. 161.)

(40 ILCS 5/18-162.1 new)

Sec. 18-162.1. Mistake in benefit. If the System mistakenly sets any benefit at an incorrect amount, it shall recalculate the benefit as soon as may be practicable after the mistake is discovered.

If the benefit was mistakenly set too low, the System shall make a lump sum payment to the recipient of an amount equal to the difference between the benefits that should have been paid and those actually paid.

If the benefit was mistakenly set too high, the System may recover the amount overpaid from the recipient thereof, either directly or by deducting such amount from the remaining benefits payable to the recipient. However, if (1) the amount of the benefit was mistakenly set too high, and (2) the error was undiscovered for 3 years or longer, and (3) the error was not the result of incorrect information supplied by the affected member or beneficiary, then upon discovery of the mistake the benefit shall be adjusted to the correct level, but the recipient of the benefit need not repay to the System the

excess amounts received in error.

This Section applies to all mistakes in benefit calculations that occur before, on, or after the effective date of this amendatory Act of the 98th General Assembly.

(40 ILCS 5/18-170 new)

Sec. 18-170. Termination of plan. Upon plan termination, a participant's interest in the pension fund will be nonforfeitable.

(40 ILCS 5/21-105.1) (from Ch. 108 1/2, par. 21-105.1)

Sec. 21-105.1. Election of optional medicare coverage. The State or any political subdivision or noncorporate public entity may elect to provide optional medicare coverage for its personnel in the same manner and subject to the same conditions as are set forth in Sections 21-103, 21-104 and 21-105 for the election of Social Security coverage, including a retirement system established under Article 3, 4, 5, or 6 of this Code, notwithstanding the provisions contained in Section 21-105 of this Article.

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

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