

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
Section 16-140 as follows:

(40 ILCS 5/16-140) (from Ch. 108 1/2, par. 16-140)

Sec. 16-140. Survivors' benefits - definitions.

(a) For the purpose of Sections 16-138 through 16-143.2,
the following terms shall have the following meanings, unless
the context otherwise requires:

(1) "Average salary": the average salary for the
highest 4 consecutive years within the last 10 years of
creditable service immediately preceding date of death or
retirement, whichever is applicable, or the average salary
for the total creditable service if service is less than 4
years.

(2) "Member": any teacher included in the membership of
the system. However, a teacher who becomes an annuitant of
the system or a teacher whose services terminate after 20
years of service from any cause other than retirement is
considered a member, subject to the conditions and
limitations stated in this Article.

(3) "Dependent beneficiary": (A) a surviving spouse of

a member or annuitant who was married to the member or annuitant for the 12 month period immediately preceding and on the date of death of such member or annuitant, except where a child is born of such marriage, in which case the qualifying period shall not be applicable; (A-1) a surviving spouse of a member or annuitant who (i) was married to the member or annuitant on the date of the member or annuitant's death, (ii) was married to the member or annuitant for a period of at least 12 months (but not necessarily the 12 months immediately preceding the member or annuitant's death), and (iii) has not received a benefit under subsection (a) of Section 16-141 or paragraph (1) of Section 16-142; (B) an eligible child of a member or annuitant; and (C) a dependent parent.

Unless otherwise designated by the member, eligibility for benefits shall be in the order named, except that a dependent parent shall be eligible only if there is no other dependent beneficiary. Any benefit to be received by or paid to a dependent beneficiary to be determined under this paragraph as provided in Sections 16-141 and 16-142 may be received by or paid to a trust established for such dependent beneficiary if such dependent beneficiary is living at the time such benefit would be received by or paid to such trust.

(4) "Eligible child": an unmarried natural or adopted child of the member or annuitant under age 18 (age 22 if a

full-time student). An unmarried natural or adopted child, regardless of age, who is dependent by reason of a physical or mental disability, ~~except any such child receiving benefits under Article III of the Illinois Public Aid Code,~~ is eligible for so long as such physical or mental disability continues. An adopted child, however, is eligible only if the proceedings for adoption were finalized while the child was a minor.

For purposes of this subsection, "disability" means an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

The changes made to this Section by Public Act 90-448, relating to benefits for certain unmarried children who are full-time students under age 22, apply without regard to whether the deceased member was in service on or after the effective date of that Act. These changes do not authorize the repayment of a refund or a re-election of benefits, and any benefit or increase in benefits resulting from these changes is not payable retroactively for any period before the effective date of that Act.

(5) "Dependent parent": a parent who was receiving at least 1/2 of his or her support from a member or annuitant for the 12-month period immediately preceding and on the

date of such member's or annuitant's death, provided however, that such dependent status terminates upon a member's acceptance of a refund for survivor benefit contributions as provided under Section 16-142.

(6) "Non-dependent beneficiary": any person, organization or other entity designated by the member who does not qualify as a dependent beneficiary.

(7) "In service": the condition of a member being in receipt of salary as a teacher at any time within 12 months immediately before his or her death, being on leave of absence for which the member, upon return to teaching, would be eligible to purchase service credit under subsection (b) (5) of Section 16-127, or being in receipt of a disability or occupational disability benefit. This term does not include any annuitant or member who previously accepted a refund of survivor benefit contributions under paragraph (1) of Section 16-142 unless the conditions specified in subsection (b) of Section 16-143.2 are met.

(b) The change to this Section made by Public Act 90-511 applies without regard to whether the deceased member or annuitant was in service on or after the effective date of that Act.

The change to this Section made by this amendatory Act of the 91st General Assembly applies without regard to whether the deceased member or annuitant was in service on or after the effective date of this amendatory Act.

Public Act 095-0870

HB5120 Enrolled

LRB095 16598 AMC 42629 b

(Source: P.A. 90-448, eff. 8-16-97; 90-511, eff. 8-22-97;
90-655, eff. 7-30-98; 91-887, eff. 7-6-00.)

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