

Nos. 122793 & 122822 (consol.)

IN THE SUPREME COURT OF ILLINOIS

Rochelle Carmichael; June Davis; Zeidre Foster; Oscar Hall; Anthony Lopez; Kathleen Mahoney; Joseph Notaro; Michael Senese; David Torres; The Chicago Teachers Union, Local 1, American Federation of Teachers, AFL-CIO; Local 1001, Laborers' International Union of North America, AFL-CIO; and Local 9, International Brotherhood of Electrical Workers, AFL-CIO;	)	Direct Appeal Pursuant to Supreme Court Rule 302(a) (Case No. 122793)
	)	And
Plaintiffs-Appellees/Appellants,	)	Direct Appeal Pursuant to Supreme Court Rule 302(b) (Case No. 122822)
	)	From the Circuit Court of Cook County, Illinois County Department, Chancery Division,
v.	)	No. 12-CH-37712
Laborers' & Retirement Board Employees' Annuity & Benefit Fund of Chicago; Retirement Board of the Laborers' & Retirement Board Employees' Annuity & Benefit Fund of Chicago; Municipal Employees' Annuity & Benefit Fund of Chicago; Retirement Board of the Municipal Employees' Annuity & Benefit Fund of Chicago; Public School Teachers' Pension & Retirement Fund of Chicago; and Board of Trustees of the Public School Teachers' Pension & Retirement Fund of Chicago;	)	The Honorable CELIA G. GAMRATH, MARY L. MIKVA Judges Presiding.
	)	
Defendants-Appellees,	)	
	)	
And	)	
	)	
State of Illinois, <i>ex rel.</i> Lisa Madigan, Attorney General of the State of Illinois,	)	
	)	
Intervenor-Defendant-Appellant/Appellee.	)	
	)	

**SEPARATE APPENDIX OF  
PLAINTIFFS-APPELLEES/APPELLANTS**

**Volume II of II**

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Appendix Table of ContentsSeparate Appendix Vol. I of II

Circuit Court Final Amended Opinion & Order on Reconsideration – July 14, 2017 .....	A-1
Circuit Court Order & Opinion – Sept. 29, 2014.....	A-26
Circuit Court Order & Opinion – Nov. 27, 2013.....	A-36
Complaint – Oct. 9, 2012.....	A-57
First Supplemental Complaint – Apr. 29, 2016.....	A-185
Plaintiffs’ Notice of Appeal – Aug. 9 2017.....	A-209
Index to Supplement to the Common Law Record on Appeal.....	A-215

Separate Appendix Vol. II of II

Constitutional Provisions & Statutes Involved.....	A-217
Ill. Const., art. XIII, § 5.....	A-217
40 ILCS 5/8-117 (2010).....	A-217
40 ILCS 5/8-138(b) (2010).....	A-218
40 ILCS 5/8-138(g-1) (2010).....	A-221
40 ILCS 5/8-226 (2010).....	A-221
40 ILCS 5/8-233 (2010).....	A-223
40 ILCS 5/11-116 (2010).....	A-226
40 ILCS 5/11-134(a) (2010).....	A-226
40 ILCS 5/11-134(f-1) (2010).....	A-229
40 ILCS 5/11-215 (2010).....	A-229
40 ILCS 5/11-217 (2010).....	A-232
40 ILCS 5/17-134 (2010).....	A-235
Public Act 97-0651 (eff. Jan. 5, 2012, excerpts) .....	A-239

**CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED****CONSTITUTIONAL PROVISIONS**

## III. Const., art. XIII, § 5 (the "Pension Clause")

Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.

**STATUTES INVOLVED (BEFORE PUBLIC ACT 97-0651)****Pension Code Article 8 (MEABF)****40 ILCS 5/8-117 (2010)**

Sec. 8-117. Salary. "Salary": Annual salary of an employee as follows:

- (a) Beginning on the effective date and prior to July 1, 1947, \$ 3,000; and beginning on July 1, 1947 and prior to July 1, 1953, \$ 4,800; and beginning on July 1, 1953 and prior to July 1, 1957, \$ 6,000 shall be the maximum amount of annual salary of any employee which shall be considered for any purpose hereunder.
- (b) If appropriated, fixed or arranged on an annual basis, beginning July 1, 1957, the actual sum payable during the year if the employee worked the full normal working time in his position, at the rate of compensation, exclusive of overtime and final vacation, appropriated or fixed as salary or wages for service in the position.
- (c) If appropriated, fixed or arranged on other than an annual basis, beginning July 1, 1957, the applicable schedules specified in Sections 8-233 and 8-235 shall be used for conversion of the salary to an annual basis.
- (d) Beginning July 13, 1941, if the city provides lodging for an employee without charge, his salary shall be considered to

be \$ 120 a year more than the amount payable as salary for the year; the salary of an employee for whom daily meals are provided without charge by the city shall be considered to be \$ 120 a year more than the amount payable as his salary for the year, for each such daily meal, not exceeding three per day.

- (e) Beginning September 19, 1981, the salary of a person who was or is an employee of a Board of Education on or after that date shall include the amount of employee contributions, if any, picked up by the employer for that employee under Section 8-174.1.

#### 40 ILCS 5/8-138(b) (2010)

- (b) An employee who withdraws after July 1, 1957, at age 60 or over, with 20 or more years of service, for whom the age and service and prior service annuity combined, is less than the amount stated in this paragraph, shall, from the date of withdrawal, instead of such annuities, be entitled to receive an annuity for life equal to 1 2/3% for each year of service, of the highest average annual salary for any 5 consecutive years within the last 10 years of service immediately preceding the date of withdrawal; provided, that in the case of any employee who withdraws on or after July 1, 1971, such employee age 60 or over with 20 or more years of service, shall receive an annuity for life equal to 1.67% for each of the first 10 years of service; 1.90% for each of the next 10 years of service; 2.10% for each year of service in excess of 20 but not exceeding 30; and 2.30% for each year of service in excess of 30, based on the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal.

An employee who withdraws after July 1, 1957 and before January 1, 1988, with 20 or more years of service, before age 60 years is entitled to annuity, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, as computed in the last preceding paragraph, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60 if the employee was born before January 1, 1936, or 0.5% for each such month if the employee was born on or after January 1, 1936.

Any employee born before January 1, 1936, who withdraws with 20 or more years of service, and any employee with 20 or more years of service who withdraws on or after January 1, 1988, may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 1.80% for each of the first 10 years of service, 2.00% for each of the next 10 years of service, 2.20% for each year of service in excess of 20 but not exceeding 30, and 2.40% for each year of service in excess of 30, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60; except that an employee retiring on or after January 1, 1988, at age 55 or over but less than age 60, having at least 35 years of service, or an employee retiring on or after July 1, 1990, at age 55 or over but less than age 60, having at least 30 years of service, or an employee retiring on or after the effective date of this amendatory Act of 1997, at age 55 or over but less than age 60, having at least 25 years of service, shall not be subject to the reduction in retirement annuity because of retirement below age 60.

However, in the case of an employee who retired on or after January 1, 1985 but before January 1, 1988, at age 55 or older and with at least 35 years of service, and who was subject under this subsection (b) to the reduction in retirement annuity because of retirement below age 60, that reduction shall cease to be effective January 1, 1991, and the retirement annuity shall be recalculated accordingly.

Any employee who withdraws on or after July 1, 1990, with 20 or more years of service, may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 2.20% for each year of service if withdrawal is before January 1, 2002, or 2.40% for each year of service if withdrawal is on or after January 1, 2002, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60; except that an employee retiring at age 55 or over but less than age 60, having at least 30 years

of service, shall not be subject to the reduction in retirement annuity because of retirement below age 60.

Any employee who withdraws on or after the effective date of this amendatory Act of 1997 with 20 or more years of service may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 2.20% for each year of service, if withdrawal is before January 1, 2002, or 2.40% for each year of service if withdrawal is on or after January 1, 2002, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attainment of age 55 (age 50 if the employee has at least 30 years of service), reduced 0.25% for each full month or remaining fractional part thereof that the employee's attained age when annuity is to begin is less than 60; except that an employee retiring at age 50 or over with at least 30 years of service or at age 55 or over with at least 25 years of service shall not be subject to the reduction in retirement annuity because of retirement below age 60.

The maximum annuity payable under part (a) and (b) of this Section shall not exceed 70% of highest average annual salary in the case of an employee who withdraws prior to July 1, 1971, 75% if withdrawal takes place on or after July 1, 1971 and prior to January 1, 2002, or 80% if withdrawal takes place on or after January 1, 2002. For the purpose of the minimum annuity provided in this Section \$ 1,500 is considered the minimum annual salary for any year; and the maximum annual salary for the computation of such annuity is \$ 4,800 for any year before 1953, \$ 6000 for the years 1953 to 1956, inclusive, and the actual annual salary, as salary is defined in this Article, for any year thereafter.

To preserve rights existing on December 31, 1959, for participants and contributors on that date to the fund created by the Court and Law Department Employees' Annuity Act, who became participants in the fund provided for on January 1, 1960, the maximum annual salary to be considered for such persons for the years 1955 and 1956 is \$ 7,500.

**40 ILCS 5/8-138(g-1) (2010)**

- (g-1) Instead of any other retirement annuity provided in this Article, an employee who has at least 10 years of service and withdraws from service on or after January 1, 1999 may elect to receive a retirement annuity for life, beginning no earlier than upon attainment of age 60, equal to 2.2% if withdrawal is before January 1, 2002, or 2.4% if withdrawal is on or after January 1, 2002, of final average salary for each year of service, subject to a maximum of 75% of final average salary if withdrawal is before January 1, 2002, or 80% if withdrawal is on or after January 1, 2002. For the purpose of calculating this annuity, "final average salary" means the highest average annual salary for any 4 consecutive years in the last 10 years of service.

**40 ILCS 5/8-226 (2010)**

Sec. 8-226. Computation of service. In computing the term of service of an employee prior to the effective date, the entire period beginning on the date he was first appointed and ending on the day before the effective date, except any intervening period during which he was separated by withdrawal from service, shall be counted for all purposes of this Article, except that for any employee who was not in service on the day before the effective date, service rendered prior to such date shall not be considered for the purposes of Section 8-138.

For a person employed by an employer for whom this Article was in effect prior to January 1, 1950, from whose salary deductions are first made under this Article after December 31, 1949, any period of service rendered prior to the effective date, unless he was in service on the day before the effective date, shall not be counted as service.

The time a person was an employee of any territory annexed to the city prior to the effective date shall be counted as a period of service.

In computing the term of service of any employee subsequent to the day before the effective date, the following periods shall be counted as periods of service for age and service, widow's and child's annuity purposes:

- (a) The time during which he performed the duties of his position;



- (b) Vacations, leaves of absence with whole or part pay, and leaves of absence without pay not longer than 90 days;
- (c) Leaves of absence without pay during which a participant is employed full-time by a local labor organization that represents municipal employees, provided that (1) the participant continues to make employee contributions to the Fund as though he were an active employee, based on the regular salary rate received by the participant for his municipal employment immediately prior to such leave of absence (and in the case of such employment prior to December 9, 1987, pays to the Fund an amount equal to the employee contributions for such employment plus regular interest thereon as calculated by the board), and based on his current salary with such labor organization after the effective date of this amendatory Act of 1991, (2) after January 1, 1989 the participant, or the labor organization on the participant's behalf, makes contributions to the Fund as though it were the employer, in the same amount and same manner as specified under this Article, based on the regular salary rate received by the participant for his municipal employment immediately prior to such leave of absence, and based on his current salary with such labor organization after the effective date of this amendatory Act of 1991, and (3) the participant does not receive credit in any pension plan established by the local labor organization based on his employment by the organization;
- (d) Any period of disability for which he received (i) a disability benefit under this Article, or (ii) a temporary total disability benefit under the Workers' Compensation Act if the disability results from a condition commonly termed heart attack or stroke or any other condition falling within the broad field of coronary involvement or heart disease, or (iii) whole or part pay;
- (e) Any period for which contributions and service credit have been transferred to this Fund under subsection (d) of Section 9-121.1 or subsection (d) of Section 12-127.1 of this Code.

For a person employed by an employer in which the 1921 Act was in effect prior to January 1, 1950, from whose salary deductions are first made under the 1921 Act or this Article after December 31, 1949, any period of service rendered subsequent to the effective date and prior to the date he became an employee and contributor, shall not be counted as a period of service under this

Article, except such period for which he made payment as provided in Section 8-230 of this Article, in which case such period shall be counted as a period of service for all annuity purposes hereunder.

In computing the term of service of an employee subsequent to the day before the effective date for ordinary disability benefit purposes, all periods described in the preceding paragraph, except any such period for which he receives ordinary disability benefit, shall be counted as periods of service; provided, that for any person employed by an employer in which this Article was in effect prior to January 1, 1950, from whose salary deductions are first made under this Article after December 31, 1949, any period of service rendered subsequent to the effective date and prior to the date he became an employee and contributor, shall not be counted as a period of service for ordinary disability benefit purposes, unless the person made payment for the period as provided in Section 8-230 of this Article, in which case the period shall be counted as a period of service for ordinary disability purposes for periods of disability on or after the effective date of this amendatory Act of 1997.

Overtime or extra service shall not be included in computing any term of service. Not more than 1 year of service shall be allowed for service rendered during any calendar year.

#### 40 ILCS 5/8-233 (2010)

Sec. 8-233. Basis of annual salary. For the purpose of this Article, the annual salary of an employee whose salary or wage is appropriated, fixed, or arranged in the annual appropriation ordinance upon other than an annual basis shall be determined as follows:

- (a) If the employee is paid on a monthly basis, the annual salary is 12 times the monthly salary. If the employee is paid on a weekly basis, the annual salary is 52 times the weekly salary.

"Monthly salary" means the amount of compensation or salary appropriated and payable for a normal and regular month's work in the employee's position in the service. "Weekly salary" means the amount of compensation or salary appropriated and payable for a normal and regular week's work in the employee's position in the service. If the

work is on a regularly scheduled part time basis, then "monthly salary" and "weekly salary" refer, respectively, to the part time monthly or weekly salary.

If the appropriation for the position is for a shorter period than 12 months a year, or 52 weeks a year if on a weekly basis, or the employee is in a class, grade, or category in which the employee normally works for fewer than 12 months or 52 weeks a year, then the basis shall be adjusted downward to the extent that the appropriated or customary work period is less than the normal 12 months or 52 weeks of service in a year.

Compensation for overtime, at regular or overtime rates, that is paid in addition to the appropriated regular and normal monthly or weekly salary shall not be considered.

- (b) If the employee is paid on a daily basis, the annual salary is 260 times the daily wage. If the employee is paid on an hourly basis, the annual salary is 2080 times the hourly wage.

The norm is based on a 12-month per year, 5-day work week of 8 hours per day and 40 hours per week, with consideration given only to time compensated for at the straight time rate of compensation or wage. The norm shall be increased (subject to a maximum of 300 days or 2400 hours per year) or decreased for an employee to the extent that the normal and established work period, at the straight time compensation or wage for the position held in the class, grade, or category in which the employee is assigned, is for a greater or lesser number of months, weeks, days, or hours than the period on which the established norm is based.

"Daily wage" and "hourly wage" mean, respectively, the normal, regular, or basic straight time rate of compensation or wage appropriated and payable for a normal and regular day's work, or hour's work, in the employee's position in the service.

Any time worked in excess of the norm (or the increased or decreased norm, whichever is applicable) that is compensated for at overtime, premium, or other than regular or basic straight time rates shall not be considered as time worked, and the compensation for that work shall not be considered as salary or wage. Such time and

compensation shall in every case and for all purposes be considered overtime and shall be excluded for all purposes under this Article. However, the straight time portion of compensation or wage, for time worked on holidays that fall within an employee's established norm, shall be included for all purposes under this Article.

- (c) For minimum annuity purposes under Section 8-138, where a salary rate change occurs during the year, it shall be considered that the annual salary for that year is (1) the annual equivalent of the monthly, weekly, daily, or hourly salary or wage rate that was applicable for the greater number of months, weeks, days, or hours (whichever is applicable) in the year under consideration, or (2) the annual equivalent of the average salary or wage rate in effect for the employee during the year, whichever is greater. The average salary or wage rate shall be calculated by multiplying each salary or wage rate in effect for the employee during the year by the number of months, weeks, days, or hours (whichever is applicable) during which that rate was in effect, and dividing the sum of the resulting products by the total number of months, weeks, days, or hours (whichever is applicable) worked by the employee during the year.
- (d) The changes to subsection (c) made by this amendatory Act of 1997 apply to persons withdrawing from service on or after July 1, 1990 and for each such person are intended to be retroactive to the date upon which the affected annuity began. The Fund shall recompute the affected annuity and shall pay the additional amount due for the period before the increase resulting from this amendatory Act in a lump sum, without interest.

**Pension Code Article 11 (LABF)****40 ILCS 5/11-116 (2010)**

Sec. 11-116. Salary. "Salary": Annual salary of an employee as follows:

- (a) Beginning on the effective date and prior to July 1, 1947, \$ 3,000 shall be the maximum amount of annual salary of any employee to be considered for the purposes of this Article; and beginning on July 1, 1947 and prior to July 1, 1953 said maximum amount shall be \$ 4,800; and beginning on July 1, 1953 and prior to July 8, 1957, said maximum amount shall be \$ 6,000; and beginning on July 8, 1957, if appropriated, fixed or arranged on an annual basis, the actual sum payable during the year if the employee worked the full normal working time in his position, at the rate of compensation, exclusive of overtime and final vacation, appropriated or fixed as salary or wages for service in the position;
- (b) If appropriated, fixed or arranged on other than an annual basis, beginning July 8, 1957, the applicable schedules specified in Section 11-217 shall be used for conversion of the salary to an annual basis;
- (c) Beginning July 1, 1951, if the city provides lodging for an employee without charge, his salary shall be considered to be \$ 120 a year more than the amount payable as salary for the year. The salary of an employee for whom daily meals are provided by the city shall be considered to be \$ 120 a year more for each such daily meal than the amount payable as his salary for the year;
- (d) Beginning September 1, 1981, the salary of a person who was or is an employee of a Board of Education on or after that date shall include the amount of employee contributions, if any, picked up by the employer for that employee under Section 11-170.1.

**40 ILCS 5/11-134(a) (2010)**

- (a) An employee whose withdrawal occurs after July 1, 1957 at age 60 or over, with 20 or more years of service, (as service

is defined or computed in Section 11-216), for whom the age and service and prior service annuity combined is less than the amount stated in this Section, shall, from and after the date of withdrawal, in lieu of all annuities otherwise provided in this Article, be entitled to receive an annuity for life of an amount equal to 1 2/3% for each year of service, of the highest average annual salary for any 5 consecutive years within the last 10 years of service immediately preceding the date of withdrawal; provided, that in the case of any employee who withdraws on or after July 1, 1971, such employee age 60 or over with 20 or more years of service, shall be entitled to instead receive an annuity for life equal to 1.67% for each of the first 10 years of service; 1.90% for each of the next 10 years of service; 2.10% for each year of service in excess of 20 but not exceeding 30; and 2.30% for each year of service in excess of 30, based on the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal.

An employee who withdraws after July 1, 1957 and before January 1, 1988, with 20 or more years of service, before age 60, shall be entitled to an annuity, to begin not earlier than age 55, if under such age at withdrawal, as computed in the last preceding paragraph, reduced 0.25% if the employee was born before January 1, 1936, or 0.5% if the employee was born on or after January 1, 1936, for each full month or fractional part thereof that his attained age when such annuity is to begin is less than 60.

Any employee born before January 1, 1936 who withdraws with 20 or more years of service, and any employee with 20 or more years of service who withdraws on or after January 1, 1988, may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 1.80% for each of the first 10 years of service, 2.00% for each of the next 10 years of service, 2.20% for each year of service in excess of 20, but not exceeding 30, and 2.40% for each year of service in excess of 30, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60; except that an employee retiring on or after January 1, 1988, at age 55 or over but less than age 60, having at least 35 years of

service, or an employee retiring on or after July 1, 1990, at age 55 or over but less than age 60, having at least 30 years of service, or an employee retiring on or after the effective date of this amendatory Act of 1997, at age 55 or over but less than age 60, having at least 25 years of service, shall not be subject to the reduction in retirement annuity because of retirement below age 60.

However, in the case of an employee who retired on or after January 1, 1985 but before January 1, 1988, at age 55 or older and with at least 35 years of service, and who was subject under this subsection (a) to the reduction in retirement annuity because of retirement below age 60, that reduction shall cease to be effective January 1, 1991, and the retirement annuity shall be recalculated accordingly.

Any employee who withdraws on or after July 1, 1990, with 20 or more years of service, may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 2.20% for each year of service if withdrawal is before January 1, 2002, or 2.40% for each year of service if withdrawal is on or after January 1, 2002, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60; except that an employee retiring at age 55 or over but less than age 60, having at least 30 years of service, shall not be subject to the reduction in retirement annuity because of retirement below age 60.

Any employee who withdraws on or after the effective date of this amendatory Act of 1997 with 20 or more years of service may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 2.20% for each year of service if withdrawal is before January 1, 2002, or 2.40% for each year of service if withdrawal is on or after January 1, 2002, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attainment of age 55 (age 50 if the employee has at least 30 years of service), reduced 0.25% for each full month or remaining fractional part thereof that the employee's attained age when annuity is to begin is less than 60; except that an

employee retiring at age 50 or over with at least 30 years of service or at age 55 or over with at least 25 years of service shall not be subject to the reduction in retirement annuity because of retirement below age 60.

The maximum annuity payable under this paragraph (a) of this Section shall not exceed 70% of highest average annual salary in the case of an employee who withdraws prior to July 1, 1971, 75% if withdrawal takes place on or after July 1, 1971 and prior to January 1, 2002, or 80% if withdrawal is on or after January 1, 2002. For the purpose of the minimum annuity provided in said paragraphs \$ 1,500 shall be considered the minimum annual salary for any year; and the maximum annual salary to be considered for the computation of such annuity shall be \$ 4,800 for any year prior to 1953, \$ 6,000 for the years 1953 to 1956, inclusive, and the actual annual salary, as salary is defined in this Article, for any year thereafter.

**40 ILCS 5/11-134(f-1) (2010)**

- (f-1) Instead of any other retirement annuity provided in this Article, an employee who has at least 10 years of service and withdraws from service on or after January 1, 1999 may elect to receive a retirement annuity for life, beginning no earlier than upon attainment of age 60, equal to 2.2% if withdrawal is before January 1, 2002, or 2.4% for each year of service if withdrawal is on or after January 1, 2002, of final average salary for each year of service, subject to a maximum of 75% of final average salary if withdrawal is before January 1, 2002, or 80% if withdrawal is on or after January 1, 2002. For the purpose of calculating this annuity, "final average salary" means the highest average annual salary for any 4 consecutive years in the last 10 years of service.

**40 ILCS 5/11-215 (2010)**

Sec. 11-215. Computation of service.

- (a) In computing the term of service of an employee prior to the effective date, the entire period beginning on the date he was first appointed and ending on the day before the effective date, except any intervening period during which



he was separated by withdrawal from service, shall be counted for all purposes of this Article. Only the first year of each period of lay-off or leave of absence without pay, continuing or extending for a period in excess of one year, shall be counted as such service.

- (b) For a person employed by an employer for whom this Article was in effect prior to August 1, 1949, from whose salary deductions are first made under this Article after July 31, 1949, any period of service rendered prior to the effective date, unless he was in service on the day before the effective date, shall not be counted as service.
- (c) In computing the term of service of an employee subsequent to the day before the effective date, the following periods of time shall be counted as periods of service for annuity purposes:
  - (1) the time during which he performed the duties of his position;
  - (2) leaves of absence with whole or part pay, and leaves of absence without pay not longer than 90 days;
  - (3) leaves of absence without pay during which a participant is employed full-time by a local labor organization that represents municipal employees, provided that (A) the participant continues to make employee contributions to the Fund as though he were an active employee, based on the regular salary rate received by the participant for his municipal employment immediately prior to such leave of absence (and in the case of such employment prior to December 9, 1987, pays to the Fund an amount equal to the employee contributions for such employment plus regular interest thereon as calculated by the board), and based on his current salary with such labor organization after the effective date of this amendatory Act of 1991, (B) after January 1, 1989 the participant, or the labor organization on the participant's behalf, makes contributions to the Fund as though it were the employer, in the same amount and same manner as specified under this Article, based on the regular salary rate received by the participant for his municipal employment immediately prior to such leave of absence, and

based on his current salary with such labor organization after the effective date of this amendatory Act of 1991, and (C) the participant does not receive credit in any pension plan established by the local labor organization based on his employment by the organization;

- (4) any period of disability for which he received (i) a disability benefit under this Article, or (ii) a temporary total disability benefit under the Workers' Compensation Act if the disability results from a condition commonly termed heart attack or stroke or any other condition falling within the broad field of coronary involvement or heart disease, or (iii) whole or part pay.
- (d) For a person employed by an employer, or the retirement board, in which "The 1935 Act" was in effect prior to August 1, 1949, from whose salary deductions are first made under "The 1935 Act" or this Article after July 31, 1949, any period of service rendered subsequent to the effective date and prior to August 1, 1949, shall not be counted as a period of service under this Article, except such period for which he made payment, as provided in Section 11-221 of this Article, in which case such period shall be counted as a period of service for all annuity purposes hereunder.
  - (e) In computing the term of service of an employee subsequent to the day before the effective date for ordinary disability benefit purposes, the following periods of time shall be counted as periods of service:
    - (1) any period during which he performed the duties of his position;
    - (2) leaves of absence with whole or part pay;
    - (3) any period of disability for which he received (i) a duty disability benefit under this Article, or (ii) a temporary total disability benefit under the Workers' Compensation Act if the disability results from a condition commonly termed heart attack or stroke or any other condition falling within the broad field of coronary involvement or heart disease, or (iii) whole or part pay.

However, any period of service rendered by an employee contributor prior to the date he became a contributor to the fund shall not be counted as a period of service for ordinary disability purposes, unless the person made payment for the period as provided in Section 11-221 of this Article, in which case the period shall be counted as a period of service for ordinary disability purposes for periods of disability on or after the effective date of this amendatory Act of 1997.

Overtime or extra service shall not be included in computing any term of service. Not more than 1 year of service shall be allowed for service rendered during any calendar year.

#### 40 ILCS 5/11-217 (2010)

Sec. 11-217. Basis of annual salary. For the purpose of this Article, the annual salary of an employee whose salary or wage is appropriated, fixed, or arranged in the annual appropriation ordinance upon other than an annual basis shall be determined as follows:

- (a) If the employee is paid on a monthly basis, the annual salary is 12 times the monthly salary. If the employee is paid on a weekly basis, the annual salary is 52 times the weekly salary.

"Monthly salary" means the amount of compensation or salary appropriated and payable for a normal and regular month's work in the employee's position in the service. "Weekly salary" means the amount of compensation or salary appropriated and payable for a normal and regular week's work in the employee's position in the service. If the work is on a regularly scheduled part time basis, then "monthly salary" and "weekly salary" refer, respectively, to the part time monthly or weekly salary.

If the appropriation for the position is for a shorter period than 12 months a year, or 52 weeks a year if on a weekly basis, or the employee is in a class, grade, or category in which the employee normally works for fewer than 12 months or 52 weeks a year, then the basis shall be adjusted downward to the extent that the appropriated or customary work period is less than the normal 12 months or 52 weeks of service in a year.

Compensation for overtime, at regular or overtime rates, that is paid in addition to the appropriated regular and normal monthly or weekly salary shall not be considered.

- (b) If the employee is paid on a daily basis, the annual salary is 260 times the daily wage. If the employee is paid on an hourly basis, the annual salary is 2080 times the hourly wage.

The norm is based on a 12-month per year, 5-day work week of 8 hours per day and 40 hours per week, with consideration given only to time compensated for at the straight time rate of compensation or wage. The norm shall be increased (subject to a maximum of 300 days or 2400 hours per year) or decreased for an employee to the extent that the normal and established work period, at the straight time compensation or wage for the position held in the class, grade, or category in which the employee is assigned, is for a greater or lesser number of months, weeks, days, or hours than the period on which the established norm is based.

"Daily wage" and "hourly wage" mean, respectively, the normal, regular, or basic straight time rate of compensation or wage appropriated and payable for a normal and regular day's work, or hour's work, in the employee's position in the service.

Any time worked in excess of the norm (or the increased or decreased norm, whichever is applicable) that is compensated for at overtime, premium, or other than regular or basic straight time rates shall not be considered as time worked, and the compensation for that work shall not be considered as salary or wage. Such time and compensation shall in every case and for all purposes be considered overtime and shall be excluded for all purposes under this Article. However, the straight time portion of compensation or wage, for time worked on holidays that fall within an employee's established norm, shall be included for all purposes under this Article.

- (c) For minimum annuity purposes under Section 11-134, where a salary rate change occurs during the year, it shall be considered that the annual salary for that year is (1) the annual equivalent of the monthly, weekly, daily, or hourly salary or wage rate that was applicable for the greater number of months, weeks, days, or hours (whichever is

applicable) in the year under consideration, or (2) the annual equivalent of the average salary or wage rate in effect for the employee during the year, whichever is greater. The average salary or wage rate shall be calculated by multiplying each salary or wage rate in effect for the employee during the year by the number of months, weeks, days, or hours (whichever is applicable) during which that rate was in effect, and dividing the sum of the resulting products by the total number of months, weeks, days, or hours (whichever is applicable) worked by the employee during the year.

- (d) The changes to subsection (c) made by this amendatory Act of 1997 apply to persons withdrawing from service on or after July 1, 1990 and for each such person are intended to be retroactive to the date upon which the affected annuity began. The Fund shall recompute the affected annuity and shall pay the additional amount due for the period before the increase resulting from this amendatory Act in a lump sum, without interest.

**Pension Code Article 17 (CTPF)****40 ILCS 5/17-134 (2010)**

Sec. 17-134. Contributions for leaves of absence; military service; computing service. In computing service for pension purposes the following periods of service shall stand in lieu of a like number of years of teaching service upon payment therefor in the manner hereinafter provided: (a) time spent on a leave of absence granted by the employer; (b) service with teacher or labor organizations based upon special leaves of absence therefor granted by an Employer; (c) a maximum of 5 years spent in the military service of the United States, of which up to 2 years may have been served outside the pension period; (d) unused sick days at termination of service to a maximum of 244 days; (e) time lost due to layoff and curtailment of the school term from June 6 through June 21, 1976; and (f) time spent after June 30, 1982 as a member of the Board of Education, if required to resign from an administrative or teaching position in order to qualify as a member of the Board of Education.

- (1) For time spent on or after September 6, 1948 on sabbatical leaves of absence or sick leaves, for which salaries are paid, an Employer shall make payroll deductions at the applicable rates in effect during such periods.
- (2) For time spent on a leave of absence granted by the employer for which no salaries are paid, teachers desiring credit therefor shall pay the required contributions at the rates in effect during such periods as though they were in teaching service. If an Employer pays salary for vacations which occur during a teacher's sick leave or maternity or paternity leave without salary, vacation pay for which the teacher would have qualified while in active service shall be considered part of the teacher's total salary for pension purposes. No more than 36 months of leave credit may be allowed any person during the entire term of service. Sabbatical leave credit shall be limited to the time the person on leave without salary under an Employer's rules is allowed to engage in an activity for which he receives salary or compensation.
- (3) For time spent prior to September 6, 1948, on sabbatical leaves of absence or sick leaves for which salaries were paid, teachers desiring service credit therefor shall pay the

required contributions at the maximum applicable rates in effect during such periods.

- (4) For service with teacher or labor organizations authorized by special leaves of absence, for which no payroll deductions are made by an Employer, teachers desiring service credit therefor shall contribute to the Fund upon the basis of the actual salary received from such organizations at the percentage rates in effect during such periods for certified positions with such Employer. To the extent the actual salary exceeds the regular salary, which shall be defined as the salary rate, as calculated by the Board, in effect for the teacher's regular position in teaching service on September 1, 1983 or on the effective date of the leave with the organization, whichever is later, the organization shall pay to the Fund the employer's normal cost as set by the Board on the increment.
- (5) For time spent in the military service, teachers entitled to and desiring credit therefor shall contribute the amount required for each year of service or fraction thereof at the rates in force (a) at the date of appointment, or (b) on return to teaching service as a regularly certified teacher, as the case may be; provided such rates shall not be less than \$ 450 per year of service. These conditions shall apply unless an Employer elects to and does pay into the Fund the amount which would have been due from such person had he been employed as a teacher during such time. In the case of credit for military service not during the pension period, the teacher must also pay to the Fund an amount determined by the Board to be equal to the employer's normal cost of the benefits accrued from such service, plus interest thereon at 5% per year, compounded annually, from the date of appointment to the date of payment.

The changes to this Section made by Public Act 87-795 shall apply not only to persons who on or after its effective date are in service under the Fund, but also to persons whose status as a teacher terminated prior to that date, whether or not the person is an annuitant on that date. In the case of an annuitant who applies for credit allowable under this Section for a period of military service that did not immediately follow employment, and who has made the required contributions for such credit, the annuity shall be recalculated to include the additional service credit, with the increase taking effect on the date the Fund received written notification of the annuitant's intent to purchase the

credit, if payment of all the required contributions is made within 60 days of such notice, or else on the first annuity payment date following the date of payment of the required contributions. In calculating the automatic annual increase for an annuity that has been recalculated under this Section, the increase attributable to the additional service allowable under this amendatory Act of 1991 shall be included in the calculation of automatic annual increases accruing after the effective date of the recalculation.

The total credit for military service shall not exceed 5 years, except that any teacher who on July 1, 1963, had validated credit for more than 5 years of military service shall be entitled to the total amount of such credit.

- (6) A maximum of 244 unused sick days credited to his account by an Employer on the date of termination of employment. Members, upon verification of unused sick days, may add this service time to total creditable service.
- (7) In all cases where time spent on leave is creditable and no payroll deductions therefor are made by an Employer, persons desiring service credit shall make the required contributions directly to the Fund.
- (8) For time lost without pay due to layoff and curtailment of the school term from June 6 through June 21, 1976, as provided in item (e) of the first paragraph of this Section, persons who were contributors on the days immediately preceding such layoff shall receive credit upon paying to the Fund a contribution based on the rates of compensation and employee contributions in effect at the time of such layoff, together with an additional amount equal to 12.2% of the compensation computed for such period of layoff, plus interest on the entire amount at 5% per annum from January 1, 1978 to the date of payment. If such contribution is paid, salary for pension purposes for any year in which such a layoff occurred shall include the compensation recognized for purposes of computing that contribution.
- (9) For time spent after June 30, 1982, as a nonsalaried member of the Board of Education, if required to resign from an administrative or teaching position in order to qualify as a member of the Board of Education, an administrator or teacher desiring credit therefor shall pay the required contributions at the rates and salaries in effect during such periods as though the member were in service.



Effective September 1, 1974, the interest charged for validation of service described in paragraphs (2) through (5) of this Section shall be compounded annually at a rate of 5% commencing one year after the termination of the leave or return to service.

**PUBLIC ACT 97-0651**

**Eff. Jan. 5, 2012**

**(Excerpts of Relevant Provisions)**

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

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 1-114, 1-135, 3-110, 4-108, 5-214, 6-209, 8-138, 8-226, 8-233, 9-219, 11-134, 11-215, 11-217, 15-107, 16-106, and 17-134 as follows:

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

Sec. 1-114. Liability for Breach of Fiduciary Duty. (a) Any person who is a fiduciary with respect to a retirement system or pension fund established under this Code who breaches any duty imposed upon fiduciaries by this Code, including, but not limited to, a failure to report a reasonable suspicion of a false statement specified in Section 1-135 of this Code, shall be personally liable to make good to such retirement system or pension fund any losses to it resulting from each such breach, and to restore to such retirement system or pension fund any profits of such fiduciary which have been made through use of assets of the retirement system or pension fund by the fiduciary, and shall be subject to such equitable or remedial relief as the court may deem appropriate, including the removal of such fiduciary.

(b) No person shall be liable with respect to a breach of



Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

fractional part thereof of service shall be allowed for service rendered during any calendar year.

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

(40 ILCS 5/8-138) (from Ch. 108 1/2, par. 8-138)

Sec. 8-138. Minimum annuities - Additional provisions.

(a) An employee who withdraws after age 65 or more with at least 20 years of service, for whom the amount of age and service and prior service annuity combined is less than the amount stated in this Section, shall from the date of withdrawal, instead of all annuities otherwise provided, be entitled to receive an annuity for life of \$150 a year, plus 1 1/2% for each year of service, to and including 20 years, and 1 2/3% for each year of service over 20 years, of his highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal.

An employee who withdraws after 20 or more years of service, before age 65, shall be entitled to such annuity, to begin not earlier than upon attained age of 55 years if under such age at withdrawal, reduced by 2% for each full year or fractional part thereof that his attained age is less than 65, plus an additional 2% reduction for each full year or fractional part thereof that his attained age when annuity is to begin is less than 60 so that the total reduction at age 55 shall be 30%.

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

(b) An employee who withdraws after July 1, 1957, at age 60 or over, with 20 or more years of service, for whom the age and service and prior service annuity combined, is less than the amount stated in this paragraph, shall, from the date of withdrawal, instead of such annuities, be entitled to receive an annuity for life equal to  $1\frac{2}{3}\%$  for each year of service, of the highest average annual salary for any 5 consecutive years within the last 10 years of service immediately preceding the date of withdrawal; provided, that in the case of any employee who withdraws on or after July 1, 1971, such employee age 60 or over with 20 or more years of service, shall receive an annuity for life equal to 1.67% for each of the first 10 years of service; 1.90% for each of the next 10 years of service; 2.10% for each year of service in excess of 20 but not exceeding 30; and 2.30% for each year of service in excess of 30, based on the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal.

An employee who withdraws after July 1, 1957 and before January 1, 1988, with 20 or more years of service, before age 60 years is entitled to annuity, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, as computed in the last preceding paragraph, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60 if the employee was born before January 1, 1936, or 0.5% for each such month if

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

the employee was born on or after January 1, 1936.

Any employee born before January 1, 1936, who withdraws with 20 or more years of service, and any employee with 20 or more years of service who withdraws on or after January 1, 1988, may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 1.80% for each of the first 10 years of service, 2.00% for each of the next 10 years of service, 2.20% for each year of service in excess of 20 but not exceeding 30, and 2.40% for each year of service in excess of 30, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60; except that an employee retiring on or after January 1, 1988, at age 55 or over but less than age 60, having at least 35 years of service, or an employee retiring on or after July 1, 1990, at age 55 or over but less than age 60, having at least 30 years of service, or an employee retiring on or after the effective date of this amendatory Act of 1997, at age 55 or over but less than age 60, having at least 25 years of service, shall not be subject to the reduction in retirement annuity because of retirement below age 60.

However, in the case of an employee who retired on or after

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

January 1, 1985 but before January 1, 1988, at age 55 or older and with at least 35 years of service, and who was subject under this subsection (b) to the reduction in retirement annuity because of retirement below age 60, that reduction shall cease to be effective January 1, 1991, and the retirement annuity shall be recalculated accordingly.

Any employee who withdraws on or after July 1, 1990, with 20 or more years of service, may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 2.20% for each year of service if withdrawal is before January 1, 2002, or 2.40% for each year of service if withdrawal is on or after January 1, 2002, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60; except that an employee retiring at age 55 or over but less than age 60, having at least 30 years of service, shall not be subject to the reduction in retirement annuity because of retirement below age 60.

Any employee who withdraws on or after the effective date of this amendatory Act of 1997 with 20 or more years of service may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 2.20%



Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

for each year of service, if withdrawal is before January 1, 2002, or 2.40% for each year of service if withdrawal is on or after January 1, 2002, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attainment of age 55 (age 50 if the employee has at least 30 years of service), reduced 0.25% for each full month or remaining fractional part thereof that the employee's attained age when annuity is to begin is less than 60; except that an employee retiring at age 50 or over with at least 30 years of service or at age 55 or over with at least 25 years of service shall not be subject to the reduction in retirement annuity because of retirement below age 60.

The maximum annuity payable under part (a) and (b) of this Section shall not exceed 70% of highest average annual salary in the case of an employee who withdraws prior to July 1, 1971, 75% if withdrawal takes place on or after July 1, 1971 and prior to January 1, 2002, or 80% if withdrawal takes place on or after January 1, 2002. For the purpose of the minimum annuity provided in this Section \$1,500 is considered the minimum annual salary for any year; and the maximum annual salary for the computation of such annuity is \$4,800 for any year before 1953, \$6000 for the years 1953 to 1956, inclusive, and the actual annual salary, as salary is defined in this Article, for any year thereafter.

To preserve rights existing on December 31, 1959, for

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

participants and contributors on that date to the fund created by the Court and Law Department Employees' Annuity Act, who became participants in the fund provided for on January 1, 1960, the maximum annual salary to be considered for such persons for the years 1955 and 1956 is \$7,500.

(c) For an employee receiving disability benefit, his salary for annuity purposes under paragraphs (a) and (b) of this Section, for all periods of disability benefit subsequent to the year 1956, is the amount on which his disability benefit was based.

(d) An employee with 20 or more years of service, whose entire disability benefit credit period expires before attainment of age 55 while still disabled for service, is entitled upon withdrawal to the larger of (1) the minimum annuity provided above, assuming he is then age 55, and reducing such annuity to its actuarial equivalent as of his attained age on such date or (2) the annuity provided from his age and service and prior service annuity credits.

(e) The minimum annuity provisions do not apply to any former municipal employee receiving an annuity from the fund who re-enters service as a municipal employee, unless he renders at least 3 years of additional service after the date of re-entry.

(f) An employee in service on July 1, 1947, or who became a contributor after July 1, 1947 and before attainment of age 70, who withdraws after age 65, with less than 20 years of service

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

for whom the annuity has been fixed under this Article shall, instead of the annuity so fixed, receive an annuity as follows:

Such amount as he could have received had the accumulated amounts for annuity been improved with interest at the effective rate to the date of his withdrawal, or to attainment of age 70, whichever is earlier, and had the city contributed to such earlier date for age and service annuity the amount that it would have contributed had he been under age 65, after the date his annuity was fixed in accordance with this Article, and assuming his annuity were computed from such accumulations as of his age on such earlier date. The annuity so computed shall not exceed the annuity which would be payable under the other provisions of this Section if the employee was credited with 20 years of service and would qualify for annuity thereunder.

(g) Instead of the annuity provided in this Article, an employee having attained age 65 with at least 15 years of service who withdraws from service on or after July 1, 1971 and whose annuity computed under other provisions of this Article is less than the amount provided under this paragraph, is entitled to a minimum annuity for life equal to 1% of the highest average annual salary, as salary is defined and limited in this Section for any 4 consecutive years within the last 10 years of service for each year of service, plus the sum of \$25 for each year of service. The annuity shall not exceed 60% of such highest average annual salary.

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

(g-1) Instead of any other retirement annuity provided in this Article, an employee who has at least 10 years of service and withdraws from service on or after January 1, 1999 may elect to receive a retirement annuity for life, beginning no earlier than upon attainment of age 60, equal to 2.2% if withdrawal is before January 1, 2002, or 2.4% if withdrawal is on or after January 1, 2002, of final average salary for each year of service, subject to a maximum of 75% of final average salary if withdrawal is before January 1, 2002, or 80% if withdrawal is on or after January 1, 2002. For the purpose of calculating this annuity, "final average salary" means the highest average annual salary for any 4 consecutive years in the last 10 years of service. Notwithstanding any provision of this subsection to the contrary, the "final average salary" for a participant that received credit under subsection (c) of Section 8-226 means the highest average salary for any 4 consecutive years (or any 8 consecutive years if the employee first became a participant on or after January 1, 2011) in the 10 years immediately prior to the leave of absence, and adding to that highest average salary, the product of (i) that highest average salary, (ii) the average percentage increase in the Consumer Price Index during each 12-month calendar year for the calendar years during the participant's leave of absence, and (iii) the length of the leave of absence in years, provided that this shall not exceed the participant's salary at the local labor organization. For purposes of this Section, the

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

Consumer Price Index is the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

(h) The minimum annuities provided under this Section shall be paid in equal monthly installments.

(i) The amendatory provisions of part (b) and (g) of this Section shall be effective July 1, 1971 and apply in the case of every qualifying employee withdrawing on or after July 1, 1971.

(j) The amendatory provisions of this amendatory Act of 1985 (P.A. 84-23) relating to the discount of annuity because of retirement prior to attainment of age 60, and to the retirement formula, for those born before January 1, 1936, shall apply only to qualifying employees withdrawing on or after July 18, 1985.

(j-1) The changes made to this Section by Public Act 92-609 (increasing the retirement formula to 2.4% per year of service and increasing the maximum to 80%) apply to persons who withdraw from service on or after January 1, 2002, regardless of whether that withdrawal takes place before the effective date of that Act. In the case of a person who withdraws from service on or after January 1, 2002 but begins to receive a retirement annuity before July 1, 2002, the annuity shall be recalculated, with the increase resulting from Public Act 92-609 accruing from the date the retirement annuity began. The changes made by Public Act 92-609 control over the changes made

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

by Public Act 92-599, as provided in Section 95 of P.A. 92-609.

(k) Beginning on January 1, 1999, the minimum amount of employee's annuity shall be \$850 per month for life for the following classes of employees, without regard to the fact that withdrawal occurred prior to the effective date of this amendatory Act of 1998:

(1) any employee annuitant alive and receiving a life annuity on the effective date of this amendatory Act of 1998, except a reciprocal annuity;

(2) any employee annuitant alive and receiving a term annuity on the effective date of this amendatory Act of 1998, except a reciprocal annuity;

(3) any employee annuitant alive and receiving a reciprocal annuity on the effective date of this amendatory Act of 1998, whose service in this fund is at least 5 years;

(4) any employee annuitant withdrawing after age 60 on or after the effective date of this amendatory Act of 1998, with at least 10 years of service in this fund.

The increases granted under items (1), (2) and (3) of this subsection (k) shall not be limited by any other Section of this Act.

(Source: P.A. 95-331, eff. 8-21-07.)

(40 ILCS 5/8-226) (from Ch. 108 1/2, par. 8-226)

Sec. 8-226. Computation of service. In computing the term

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

of service of an employee prior to the effective date, the entire period beginning on the date he was first appointed and ending on the day before the effective date, except any intervening period during which he was separated by withdrawal from service, shall be counted for all purposes of this Article, except that for any employee who was not in service on the day before the effective date, service rendered prior to such date shall not be considered for the purposes of Section 8-138.

For a person employed by an employer for whom this Article was in effect prior to January 1, 1950, from whose salary deductions are first made under this Article after December 31, 1949, any period of service rendered prior to the effective date, unless he was in service on the day before the effective date, shall not be counted as service.

The time a person was an employee of any territory annexed to the city prior to the effective date shall be counted as a period of service.

In computing the term of service of any employee subsequent to the day before the effective date, the following periods shall be counted as periods of service for age and service, widow's and child's annuity purposes:

(a) The time during which he performed the duties of his position;

(b) Vacations, leaves of absence with whole or part pay, and leaves of absence without pay not longer than 90

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

days;

(c) Leaves of absence without pay that begin before the effective date of this amendatory Act of the 97th General Assembly and during which a participant is employed full-time by a local labor organization that represents municipal employees, provided that (1) the participant continues to make employee contributions to the Fund as though he were an active employee, based on the regular salary rate received by the participant for his municipal employment immediately prior to such leave of absence (and in the case of such employment prior to December 9, 1987, pays to the Fund an amount equal to the employee contributions for such employment plus regular interest thereon as calculated by the board), and based on his current salary with such labor organization after the effective date of this amendatory Act of 1991; (2) after January 1, 1989 the participant, or the labor organization on the participant's behalf, makes contributions to the Fund as though it were the employer, in the same amount and same manner as specified under this Article, based on the regular salary rate received by the participant for his municipal employment immediately prior to such leave of absence, and based on his current salary with such labor organization after the effective date of this amendatory Act of 1991, and (3) the participant does not receive credit in any pension plan established by the local labor



Public Act 097-0651

HB3813, Enrolled

LRB097 13613 AMC 58149 b

organization based on his employment by the organization;

(d) Any period of disability for which he received (i) a disability benefit under this Article, or (ii) a temporary total disability benefit under the Workers' Compensation Act if the disability results from a condition commonly termed heart attack or stroke or any other condition falling within the broad field of coronary involvement or heart disease, or (iii) whole or part pay;

(e) Any period for which contributions and service credit have been transferred to this Fund under subsection (d) of Section 9-121.1 or subsection (d) of Section 12-127.1 of this Code.

For a person employed by an employer in which the 1921 Act was in effect prior to January 1, 1950, from whose salary deductions are first made under the 1921 Act or this Article after December 31, 1949, any period of service rendered subsequent to the effective date and prior to the date he became an employee and contributor, shall not be counted as a period of service under this Article, except such period for which he made payment as provided in Section 8-230 of this Article, in which case such period shall be counted as a period of service for all annuity purposes hereunder.

In computing the term of service of an employee subsequent to the day before the effective date for ordinary disability benefit purposes, all periods described in the preceding paragraph, except any such period for which he receives

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

ordinary disability benefit, shall be counted as periods of service; provided, that for any person employed by an employer in which this Article was in effect prior to January 1, 1950, from whose salary deductions are first made under this Article after December 31, 1949, any period of service rendered subsequent to the effective date and prior to the date he became an employee and contributor, shall not be counted as a period of service for ordinary disability benefit purposes, unless the person made payment for the period as provided in Section 8-230 of this Article, in which case the period shall be counted as a period of service for ordinary disability purposes for periods of disability on or after the effective date of this amendatory Act of 1997.

Overtime or extra service shall not be included in computing any term of service. Not more than 1 year of service shall be allowed for service rendered during any calendar year.

For the purposes of this Section, the phrase "any pension plan established by the local labor organization" means any pension plan in which a participant may receive credit as a result of his or her membership in the local labor organization, including, but not limited to, the local labor organization itself and its affiliates at the local, intrastate, State, multi-state, national, or international level. The definition of this phrase is a declaration of existing law and shall not be construed as a new enactment.

(Source: P.A. 90-511, eff. 8-22-97.)

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

(40 ILCS 5/8-233) (from Ch. 108 1/2, par. 8-233)

Sec. 8-233. Basis of annual salary. For the purpose of this Article, the annual salary of an employee whose salary or wage is appropriated, fixed, or arranged in the annual appropriation ordinance upon other than an annual basis shall be determined as follows:

(a) If the employee is paid on a monthly basis, the annual salary is 12 times the monthly salary. If the employee is paid on a weekly basis, the annual salary is 52 times the weekly salary.

"Monthly salary" means the amount of compensation or salary appropriated and payable for a normal and regular month's work in the employee's position in the service. "Weekly salary" means the amount of compensation or salary appropriated and payable for a normal and regular week's work in the employee's position in the service. If the work is on a regularly scheduled part time basis, then "monthly salary" and "weekly salary" refer, respectively, to the part time monthly or weekly salary.

If the appropriation for the position is for a shorter period than 12 months a year, or 52 weeks a year if on a weekly basis, or the employee is in a class, grade, or category in which the employee normally works for fewer than 12 months or 52 weeks a year, then the basis shall be adjusted downward to the extent that the appropriated or customary work period is

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

less than the normal 12 months or 52 weeks of service in a year.

Compensation for overtime, at regular or overtime rates, that is paid in addition to the appropriated regular and normal monthly or weekly salary shall not be considered.

(b) If the employee is paid on a daily basis, the annual salary is 260 times the daily wage. If the employee is paid on an hourly basis, the annual salary is 2080 times the hourly wage.

The norm is based on a 12-month per year, 5-day work week of 8 hours per day and 40 hours per week, with consideration given only to time compensated for at the straight time rate of compensation or wage. The norm shall be increased (subject to a maximum of 300 days or 2400 hours per year) or decreased for an employee to the extent that the normal and established work period, at the straight time compensation or wage for the position held in the class, grade, or category in which the employee is assigned, is for a greater or lesser number of months, weeks, days, or hours than the period on which the established norm is based.

"Daily wage" and "hourly wage" mean, respectively, the normal, regular, or basic straight time rate of compensation or wage appropriated and payable for a normal and regular day's work, or hour's work, in the employee's position in the service.

Any time worked in excess of the norm (or the increased or

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

decreased norm, whichever is applicable) that is compensated for at overtime, premium, or other than regular or basic straight time rates shall not be considered as time worked, and the compensation for that work shall not be considered as salary or wage. Such time and compensation shall in every case and for all purposes be considered overtime and shall be excluded for all purposes under this Article. However, the straight time portion of compensation or wage, for time worked on holidays that fall within an employee's established norm, shall be included for all purposes under this Article.

(c) For minimum annuity purposes under Section 8-138, where a salary rate change occurs during the year, it shall be considered that the annual salary for that year is (1) the annual equivalent of the monthly, weekly, daily, or hourly salary or wage rate that was applicable for the greater number of months, weeks, days, or hours (whichever is applicable) in the year under consideration, or (2) the annual equivalent of the average salary or wage rate in effect for the employee during the year, whichever is greater. The average salary or wage rate shall be calculated by multiplying each salary or wage rate in effect for the employee during the year by the number of months, weeks, days, or hours (whichever is applicable) during which that rate was in effect, and dividing the sum of the resulting products by the total number of months, weeks, days, or hours (whichever is applicable) worked by the employee during the year.

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

(d) The changes to subsection (c) made by this amendatory Act of 1997 apply to persons withdrawing from service on or after July 1, 1990 and for each such person are intended to be retroactive to the date upon which the affected annuity began. The Fund shall recompute the affected annuity and shall pay the additional amount due for the period before the increase resulting from this amendatory Act in a lump sum, without interest.

(e) This Article shall not be construed to authorize a salary paid by an entity other than an employer, as defined in Section 8-110, to be used to calculate the highest average annual salary of a participant. This subsection (e) is a declaration of existing law and shall not be construed as a new enactment.

(Source: P.A. 90-31, eff. 6-27-97.)

(40 ILCS 5/9-219) (from Ch. 108 1/2, par. 9-219)

Sec. 9-219. Computation of service.

(1) In computing the term of service of an employee prior to the effective date, the entire period beginning on the date he was first appointed and ending on the day before the effective date, except any intervening period during which he was separated by withdrawal from service, shall be counted for all purposes of this Article.

(2) In computing the term of service of any employee on or after the effective date, the following periods of time shall



Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

computing service. Not more than 1 year of service shall be allowed for service rendered during any calendar year.

(Source: P.A. 92-599, eff. 6-28-02.)

(40 ILCS 5/11-134) (from Ch. 108 1/2, par. 11-134)

Sec. 11-134. Minimum annuities.

(a) An employee whose withdrawal occurs after July 1, 1957 at age 60 or over, with 20 or more years of service, (as service is defined or computed in Section 11-216), for whom the age and service and prior service annuity combined is less than the amount stated in this Section, shall, from and after the date of withdrawal, in lieu of all annuities otherwise provided in this Article, be entitled to receive an annuity for life of an amount equal to 1 2/3% for each year of service, of the highest average annual salary for any 5 consecutive years within the last 10 years of service immediately preceding the date of withdrawal; provided, that in the case of any employee who withdraws on or after July 1, 1971, such employee age 60 or over with 20 or more years of service, shall be entitled to instead receive an annuity for life equal to 1.67% for each of the first 10 years of service; 1.90% for each of the next 10 years of service; 2.10% for each year of service in excess of 20 but not exceeding 30; and 2.30% for each year of service in excess of 30, based on the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal.



Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

An employee who withdraws after July 1, 1957 and before January 1, 1988, with 20 or more years of service, before age 60, shall be entitled to an annuity, to begin not earlier than age 55, if under such age at withdrawal, as computed in the last preceding paragraph, reduced 0.25% if the employee was born before January 1, 1936, or 0.5% if the employee was born on or after January 1, 1936, for each full month or fractional part thereof that his attained age when such annuity is to begin is less than 60.

Any employee born before January 1, 1936 who withdraws with 20 or more years of service, and any employee with 20 or more years of service who withdraws on or after January 1, 1988, may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 1.80% for each of the first 10 years of service, 2.00% for each of the next 10 years of service, 2.20% for each year of service in excess of 20, but not exceeding 30, and 2.40% for each year of service in excess of 30, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60; except that an employee retiring on or after January 1, 1988, at age 55 or over but less than age 60, having at least 35 years of service, or an employee retiring on or

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

after July 1, 1990, at age 55 or over but less than age 60, having at least 30 years of service, or an employee retiring on or after the effective date of this amendatory Act of 1997, at age 55 or over but less than age 60, having at least 25 years of service, shall not be subject to the reduction in retirement annuity because of retirement below age 60.

However, in the case of an employee who retired on or after January 1, 1985 but before January 1, 1988, at age 55 or older and with at least 35 years of service, and who was subject under this subsection (a) to the reduction in retirement annuity because of retirement below age 60, that reduction shall cease to be effective January 1, 1991, and the retirement annuity shall be recalculated accordingly.

Any employee who withdraws on or after July 1, 1990, with 20 or more years of service, may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 2.20% for each year of service if withdrawal is before January 1, 2002, or 2.40% for each year of service if withdrawal is on or after January 1, 2002, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attained age of 55 years, if under such age at withdrawal, reduced 0.25% for each full month or fractional part thereof that his attained age when annuity is to begin is less than 60; except that an employee retiring at age 55 or over but less than age 60,

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

having at least 30 years of service, shall not be subject to the reduction in retirement annuity because of retirement below age 60.

Any employee who withdraws on or after the effective date of this amendatory Act of 1997 with 20 or more years of service may elect to receive, in lieu of any other employee annuity provided in this Section, an annuity for life equal to 2.20% for each year of service if withdrawal is before January 1, 2002, or 2.40% for each year of service if withdrawal is on or after January 1, 2002, of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding the date of withdrawal, to begin not earlier than upon attainment of age 55 (age 50 if the employee has at least 30 years of service), reduced 0.25% for each full month or remaining fractional part thereof that the employee's attained age when annuity is to begin is less than 60; except that an employee retiring at age 50 or over with at least 30 years of service or at age 55 or over with at least 25 years of service shall not be subject to the reduction in retirement annuity because of retirement below age 60.

The maximum annuity payable under this paragraph (a) of this Section shall not exceed 70% of highest average annual salary in the case of an employee who withdraws prior to July 1, 1971, 75% if withdrawal takes place on or after July 1, 1971 and prior to January 1, 2002, or 80% if withdrawal is on or after January 1, 2002. For the purpose of the minimum annuity

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

provided in said paragraphs \$1,500 shall be considered the minimum annual salary for any year; and the maximum annual salary to be considered for the computation of such annuity shall be \$4,800 for any year prior to 1953, \$6,000 for the years 1953 to 1956, inclusive, and the actual annual salary, as salary is defined in this Article, for any year thereafter.

(b) For an employee receiving disability benefit, his salary for annuity purposes under this Section shall, for all periods of disability benefit subsequent to the year 1956, be the amount on which his disability benefit was based.

(c) An employee with 20 or more years of service, whose entire disability benefit credit period expires prior to attainment of age 55 while still disabled for service, shall be entitled upon withdrawal to the larger of (1) the minimum annuity provided above assuming that he is then age 55, and reducing such annuity to its actuarial equivalent at his attained age on such date, or (2) the annuity provided from his age and service and prior service annuity credits.

(d) The minimum annuity provisions as aforesaid shall not apply to any former employee receiving an annuity from the fund, and who re-enters service as an employee, unless he renders at least 3 years of additional service after the date of re-entry.

(e) An employee in service on July 1, 1947, or who became a contributor after July 1, 1947 and prior to July 1, 1950, or who shall become a contributor to the fund after July 1, 1950

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

prior to attainment of age 70, who withdraws after age 65 with less than 20 years of service, for whom the annuity has been fixed under the foregoing Sections of this Article shall, in lieu of the annuity so fixed, receive an annuity as follows:

Such amount as he could have received had the accumulated amounts for annuity been improved with interest at the effective rate to the date of his withdrawal, or to attainment of age 70, whichever is earlier, and had the city contributed to such earlier date for age and service annuity the amount that would have been contributed had he been under age 65, after the date his annuity was fixed in accordance with this Article, and assuming his annuity were computed from such accumulations as of his age on such earlier date. The annuity so computed shall not exceed the annuity which would be payable under the other provisions of this Section if the employee was credited with 20 years of service and would qualify for annuity thereunder.

(f) In lieu of the annuity provided in this or in any other Section of this Article, an employee having attained age 65 with at least 15 years of service who withdraws from service on or after July 1, 1971 and whose annuity computed under other provisions of this Article is less than the amount provided under this paragraph shall be entitled to receive a minimum annual annuity for life equal to 1% of the highest average annual salary for any 4 consecutive years within the last 10 years of service immediately preceding retirement for each year

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

of his service plus the sum of \$25 for each year of service. Such annual annuity shall not exceed the maximum percentages stated under paragraph (a) of this Section of such highest average annual salary.

(f-1) Instead of any other retirement annuity provided in this Article, an employee who has at least 10 years of service and withdraws from service on or after January 1, 1999 may elect to receive a retirement annuity for life, beginning no earlier than upon attainment of age 60, equal to 2.2% if withdrawal is before January 1, 2002, or 2.4% for each year of service if withdrawal is on or after January 1, 2002, of final average salary for each year of service, subject to a maximum of 75% of final average salary if withdrawal is before January 1, 2002, or 80% if withdrawal is on or after January 1, 2002. For the purpose of calculating this annuity, "final average salary" means the highest average annual salary for any 4 consecutive years in the last 10 years of service. Notwithstanding any provision of this subsection to the contrary, the "final average salary" for a participant that received credit under item (3) of subsection (c) of Section 11-215 means the highest average salary for any 4 consecutive years (or any 8 consecutive years if the employee first became a participant on or after January 1, 2011) in the 10 years immediately prior to the leave of absence, and adding to that highest average salary, the product of (i) that highest average salary, (ii) the average percentage increase in the Consumer

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

Price Index during each 12-month calendar year for the calendar years during the participant's leave of absence, and (iii) the length of the leave of absence in years, provided that this shall not exceed the participant's salary at the local labor organization. For purposes of this Section, the Consumer Price Index is the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

(g) Any annuity payable under the preceding subsections of this Section 11-134 shall be paid in equal monthly installments.

(h) The amendatory provisions of part (a) and (f) of this Section shall be effective July 1, 1971 and apply in the case of every qualifying employee withdrawing on or after July 1, 1971.

(h-1) The changes made to this Section by Public Act 92-609 (increasing the retirement formula to 2.4% per year of service and increasing the maximum to 80%) apply to persons who withdraw from service on or after January 1, 2002, regardless of whether that withdrawal takes place before the effective date of that Act. In the case of a person who withdraws from service on or after January 1, 2002 but begins to receive a retirement annuity before July 1, 2002, the annuity shall be recalculated, with the increase resulting from Public Act 92-609 accruing from the date the retirement annuity began. The changes made by Public Act 92-609 control over the changes made by Public Act 92-599, as provided in Section 95 of P.A. 92-609.

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

(i) The amendatory provisions of this amendatory Act of 1985 relating to the discount of annuity because of retirement prior to attainment of age 60 and increasing the retirement formula for those born before January 1, 1936, shall apply only to qualifying employees withdrawing on or after August 16, 1985.

(j) Beginning on January 1, 1999, the minimum amount of employee's annuity shall be \$850 per month for life for the following classes of employees, without regard to the fact that withdrawal occurred prior to the effective date of this amendatory Act of 1998:

(1) any employee annuitant alive and receiving a life annuity on the effective date of this amendatory Act of 1998, except a reciprocal annuity;

(2) any employee annuitant alive and receiving a term annuity on the effective date of this amendatory Act of 1998, except a reciprocal annuity;

(3) any employee annuitant alive and receiving a reciprocal annuity on the effective date of this amendatory Act of 1998, whose service in this fund is at least 5 years;

(4) any employee annuitant withdrawing after age 60 on or after the effective date of this amendatory Act of 1998, with at least 10 years of service in this fund.

The increases granted under items (1), (2) and (3) of this subsection (j) shall not be limited by any other Section of



Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

this Act.

(Source: P.A. 95-331, eff. 8-21-07.)

(40 ILCS 5/11-215) (from Ch. 108 1/2, par. 11-215)

Sec. 11-215. Computation of service.

(a) In computing the term of service of an employee prior to the effective date, the entire period beginning on the date he was first appointed and ending on the day before the effective date, except any intervening period during which he was separated by withdrawal from service, shall be counted for all purposes of this Article. Only the first year of each period of lay-off or leave of absence without pay, continuing or extending for a period in excess of one year, shall be counted as such service.

(b) For a person employed by an employer for whom this Article was in effect prior to August 1, 1949, from whose salary deductions are first made under this Article after July 31, 1949, any period of service rendered prior to the effective date, unless he was in service on the day before the effective date, shall not be counted as service.

(c) In computing the term of service of an employee subsequent to the day before the effective date, the following periods of time shall be counted as periods of service for annuity purposes:

(1) the time during which he performed the duties of his position;

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

(2) leaves of absence with whole or part pay, and leaves of absence without pay not longer than 90 days;

(3) leaves of absence without pay that begin before the effective date of this amendatory Act of the 97th General Assembly and during which a participant is employed full-time by a local labor organization that represents municipal employees, provided that (A) the participant continues to make employee contributions to the Fund as though he were an active employee, based on the regular salary rate received by the participant for his municipal employment immediately prior to such leave of absence (and in the case of such employment prior to December 9, 1987, pays to the Fund an amount equal to the employee contributions for such employment plus regular interest thereon as calculated by the board), and based on his current salary with such labor organization after the effective date of this amendatory Act of 1991, (B) after January 1, 1989 the participant, or the labor organization on the participant's behalf, makes contributions to the Fund as though it were the employer, in the same amount and same manner as specified under this Article, based on the regular salary rate received by the participant for his municipal employment immediately prior to such leave of absence, and based on his current salary with such labor organization after the effective date of this amendatory Act of 1991, and (C) the participant does not receive

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

credit in any pension plan established by the local labor organization based on his employment by the organization;

(4) any period of disability for which he received (i) a disability benefit under this Article, or (ii) a temporary total disability benefit under the Workers' Compensation Act if the disability results from a condition commonly termed heart attack or stroke or any other condition falling within the broad field of coronary involvement or heart disease, or (iii) whole or part pay.

(d) For a person employed by an employer, or the retirement board, in which "The 1935 Act" was in effect prior to August 1, 1949, from whose salary deductions are first made under "The 1935 Act" or this Article after July 31, 1949, any period of service rendered subsequent to the effective date and prior to August 1, 1949, shall not be counted as a period of service under this Article, except such period for which he made payment, as provided in Section 11-221 of this Article, in which case such period shall be counted as a period of service for all annuity purposes hereunder.

(e) In computing the term of service of an employee subsequent to the day before the effective date for ordinary disability benefit purposes, the following periods of time shall be counted as periods of service:

(1) any period during which he performed the duties of his position;

(2) leaves of absence with whole or part pay;

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

(3) any period of disability for which he received (i) a duty disability benefit under this Article, or (ii) a temporary total disability benefit under the Workers' Compensation Act if the disability results from a condition commonly termed heart attack or stroke or any other condition falling within the broad field of coronary involvement or heart disease, or (iii) whole or part pay.

However, any period of service rendered by an employee contributor prior to the date he became a contributor to the fund shall not be counted as a period of service for ordinary disability purposes, unless the person made payment for the period as provided in Section 11-221 of this Article, in which case the period shall be counted as a period of service for ordinary disability purposes for periods of disability on or after the effective date of this amendatory Act of 1997.

Overtime or extra service shall not be included in computing any term of service. Not more than 1 year of service shall be allowed for service rendered during any calendar year.

For the purposes of this Section, the phrase "any pension plan established by the local labor organization" means any pension plan in which a participant may receive credit as a result of his or her membership in the local labor organization, including, but not limited to, the local labor organization itself and its affiliates at the local, intrastate, State, multi-state, national, or international level. The definition of this phrase is a declaration of

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

existing law and shall not be construed as a new enactment.

(Source: P.A. 90-511, eff. 8-22-97.)

(40 ILCS 5/11-217) (from Ch. 108 1/2, par. 11-217)

Sec. 11-217. Basis of annual salary. For the purpose of this Article, the annual salary of an employee whose salary or wage is appropriated, fixed, or arranged in the annual appropriation ordinance upon other than an annual basis shall be determined as follows:

(a) If the employee is paid on a monthly basis, the annual salary is 12 times the monthly salary. If the employee is paid on a weekly basis, the annual salary is 52 times the weekly salary.

"Monthly salary" means the amount of compensation or salary appropriated and payable for a normal and regular month's work in the employee's position in the service. "Weekly salary" means the amount of compensation or salary appropriated and payable for a normal and regular week's work in the employee's position in the service. If the work is on a regularly scheduled part time basis, then "monthly salary" and "weekly salary" refer, respectively, to the part time monthly or weekly salary.

If the appropriation for the position is for a shorter period than 12 months a year, or 52 weeks a year if on a weekly basis, or the employee is in a class, grade, or category in which the employee normally works for fewer than 12 months or

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

52 weeks a year, then the basis shall be adjusted downward to the extent that the appropriated or customary work period is less than the normal 12 months or 52 weeks of service in a year.

Compensation for overtime, at regular or overtime rates, that is paid in addition to the appropriated regular and normal monthly or weekly salary shall not be considered.

(b) If the employee is paid on a daily basis, the annual salary is 260 times the daily wage. If the employee is paid on an hourly basis, the annual salary is 2080 times the hourly wage.

The norm is based on a 12-month per year, 5-day work week of 8 hours per day and 40 hours per week, with consideration given only to time compensated for at the straight time rate of compensation or wage. The norm shall be increased (subject to a maximum of 300 days or 2400 hours per year) or decreased for an employee to the extent that the normal and established work period, at the straight time compensation or wage for the position held in the class, grade, or category in which the employee is assigned, is for a greater or lesser number of months, weeks, days, or hours than the period on which the established norm is based.

"Daily wage" and "hourly wage" mean, respectively, the normal, regular, or basic straight time rate of compensation or wage appropriated and payable for a normal and regular day's work, or hour's work, in the employee's position in the

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

service.

Any time worked in excess of the norm (or the increased or decreased norm, whichever is applicable) that is compensated for at overtime, premium, or other than regular or basic straight time rates shall not be considered as time worked, and the compensation for that work shall not be considered as salary or wage. Such time and compensation shall in every case and for all purposes be considered overtime and shall be excluded for all purposes under this Article. However, the straight time portion of compensation or wage, for time worked on holidays that fall within an employee's established norm, shall be included for all purposes under this Article.

(c) For minimum annuity purposes under Section 11-134, where a salary rate change occurs during the year, it shall be considered that the annual salary for that year is (1) the annual equivalent of the monthly, weekly, daily, or hourly salary or wage rate that was applicable for the greater number of months, weeks, days, or hours (whichever is applicable) in the year under consideration, or (2) the annual equivalent of the average salary or wage rate in effect for the employee during the year, whichever is greater. The average salary or wage rate shall be calculated by multiplying each salary or wage rate in effect for the employee during the year by the number of months, weeks, days, or hours (whichever is applicable) during which that rate was in effect, and dividing the sum of the resulting products by the total number of

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

months, weeks, days, or hours (whichever is applicable) worked by the employee during the year.

(d) The changes to subsection (c) made by this amendatory Act of 1997 apply to persons withdrawing from service on or after July 1, 1990 and for each such person are intended to be retroactive to the date upon which the affected annuity began. The Fund shall recompute the affected annuity and shall pay the additional amount due for the period before the increase resulting from this amendatory Act in a lump sum, without interest.

(e) This Article shall not be construed to authorize a salary paid by an entity other than an employer, as defined in Section 11-107, to be used to calculate the highest average annual salary of a participant. This subsection (e) is a declaration of existing law and shall not be construed as a new enactment.

(Source: P.A. 90-31, eff. 6-27-97.)

(40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

Sec. 15-107. Employee.

(a) "Employee" means any member of the educational, administrative, secretarial, clerical, mechanical, labor or other staff of an employer whose employment is permanent and continuous or who is employed in a position in which services are expected to be rendered on a continuous basis for at least 4 months or one academic term, whichever is less, who (A)





Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

~~of this amendatory Act of the 94th General Assembly, and (iii) pays to the system contributions equal to the normal costs calculated from the date of first full time employment as described in item (8) to the date of payment, compounded annually at the rate of 8.5% per year for periods before the effective date of this amendatory Act of the 94th General Assembly and for subsequent periods at a rate equal to the System's actuarially assumed rate of return on investments. However, credit shall not be granted under this paragraph for any such prior employment for which the applicant received credit under any other provision of this Code.~~

(Source: P.A. 93-320, eff. 7-23-03; 94-1111, eff. 2-27-07.)

(40 ILCS 5/17-134) (from Ch. 108 1/2, par. 17-134)

Sec. 17-134. Contributions for leaves of absence; military service; computing service. In computing service for pension purposes the following periods of service shall stand in lieu of a like number of years of teaching service upon payment therefor in the manner hereinafter provided: (a) time spent on a leave of absence granted by the employer; (b) service with teacher or labor organizations based upon special leaves of absence therefor granted by an Employer; (c) a maximum of 5 years spent in the military service of the United States, of which up to 2 years may have been served outside the pension period; (d) unused sick days at termination of service to a maximum of 244 days; (e) time lost due to layoff and

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

curtailment of the school term from June 6 through June 21, 1976; and (f) time spent after June 30, 1982 as a member of the Board of Education, if required to resign from an administrative or teaching position in order to qualify as a member of the Board of Education.

(1) For time spent on or after September 6, 1948 on sabbatical leaves of absence or sick leaves, for which salaries are paid, an Employer shall make payroll deductions at the applicable rates in effect during such periods.

(2) For time spent on a leave of absence granted by the employer for which no salaries are paid, teachers desiring credit therefor shall pay the required contributions at the rates in effect during such periods as though they were in teaching service. If an Employer pays salary for vacations which occur during a teacher's sick leave or maternity or paternity leave without salary, vacation pay for which the teacher would have qualified while in active service shall be considered part of the teacher's total salary for pension purposes. No more than 36 months of leave credit may be allowed any person during the entire term of service. Sabbatical leave credit shall be limited to the time the person on leave without salary under an Employer's rules is allowed to engage in an activity for which he receives salary or compensation.

(3) For time spent prior to September 6, 1948, on

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

sabbatical leaves of absence or sick leaves for which salaries were paid, teachers desiring service credit therefor shall pay the required contributions at the maximum applicable rates in effect during such periods.

(4) For service with teacher or labor organizations authorized by special leaves of absence, for which no payroll deductions are made by an Employer, teachers desiring service credit therefor shall contribute to the Fund upon the basis of the actual salary received from such organizations at the percentage rates in effect during such periods for certified positions with such Employer. To the extent the actual salary exceeds the regular salary, which shall be defined as the salary rate, as calculated by the Board, in effect for the teacher's regular position in teaching service on September 1, 1983 or on the effective date of the leave with the organization, whichever is later, the organization shall pay to the Fund the employer's normal cost as set by the Board on the increment. Notwithstanding any other provision of this subdivision (4), teachers are only eligible for credit for service under this subdivision (4) if the special leave of absence begins before the effective date of this amendatory Act of the 97th General Assembly.

(5) For time spent in the military service, teachers entitled to and desiring credit therefor shall contribute the amount required for each year of service or fraction

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

thereof at the rates in force (a) at the date of appointment, or (b) on return to teaching service as a regularly certified teacher, as the case may be; provided such rates shall not be less than \$450 per year of service. These conditions shall apply unless an Employer elects to and does pay into the Fund the amount which would have been due from such person had he been employed as a teacher during such time. In the case of credit for military service not during the pension period, the teacher must also pay to the Fund an amount determined by the Board to be equal to the employer's normal cost of the benefits accrued from such service, plus interest thereon at 5% per year, compounded annually, from the date of appointment to the date of payment.

The changes to this Section made by Public Act 87-795 shall apply not only to persons who on or after its effective date are in service under the Fund, but also to persons whose status as a teacher terminated prior to that date, whether or not the person is an annuitant on that date. In the case of an annuitant who applies for credit allowable under this Section for a period of military service that did not immediately follow employment, and who has made the required contributions for such credit, the annuity shall be recalculated to include the additional service credit, with the increase taking effect on the date the Fund received written notification of the annuitant's

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

intent to purchase the credit, if payment of all the required contributions is made within 60 days of such notice, or else on the first annuity payment date following the date of payment of the required contributions. In calculating the automatic annual increase for an annuity that has been recalculated under this Section, the increase attributable to the additional service allowable under this amendatory Act of 1991 shall be included in the calculation of automatic annual increases accruing after the effective date of the recalculation.

The total credit for military service shall not exceed 5 years, except that any teacher who on July 1, 1963, had validated credit for more than 5 years of military service shall be entitled to the total amount of such credit.

(6) A maximum of 244 unused sick days credited to his account by an Employer on the date of termination of employment. Members, upon verification of unused sick days, may add this service time to total creditable service.

(7) In all cases where time spent on leave is creditable and no payroll deductions therefor are made by an Employer, persons desiring service credit shall make the required contributions directly to the Fund.

(8) For time lost without pay due to layoff and curtailment of the school term from June 6 through June 21, 1976, as provided in item (e) of the first paragraph of

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

this Section, persons who were contributors on the days immediately preceding such layoff shall receive credit upon paying to the Fund a contribution based on the rates of compensation and employee contributions in effect at the time of such layoff, together with an additional amount equal to 12.2% of the compensation computed for such period of layoff, plus interest on the entire amount at 5% per annum from January 1, 1978 to the date of payment. If such contribution is paid, salary for pension purposes for any year in which such a layoff occurred shall include the compensation recognized for purposes of computing that contribution.

(9) For time spent after June 30, 1982, as a nonsalaried member of the Board of Education, if required to resign from an administrative or teaching position in order to qualify as a member of the Board of Education, an administrator or teacher desiring credit therefor shall pay the required contributions at the rates and salaries in effect during such periods as though the member were in service.

Effective September 1, 1974, the interest charged for validation of service described in paragraphs (2) through (5) of this Section shall be compounded annually at a rate of 5% commencing one year after the termination of the leave or return to service.

(Source: P.A. 92-599, eff. 6-28-02.)

Public Act 097-0651

HB3813 Enrolled

LRB097 13613 AMC 58149 b

Section 97. Retroactive repeal. This amendatory Act of the 97th General Assembly hereby repeals and declares void ab initio the last paragraph of Section 16-106 of the Illinois Pension Code as contained in Public Act 94-1111 as that paragraph furnishes no vested rights because it violates multiple provisions of the 1970 Illinois Constitution, including, but not limited to, Article VIII, Section 1. Upon receipt of an application within 6 months after the effective date of this amendatory Act of the 97th General Assembly, the System shall immediately refund any contributions made by or on behalf of a person to receive service credit pursuant to the text set forth in Public Act 94-1111, as well as any amount determined by the Board to be equal to the investment earned by the System on those contributions since their receipt.

Section 98. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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