

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1600.110	Amendment
1600.271	Amendment
1600.460	New Section
1600.461	New Section
1600.625	Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) A Complete Description of the Subjects and Issues Involved: The proposed new Sections 1600.460 and 1600.461, and the proposed amendment to Section 1600.625 are intended to implement legislative changes to Article 15 of the Illinois Pension Code [40 ILCS 5/15] made by PA 100-587, effective June 4, 2018. The proposed amendment to Section 1600.271 implements changes to Section 15-155 of the Illinois Pension Code [40 ILCS 5/15-155] under PA 100-624, retroactively effective July 6, 2017. The proposed amendments to Section 1600.110 updates procedures for submitting FOIA requests to SURS.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no impact on small businesses (fewer than 50 full-time employees or less than \$4,000,000 in gross annual sales).
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

The full text of the Proposed Amendments begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE D: RETIREMENT SYSTEMS  
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600  
UNIVERSITIES RETIREMENT

## SUBPART A: GENERAL

## Section

1600.100	Definitions
1600.110	Freedom of Information Act
1600.120	Open Meetings Act
1600.130	Procurement
1600.140	Compliance with the Internal Revenue Code
1600.145	Compliance with Final 415 Treasury Regulations
1600.150	Group Trust Provisions

## SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

## Section

1600.202	Return to Employment
1600.203	Independent Contractors
1600.205	Earnings Subject to Withholding and Crediting
1600.210	Crediting Interest on Participant Contributions and Other Reserves
1600.220	Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
1600.230	Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
1600.240	Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
1600.241	Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
1600.250	Sick Leave Accrual Schedule
1600.260	Part-time/Concurrent Service Adjustment
1600.270	Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%
1600.271	Employer Contributions for Earnings in Excess of the Governor's Salary
1600.275	Employer Contributions for Employing Affected Annuitants

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## SUBPART C: SURVIVORS AND BENEFICIARIES

## Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries
- 1600.320 Disability Claims Procedure (Renumbered)

## SUBPART D: BENEFIT CALCULATION AND PAYMENT

## Section

- 1600.400 Determination of Final Rate of Earnings Period
- 1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
- 1600.420 Making Preliminary Estimated Payments
- 1600.430 Excess Benefit Arrangement
- 1600.431 Indirect Payments to Minors and Legally Disabled Persons
- 1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
- 1600.440 Voluntary Deductions from Annuity Payments
- 1600.450 Overpayment Recovery
- [1600.460 Accelerated Pension Benefit Payment In Lieu of Any Pension Benefit](#)
- [1600.461 Accelerated Pension Benefit Payment for a Reduction and Delay in AAI](#)

## SUBPART E: DISABILITY CLAIMS AND ADMINISTRATIVE REVIEW

## Section

- 1600.500 Administrative Staff Determinations and Rules for Appeal – Nature and Requirements of Formal Hearings
- 1600.510 Employer-Related Determinations and Rules for Appeal
- 1600.550 Disability Claims Procedure

## SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

## Section

- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs

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1600.625	Benefits Affected by a QILDRO
1600.630	Effect of a Valid QILDRO
1600.635	QILDROs Against Persons Who Became Members Prior to July 1, 1999
1600.640	Alternate Payee's Address
1600.645	Electing Form of Payment
1600.650	Automatic Annual Increases
1600.655	Expiration of a QILDRO
1600.660	Reciprocal Systems QILDRO Policy Statement
1600.665	Providing Benefit Information for Divorce Purposes

## SUBPART G: BOARD TRUSTEE ELECTION

Section	
1600.700	Nomination of Candidates
1600.705	Election Date/Election Day – Defined
1600.710	Petitions
1600.715	Eligible Voters
1600.720	Election Materials
1600.725	Casting Votes
1600.730	Return of Ballots and Ballot Counting Process
1600.735	Certification of Ballot Counting
1600.740	Challenges to Election Results
1600.745	Candidate Informational Communication
1600.750	Filling a Vacancy in the Term of an Elected Trustee

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12,

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2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January 15, 2013; amended at 37 Ill. Reg. 3866, effective March 15, 2013; amended at 37 Ill. Reg. 10698, effective June 26, 2013; amended at 37 Ill. Reg. 15517, effective September 12, 2013; amended at 38 Ill. Reg. 5659, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 11376, effective May 9, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16375, effective July 17, 2014; amended at 38 Ill. Reg. 17457, effective July 30, 2014; amended at 39 Ill. Reg. 8317, effective June 1, 2015; amended at 40 Ill. Reg. 8437, effective June 3, 2016; amended at 41 Ill. Reg. 11606, effective September 1, 2017; amended at 41 Ill. Reg. 15353, effective December 5, 2017; amended at 42 Ill. Reg. 19078, effective October 5, 2018; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

**Section 1600.110 Freedom of Information Act**

- a) Purpose. This Section establishes policies and procedures specific to SURS concerning requests for information made under FOIA.
- b) Freedom of Information Officer. The Freedom of Information Officer is the staff member at SURS responsible for responding to all requests for information on behalf of SURS as the "public body" under FOIA and is also responsible for maintaining all records required to be kept under FOIA and this Section. The Freedom of Information Officer shall be the SURS General Counsel or a designee of the SURS Executive Director. Denials issued by the Freedom of Information Officer shall inform the requester of the right of review by the Public Access Counselor under Section 9.5 of FOIA or by a court under Section 11 of FOIA.
- c) Time and Place for Requests or Inspection. Records subject to FOIA shall be made available for inspection and copying at SURS principal office (see Section

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1600.100) on weekdays between the hours of 8:00 a.m. and 4:30 p.m., excluding days during which the office is closed to the public. Written requests shall be directed to the Freedom of Information Officer or a designee in the SURS Legal Department by mail that is addressed to the SURS principal office by facsimile at (217)378-9801, or by email to [FOIA\\_Officers@surs.org-general\\_counsel@surs.org](mailto:FOIA_Officers@surs.org-general_counsel@surs.org). Oral requests for inspection or copying may be made in person or by phone at [217-378-8800](tel:217-378-8800)(~~217~~378-8838).

- d) Fees. Subject to a waiver or reduction of the fee if warranted under Section 6 of FOIA, fees may be imposed on the requester to recover costs of document production or reproduction according to the following schedule:
- 1) Photostatic copying of paper documents:
    - A) Black and white copies shall be charged after the first 50 pages at \$0.05 per page;
    - B) Color copies shall be charged at \$0.13 per page.
  - 2) Printing of electronic documents or microfilmed/microfiched documents shall be charged at \$0.05 per page.
  - 3) Physical storage on electronic, tape or other media, shipping and facsimile transmission costs shall be charged to the extent those costs are incurred. Electronic transmission via e-mail shall be provided at no charge.
- e) Exemptions. Consistent with Section 7 of FOIA, the following public records shall be exempt from inspection and copying: personal information that includes any personally identifying or identifiable information other than names or benefit amounts, including, but not necessarily limited to, Social Security numbers and addresses of participants and annuitants, and names and Social Security numbers and addresses of beneficiaries.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

**Section 1600.271 Employer Contributions for Earnings in Excess of the Governor's Salary**

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- a) Purpose and Applicability. This Section implements Section 15-155(j-5) of the Code. Section 15-155(j-5) and this Section shall not apply to any participant's earnings to the extent the employer pays the employer normal cost for those earnings. For purposes of Section 15-155(j-5), the terms stated in subsections (b) through (i) shall have the meanings ascribed in this Section.
- b) State Fiscal Year. The "State fiscal year" shall mean the 12-month period beginning July 1. ~~Measurement Year. "Academic year" and "school year" shall mean the 12-month period beginning on July 1 and shall be collectively referred to in this Section as the "measurement year".~~
- c) Governor's Salary. The "amount of the salary set by law for the Governor that is in effect on July 1 of that fiscal year" shall be the salary for the Governor set by law by the General Assembly as of July 1 of the State fiscal measurement year or, in its absence, the most recent salary for the Governor set by law by the General Assembly.
- d) FTE-Earnings Exclusions. ~~"A participant's earnings for any school year, determined on a full time equivalent basis" ("FTE earnings") shall equal the total earnings in the measurement year divided by the average of the percent times of employment reported by the employer during the measurement year.1)The employer shall report percent time with each submission of payroll information duly certified to be correct and in compliance with all applicable State and federal laws pursuant to Section 15-111(c) of the Code.2)The average percent time calculation shall only take into account periods during which services were actually rendered or periods during which the employee was on an approved leave of absence at a percentage of pay greater than 0% (as adjusted by any voluntary employee contributions made for those periods).3)Earnings do not include payments made under a collective bargaining agreement for unused sick leave or payments made for unused vacation.~~
- e) Excess Earnings. The "amount of earnings in excess of the amount of the salary set for the Governor" ("excess earnings") shall be equal to the difference between the ~~FTE~~ earnings and the Governor's salary as defined in subsection (c) ~~and that difference multiplied by the average percent time described by subsection (d)(2).~~
- f) Employer Normal Cost. The "employer normal cost" shall mean the employer normal cost described in Section 15-155 ~~of the Code~~, expressed as a total percentage of payroll, approved by the Board for the State fiscal measurement



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year. *This amount shall be computed by the System on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the System that is available at the time of the computation.* [40 ILCS 5/15-155(j-5)]

- g) Employer Contribution Amount. The employer contribution amount shall be equal to the excess earnings under subsection (e) multiplied by the employer normal cost percentage under subsection (f).
- h) Multiple or Concurrent Employers. In the event that an employee has been employed by two or more employers during a State fiscal measurement year, earnings shall be measured and the employer contribution amount shall be calculated on an employer-by-employer basis.
- i) Employer Billing
- 1) Billing. *Whenever it determines that a payment is or may be required under Section 15-155(j-5) of the Code, the System shall calculate the amount of the payment and bill the employer for that amount. The bill shall specify the ~~calculation~~ calculations used to determine the amount due.* [40 ILCS 5/15-155(j-5)] No bills shall be issued for de minimis employer contribution amounts that are \$25 or less. The System shall issue the bill during the September immediately following the end of the State fiscal measurement year to which the bill relates.
  - 2) Request for Recalculation. *If the employer disputes the amount of the bill, it may, within 30 days after ~~issuance~~ receipt of the bill, apply to the System in writing for a recalculation. The application must specify in detail the grounds of the dispute. Upon receiving a timely application for recalculation, the System shall review the application and, if appropriate, recalculate the amount due.* An employer shall be deemed to have been in receipt of the bill on the date the bill is issued.
  - 3) Payment. *The employer contributions required under this subsection (i) may be paid in the form of a lump sum within 90 days after ~~issuance~~ receipt of the bill. If the employer contributions are not paid within 90 days after ~~issuance~~ receipt of the bill, then interest will be charged at a rate equal to the System's annual actuarially assumed rate of return on investment compounded annually from the 91<sup>st</sup> day after receipt of the bill. ~~All payments~~ Payments must be ~~received~~ ~~on~~ ~~the~~ ~~date~~ ~~of~~ ~~the~~ ~~bill~~ within 3*

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years after the ~~issuance~~~~employer's receipt~~ of the bill. [40 ILCS 5/15-155(j-5)]

- 4) Comptroller Intercept. *If the employer fails to make complete payment, including applicable interest, within 3 years, then the System may, after giving notice to the employer, certify the delinquent amount to the State Comptroller, and the Comptroller shall deduct the certified delinquent amount from State funds payable to the employer and pay them instead to the System. [40 ILCS 5/15-155(j-5)] In the case of an employer that is a community college district, Section 15-155.1(b) of the Code shall also apply to delinquent amounts including interest after the 3-year period.*
- 54) Appeals of the Recalculation. The employer may appeal a recalculation pursuant to Section 1600.510.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: BENEFIT CALCULATION AND PAYMENT

**Section 1600.460 Accelerated Pension Benefit Payment In Lieu of Any Pension Benefit**

- a) Purpose. This Section implements Section 15-185.5 of the Code providing for an accelerated pension benefit payment in lieu of any pension benefit, to be referred to in this Section as the "Vested Inactive Buyout" or "VIB".
- b) Definitions. For purposes of Section 15-185.5(a), the following terms shall have the meanings specified in this subsection (b).
- 1) Eligible Person. An eligible "person" shall mean a person who satisfies the following conditions.
- A) The person has terminated all service, meaning the person has terminated employee status under Section 15-107 of the code as of the date SURS receives the VIB application and has continuously remained in non-employee status as of the date SURS receives the election to accept the VIB offer.
- B) The person has accrued sufficient service credit to be eligible to receive a retirement annuity under Article 15, meaning the person

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must meet the applicable retirement eligibility requirements under Section 15-135 of the Code solely with respect to service credit as of the date SURS receives the VIB application. For this purpose, service credit shall include only service credited under Article 15. No service credited at a reciprocal retirement system or pension fund shall count under this subsection (b)(1)(B).

- C) The person has not received any retirement annuity under Article 15, meaning the person must not have received any retirement annuity or Preliminary Estimated Payments as of the date SURS receives the VIB application.
- D) The person has not made the election under Section 15-185.6.
- E) The person is not a participant in the Self-Managed Plan under Section 15-158.2.
- 2) Implementation Date. "Implementation date" means the earliest date upon which the Board authorizes eligible persons to begin irrevocably electing the accelerated pension benefit payment option under Section 15-185.5. The Board shall endeavor to make such participation available as soon as possible after June 4, 2018 and shall establish an implementation date by Board resolution. [40 ILCS 5/15-185.5(a)]
- 3) Pension Benefit. The "pension benefit" upon which the VIB shall be calculated shall consist of one or more of the following benefits, as applicable:
- A) Traditional Benefit Package
- i) Tier 1 Members. Retirement benefits under the applicable provisions of Section 15-136 of the Code and, if a permanent survivor (as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145 of the Code, subject to the minimum total survivors annuity payable under Section 15-146(b) of the Code.
- ii) Tier 2 Members. Retirement benefits under the applicable provisions of Section 15-136 and, if a permanent survivor

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(as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145.1 of the Code.

- B) Portable Benefit Package
- i) Tier 1 Members. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b) of the Code with automatic annual increases under Section 15-136.4(l).
  - ii) Tier 2 Members. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b) with automatic annual increases under Section 15-136(d-5).
- C) Refund of Survivors Contributions. If the eligible person has no permanent survivor as of the VIB application date, then the refund that would have been payable as of the assumed retirement date under Section 15-154(c) of the Code.
- D) Refund of Additional Contributions. The refund that would be payable as of the assumed retirement date under Section 15-154(d), if applicable.
- E) Refund of Excess Service Credit. The refund that would be payable as of the assumed retirement date under Section 15-154(e) for excess or waived service credit.
- F) Refund of Police and Firefighter Contributions. The refund that would be payable as of the assumed retirement date under Section 15-154(f), if the eligible person elects to waive the application of Rule 4 of Section 15-136 of the Code.
- 4) Permanent Survivor. For purposes of this Section, the term "permanent survivor" shall mean a person who:
- A) is living as of the earlier of the assumed retirement date or the date on which the VIB offer is issued; and

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- B) is the youngest (i.e., has the longest actuarially assumed life expectancy) from among the following:
- i) a "surviving spouse" under Section 15-127 of the Code (without regard to any one-year minimum marriage requirement) or an "eligible spouse" under Section 15-136.4(a) (without regard to any one-year minimum marriage requirement); or
  - ii) a "child" under Section 15-129 of the Code who is unmarried and dependent upon the person by reason of a physical or mental disability that began prior to the date the child attained age 18.
    - If the child is age 18 or older as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.
    - If the child is under age 18 as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be

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determined in accordance with 20 CFR 416.905 through 416.911.

- c) VIB Application. Beginning on the implementation date, an eligible person may apply for a VIB calculation in writing in the form prescribed by SURS, subject to the following conditions:
- 1) Application Deadline. SURS must receive the application by June 30, 2021. However, in no event shall SURS accept an application less than 12 months prior to the date on which the eligible person must begin receiving Required Minimum Distributions under Section 1-116.1 of the Code and IRC section 401(a)(9).
  - 2) Termination of Application
    - A) A pending application shall terminate prior to SURS' receipt of the election to receive the VIB on the earliest of the eligible person's:
      - i) revocation of the application;
      - ii) re-employment;
      - iii) death;
      - iv) required beginning date for Required Minimum Distributions under Section 1-116.1; or
      - v) election to receive an Automatic Annual Increase Buyout (AAI Buyout) under Section 15-185.6 and Section 1600.461 of this Part.
    - B) No election to accept a VIB offer shall be effective upon or after the termination of a pending application.
    - C) The eligible person may not withdraw or revoke a pending application as of the date SURS receives the completed VIB election form.

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- 3) Other Benefits. The eligible person may not apply for a refund, disability benefit, or disability retirement annuity while a VIB application is pending.
- d) VIB Offer Amount. After receipt of a VIB application, SURS shall calculate the VIB offer amount as soon as practicable. The VIB offer amount shall be 60% of the present value of the applicable pension benefit payable as of the assumed retirement date. The calculation shall be subject to the following conditions:
- 1) Actuarial Assumptions
- A) All actuarial tables used to calculate the VIB offer amount shall use actuarial assumptions most recently adopted by the Board as of the time of the calculation.
- B) The present value date shall be the first of the month on or immediately following the date that SURS receives the VIB application.
- C) The discount rate used to calculate the present value of any benefit shall be the prescribed rate of interest.
- D) The effective rate of interest for fiscal years prior to the fiscal year containing the date of the calculation shall be the historical rates set by the Board or the State Comptroller, as applicable. The effective rate of interest for fiscal years inclusive of and after the fiscal year containing the date of the calculation shall be the last known effective rate of interest set by the Board or the State Comptroller, as applicable.
- 2) Service Credit
- A) All service credit purchases must have been completed by the date SURS receives the VIB application.
- B) Service credit for unused, unpaid sick leave under Section 15-113.4 of the Code shall apply only if the eligible person was an employee within 60 days immediately preceding the assumed retirement date.

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- 3) Assumed Retirement Date. The assumed retirement date shall be the retirement annuity commencement date determined as follows.
  - A) If the eligible person has attained the earliest applicable retirement age under Section 15-135 of the Code as of the date SURS receives the VIB application, the VIB offer amount shall be based on a retirement annuity that commences on the first of the month on or immediately following the date that SURS receives the VIB application (subject to any applicable early age reductions under Section 15-136).
  - B) If the eligible person has not attained the earliest applicable retirement age under Section 15-135 as of the date SURS receives the VIB application, the VIB offer amount shall be based on a retirement annuity that commences on the first of the month following the birthday on which the person will have attained the earliest applicable retirement age under Section 15-135 (subject to any applicable early age reductions under Section 15-136).
- 4) Survivor Benefits. The assumed dates of death of the eligible person and eligible permanent survivor with respect to any assumed survivor benefit shall be based on the most recent mortality assumptions adopted by the Board as of the date of the calculation.
- 5) Frequency. No more than one VIB offer amount shall be calculated in a State fiscal year.
- 6) Appeals. An eligible person may seek an appeal of the calculation of the VIB offer amount within 35 days after the issuance of the offer, in accordance with Section 1600.500.
- e) VIB Election. The election to accept the VIB offer shall be made in the manner and form prescribed by SURS. SURS may require additional documentation or proof to verify any fact or record necessary for the administration of the election.
  - 1) Election Deadline. The eligible person shall elect to accept the VIB offer within 120 days after the date the VIB offer was issued. If no election is



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submitted by the deadline, the eligible person shall be deemed to have rejected the VIB offer.

- 2) Election Date. The date of the election to accept the VIB offer shall be the date SURS receives the completed VIB election form.
- 3) Survivor Consent. The election shall be accompanied by written and notarized consent of any permanent survivor. If a permanent survivor who was identified in the VIB application no longer qualifies as a permanent survivor, then the election shall be, instead, accompanied by documentation proving the disqualifying condition as follows:
  - A) Death. Death shall be proven by a certified copy of the death certificate.
  - B) Divorce. A dissolution of marriage shall be proven by a certified copy of the judgment of dissolution of marriage or civil union.
  - C) Child's Non-Disability. A child's non-disability shall be proven by a written certificate from one or more licensed and practicing physicians stating that the child is no longer disabled under subsection (b)(4)(B)(ii).
- 4) Effect of Acceptance. Upon SURS' receipt of the election to accept the VIB offer amount, the eligible person shall be subject to the following conditions:
  - A) The election to accept the VIB offer shall be irrevocable unless:
    - i) the State Comptroller fails to remit the full VIB amount to SURS within a year after SURS has submitted a voucher under Section 15-185.5(f); or
    - ii) SURS has knowledge of specific and articulable facts, taken together with rational inferences from those facts, that would lead a reasonable person to believe that the election to accept the VIB was made under fraud, duress, undue influence, illegality or incapacity.

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- B) The eligible person may not elect to proceed under the Retirement Systems Reciprocal Act [40 ILCS 5/Art. 20] with respect to any service to which the VIB pertains.
  - C) The eligible person may not purchase service credit under Article 15 of the Code with respect to any service credit attributable to the VIB or any accelerated pension benefit payment under Section 14-147.5, 14-147.6, 16-190.5 or 16-190.6 of the Code.
  - D) The eligible person shall no longer be a participant of SURS and forfeits all accrued rights and credits in SURS and no other benefit shall be paid under Article 15 based on those forfeited rights and credits, including any retirement, survivor or other benefit; except, to the extent that participation, benefits or premiums under the State Employees Group Insurance Act of 1971 are based on the amount of service credit.
  - E) The VIB may not be repaid to SURS, and the forfeited rights and credits may not under any circumstances be reinstated.
  - F) If the eligible person returns to participation under Article 15, any benefits under SURS earned as a result of that return to participation shall be based solely on the person's credits and creditable service arising from the return to participation. Upon return to participation, the person shall be considered a new employee subject to all the qualifying conditions for participation and eligibility for benefits applicable to new employees, except the person shall retain the same Tier status and program elections previously made under Section 15-134.5 of the Code.
  - G) An election to accept the VIB offer shall be deemed to be a waiver of any appeal rights under Section 1600.500 with respect to the VIB.
- f) VIB Voucher and Payment
- 1) As soon as administratively practicable after SURS' receipt of the election to accept the VIB offer, SURS shall submit one or more vouchers to the State Comptroller for the payment of the VIB. SURS shall pay the VIB as

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soon as administratively practicable after SURS' receipt of the VIB amount from the State Comptroller. In no event shall SURS pay the VIB without having received the amounts sufficient to pay the VIB in full from the State Comptroller.

- 2) The VIB shall be paid in the form of a direct rollover to an "eligible retirement plan" as defined under Section 1600.140(h)(6) (including any supplemental defined contribution plan administered by SURS) to the extent permissible under IRC section 401(a)(31), except for any amounts attributable to Required Minimum Distributions under Section 1-116.1 of the Code or amounts paid under the Excess Benefit Arrangement under Section 1600.430 of this Part. The eligible person may not elect to receive any portion of the direct rollover as cash.
- 3) If the eligible person dies after having elected to accept the VIB offer amount, but prior to payment of the VIB, the VIB shall be payable to the eligible person's estate.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1600.461 Accelerated Pension Benefit Payment for a Reduction and Delay in AAI**

- a) Purpose. This Section implements Section 15-185.6 of the Code providing for an accelerated pension benefit payment for a reduction and delay in an automatic annual increase (AAI) to a retirement annuity and an annuity benefit payable as a result of death, to be referred to in this Section as the "AAI Buyout".
- b) Definitions. For purposes of Section 15-185.6(a), the following terms shall have the meanings specified in this subsection (b).
  - 1) Eligible Person. An "eligible person" shall mean a person who satisfies the following conditions:
    - A) The person is a Tier 1 member.
    - B) The person has submitted an application for a retirement annuity under Article 15.

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- C) The person has met the age and service requirement for receiving a retirement annuity under Article 15, meaning the person must meet the applicable retirement eligibility requirements under Section 15-135 of the Code with respect to age and service credit accrued under Article 15 and, if the person elects to retire under the Retirement Systems Reciprocal Act, any service credit of a participating reciprocal system.
- D) The person has not received any retirement annuity under Article 15, meaning the retirement date specified in the retirement application cannot be prior to the date SURS receives the application for a retirement annuity.
- E) The person has not made the election under Section 15-185.5 of the Code.
- F) The person is not a participant in the Self-Managed Plan under Section 15-158.2 of the Code.
- 2) Implementation Date. "Implementation date" means the earliest date upon which the Board authorizes eligible persons to begin irrevocably electing the accelerated pension benefit payment option under Section 185.6. The Board shall endeavor to make such participation available as soon as possible after June 4, 2018 and shall establish an implementation date by Board resolution. [40 ILCS 5/15-185.6(a)]
- 3) Assumed Annuities. The AAI Buyout shall be based on one or more of the following assumed annuities, as applicable:
- A) Traditional Benefit Package. Retirement benefits under the applicable provisions of Section 15-136 of the Code and, if a permanent survivor (as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145 of the Code, subject to the minimum total survivors annuity payable under Section 15-146(b) of the Code.
- B) Portable Benefit Package. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b).

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- 4) Permanent Survivor. For purposes of this Section, the term "permanent survivor" shall mean a person who:
- A) is living as of the earlier of the assumed retirement date or the date on which the AAI Buyout offer is issued; and
- B) is the youngest (i.e., has the longest actuarially assumed life expectancy) from among the following:
- i) a "surviving spouse" under Section 15-127 of the Code (without regard to any one-year minimum marriage requirement); or
- ii) a "child" under Section 15-129 of the Code who is unmarried and dependent upon the person by reason of a physical or mental disability which began prior to the date the child attained age 18.
- If the child is age 18 or older as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.
  - If the child is under age 18 as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional

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limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.

- c) AAI Buyout Application. Beginning on the implementation date, an eligible person may apply for an AAI Buyout calculation in writing in the form prescribed by SURS, subject to the following conditions:
- 1) Application Deadline. SURS must receive the AAI Buyout application by the retirement date specified on the completed retirement application, which can be no later than June 30, 2021.
  - 2) Termination of Application
    - A) A pending application shall terminate on the earliest of the eligible person's:
      - i) revocation of the application;
      - ii) cancellation or suspension of the retirement annuity under Section 15-139 of the Code;
      - iii) death; or
      - iv) an election to receive a Vested Inactive Buyout under Section 15-185.5 of the Code and Section 1600.460 of this Part.
    - B) No election to accept an AAI Buyout offer shall be effective upon or after the termination of a pending application.
    - C) The eligible person may not withdraw or revoke a pending application as of the date SURS receives the completed AAI Buyout election form.
- d) AAI Buyout Offer Amount

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- 1) After receipt of an AAI Buyout application, SURS shall calculate the AAI Buyout offer amount as soon as practicable.
- 2) The AAI Buyout offer amount shall be 70% of the difference of:
  - A) the present value of the automatic annual increases to the assumed annuities under Sections 15-136(d), 15-136.4(l), and 15-145(j) of the Code, as applicable; and
  - B) the present value of the automatic annual increases to the assumed annuities, using the formula provided under Section 15-185.6(b-5) of the Code.
- 3) The calculation shall be subject to the following conditions:
  - A) Actuarial Assumptions
    - i) All actuarial tables used to calculate the AAI Buyout offer amount shall use actuarial assumptions most recently adopted by the Board as of the time of the calculation.
    - ii) The present value date shall be the retirement date.
    - iii) The discount rate used to calculate the present value shall be the prescribed rate of interest.
  - B) Survivor Benefits. The assumed dates of death of the eligible person and eligible permanent survivor or contingent annuitant, as applicable, with respect to any assumed survivors insurance benefit or survivor portion of a joint and survivor annuity, as applicable, shall be based on the most recent mortality assumptions adopted by the Board as of the date of the calculation. The AAI to a survivors insurance annuity or the survivor portion of a joint and survivor annuity, as applicable, calculated under Section 15-185.6(b-5) of the Code, shall commence on the January 1 occurring on or after the first anniversary of the commencement of the survivors insurance annuity or survivor portion of a joint and survivor annuity.

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- C) Frequency. No more than one AAI Buyout offer amount shall be calculated in a State fiscal year.
  - D) Appeals. An eligible person may seek an appeal of the calculation of the AAI Buyout offer amount within 35 days after the issuance of the offer in accordance with Section 1600.500.
- e) AAI Buyout Election. The election to accept the AAI Buyout offer shall be made in the manner and form prescribed by SURS. SURS may require additional documentation or proof to verify any fact or record necessary for administration of the election.
- 1) Election Deadline. The eligible person shall elect to accept the AAI Buyout offer within 120 days after the date the AAI Buyout offer was issued. If no election is submitted by the deadline, the eligible person shall be deemed to have rejected the AAI Buyout offer.
  - 2) Election Date. The date of the election to accept the AAI Buyout offer shall be the date SURS receives the completed AAI Buyout election form.
  - 3) Termination from Employment. The eligible person must not return to work as an employee under Section 15-107 of the Code until after the date SURS receives the completed AAI Buyout election form.
  - 4) Survivor Consent. The election shall be accompanied by written and notarized consent of any permanent survivor or contingent annuitant, as applicable. If a permanent survivor who was identified in the AAI Buyout application no longer qualifies as a permanent survivor, the election shall be, instead, accompanied by documentation proving the disqualifying condition as follows:
    - A) Death. Death shall be proven by a certified copy of the death certificate.
    - B) Divorce. A dissolution of marriage shall be proven by a certified copy of the judgment of dissolution of marriage or civil union.



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- C) Child's Non-Disability. A child's non-disability shall be proven by a written certificate from one or more licensed and practicing physicians stating that the child is no longer disabled under subsection (b)(4)(B)(ii).
- 5) Effect of Acceptance. Upon SURS' receipt of the election to accept the AAI Buyout offer amount, the eligible person shall be subject to the following conditions:
- A) The election to accept the AAI Buyout offer shall be irrevocable unless:
- i) the State Comptroller fails to remit the full AAI Buyout amount to SURS within a year after SURS has submitted a voucher under Section 15-185.6(d-5); or
- ii) SURS has knowledge of specific and articulable facts, taken together with rational inferences from those facts, that would lead a reasonable person to believe that the election to accept the AAI Buyout was made under fraud, duress, undue influence, illegality or incapacity.
- B) An eligible person who participates in the Traditional Benefit Package and who elects to accept the AAI Buyout offer may not elect to receive a survivors contribution refund under Section 15-154(c) of the Code if a survivors insurance beneficiary exists as of the retirement date. If no survivors insurance beneficiary exists as of the retirement date, the survivors contribution refund shall be payable to the eligible person.
- C) An eligible person who elects to accept the AAI Buyout offer shall be deemed to have waived the right to any supplemental payments under Section 15-136.3 and Section 15-146(d) of the Code.
- D) An election to accept the AAI Buyout offer shall be deemed to be a waiver of any appeal rights under Section 1600.500 with respect to the AAI Buyout and all underlying calculations.

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- 6) Effect of Rejection. Upon SURS' receipt of a rejection of the AAI Buyout offer amount or upon the failure to make an election within the deadline specified under subsection (e)(1), SURS shall pay automatic annual increases as provided under Sections 15-136(d), 15-136.4(l), and 15-145(j) of the Code, as applicable.
- f) AAI Buyout Voucher and Payment
- 1) As soon as administratively practicable after the SURS' receipt of the election to accept the AAI Buyout offer amount, SURS shall submit one or more vouchers to the State Comptroller for the payment of the AAI Buyout. SURS shall pay the AAI Buyout as soon as administratively practicable after the SURS' receipt of the AAI Buyout amount from the State Comptroller. In no event shall SURS pay the AAI Buyout without having received the amounts sufficient to pay the AAI Buyout in full from the State Comptroller.
  - 2) The AAI Buyout shall be paid in the form of a direct rollover to an "eligible retirement plan" as defined under Section 1600.140(h)(6) (including any supplemental defined contribution plan administered by SURS) to the extent permissible under IRC section 401(a)(31), except for any amounts attributable to Required Minimum Distributions under Section 1-116.1 of the Code or amounts paid under the Excess Benefit Arrangement under Section 1600.430. The eligible person may not elect to receive any portion of the direct rollover as cash.
  - 3) The AAI Buyout may not be repaid to SURS. However, if the retirement annuity is cancelled under Section 15-139(a) of the Code after the eligible person is paid the AAI Buyout offer amount, the eligible person shall repay to SURS that amount, plus any applicable interest under Section 1600.450.
  - 4) If the eligible person who has received the AAI Buyout returns to participation under Article 15, the calculation of any future automatic annual increase in all retirement and survivor annuities under Section 15-139(c) shall be calculated in accordance with Section 15-185.6(b-5).

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- 5) If the eligible person dies after having elected to accept the AAI Buyout offer, but prior to payment of the AAI Buyout, the AAI Buyout shall be payable to the eligible person's estate.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

**Section 1600.625 Benefits Affected by a QILDRO**

- a) A QILDRO may apply only to the following benefits administered by SURS:
- 1) A monthly retirement benefit;
  - 2) A single-sum retirement benefit;
  - 3) A termination refund;
  - 4) A partial member's refund; and
  - 5) A death benefit.
- b) If a QILDRO specifies a dollar amount payable to an alternate payee from any partial member's refund that becomes payable, the aggregate amount paid to the alternate payee from all partial member's refunds shall not exceed the dollar amount specified in the QILDRO.
- c) A QILDRO shall not apply to any of the following:
- 1) A monthly survivor benefit;
  - 2) A disability benefit;
  - 3) A disability retirement annuity; and
  - 4) An error refund.

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- d) Any option under a paragraph pertaining to a benefit that is left blank shall be interpreted to not apply to the order. If all options under a particular benefit are blank, then the alternate payee shall not receive any portion of the benefit.
- e) Any QILDRO or QILDRO Calculation Court Order purporting to apply to any accelerated pension benefit payment under Section 15-185.5 or 15-185.6 of the Code shall be accompanied by a stipulated court order directing the manner and amounts of the division of the payment. If the payment would diminish any amounts payable to any other alternate payee having priority over the current alternate payee, payment shall not be divided unless all affected parties have entered into stipulated court orders directing the manner of the division of the payment.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)