

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1600.100	Amendment
1600.120	Amendment
1600.205	Amendment
1600.241	New Section
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) Effective Date of Amendments: February 22, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposed Published in the Illinois Register: November 14, 2011; 35 Ill. Reg. 18589
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements are necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The amendments to Sections 1600.100, 1600.205 and 1600.241 ensure that SURS is in compliance with the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act"). The amendment to Section 1600.120 redefines the number of trustees needed to establish a quorum for a Board

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meeting and deletes one obsolete sentence. These revisions are necessary due to the changes in the composition of the Board, as set forth in Public Act 96-6.

16) Information and questions regarding this rulemaking shall be directed to:

Michael B. Weinstein, General Counsel
State Universities Retirement System
1901 Fox Drive,
Champaign, IL 61820

217/378-8825 or 217/378-8838

The full text of the Adopted 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
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- 1600.130 Procurement

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- 1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
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- 1600.241 Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
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- 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
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- 1600.440 Voluntary Deductions from Annuity Payments
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SUBPART E: ADMINISTRATIVE REVIEW

Section

- 1600.500 Rules of Practice – Nature and Requirements of Formal Hearings

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
- 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

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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	Marking of Ballots
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, 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.

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SUBPART A: GENERAL

Section 1600.100 Definitions

Certain terms used frequently throughout this Part are defined in this Section. Unless the context requires a different meaning, other terms used in this Part shall be defined and interpreted in accordance with Article 15 of the Illinois Pension Code [40 ILCS 5/Art. 15]. The definition of a term under a specific Section or Subpart shall supercede, for the purposes of that Section or Subpart, this Section.

"Annuitant" – *A person receiving a retirement, reversionary, survivors or beneficiary annuity or disability retirement annuity from the System.* [40 ILCS 5/15-119]

"Annuity Payment Period" – *The period beginning on the date specified by the participant submitting a written application, which shall not be prior to termination of employment or more than one year before the application is received by the Board of Trustees of SURS; however, if the participant is not an employee of an employer participating in SURS or in a participating system as defined in Article 20 of the Code on April 1 of the calendar year next following the calendar year in which the participant attains age 70½, the annuity payment period shall begin on that date regardless of whether an application has been filed.* [40 ILCS 5/15-135(b)]

"Board" – The Board of Trustees of the State Universities Retirement System as constituted under 40 ILCS 5/15-159.

"Chairperson" – The chairperson of the Board.

"Claims Panel Committee" – The quasi-adjudicative body constituted under the Board's bylaws that hears all administrative contested matters as fiduciaries pursuant to Section 1600.500. An appointed Board committee delegated with authority to hear cases and recommend findings of fact and conclusions of law according to Board policy and Section 1600.500.

"Code" or "Pension Code" – The Illinois Pension Code [40 ILCS 5].

"Effective Rate of Interest" – *The interest rate for all or any part of a fiscal year*

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that is determined by the Board based on factors including the System's past and expected investment experience; historical and expected fluctuations in the market value of investments; the desirability of minimizing volatility in the effective rate of interest from year to year; and the provision of reserves for anticipated losses upon sales, redemptions, or other disposition of investments and for variations in interest experience. [40 ILCS 5/15-125(2)]

"Employee" – A person defined as an "employee" under 40 ILCS 5/15-107.

"Employer" – An entity defined as an "employer" under 40 ILCS 5/15-106.

"Executive Director" – The chief administrative officer of SURS, appointed by the Board.

"FOIA" – Freedom of Information Act [5 ILCS 140].

"General Counsel" – In-house legal counsel for SURS.

"IRS" – Internal Revenue Service of the U.S. Department of the Treasury.

"IRC" – Internal Revenue Code [of 1986, as amended](#) (26 USC 1 et seq.).

"Member" – A SURS participant or annuitant.

"Participant" – A person participating in SURS under Section 15-134 of the Code.

"Participating Employee" – A participant who at the time is an employee.

"Prescribed Rate of Interest" – *The rate of interest to be used in actuarial valuation and in development of actuarial tables. The prescribed rate of interest is determined by the Board on the basis of the probable average effective rate of interest on a long term basis. [40 ILCS 5/15-125(1)]*

"Principal Office of SURS" – State Universities Retirement System, 1901 Fox Drive, Champaign IL 61820.

"SURS" or "System" – [Illinois](#) State Universities Retirement System created by Article 15 of the Code [40 ILCS 5/Art. 15].

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"USERRA" – Uniformed Services Employment and Reemployment Rights Act of 1994 (38 USC 4301 et seq.).

(Source: Amended at 36 Ill. Reg. 3938, effective February 22, 2012)

Section 1600.120 Open Meetings Act

a) Introduction

- 1) The Illinois Open Meetings Act [5 ILCS 120] sets forth *the public policy of the State of Illinois that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. It is also the public policy of the State that its citizens be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way.*
- 2) *It is the intent of the Open Meetings Act:*
 - A) *to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly;*
 - B) *to protect the citizen's right to know; and*
 - C) *that provisions for exceptions to the open meeting requirements be strictly construed against closed meetings. [5 ILCS 120/1]*
- 3) By means of this Section, SURS has established procedures to conduct its business in accordance with the Open Meetings Act.

b) Definition

"Meeting" – Any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the Board held for the purpose of discussing SURS business. [5 ILCS 120/1.02] A quorum for a Board of Trustees meeting shall be six members of the Board. Unless the Board sets a quorum in excess of 5 members, a gathering of 3 or more members of the Board for the purpose of discussing SURS business shall be considered a meeting. A

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quorum for a Board committee is the least number more than one-half of the members of the committee. A quorum of the Board or of a Board committee must be physically present at the location of an open meeting of the Board or the committee, respectively. If, however, an open meeting of the Board or a Board committee is held simultaneously at one of its offices and one or more other locations in a public building, which may include other of its offices, through an interactive video conference and public notice is provided as required under the Open Meetings Act for all locations, then members physically present in those locations all count towards determining a quorum. "Public building", as used in this Section, means any building or portion of a building owned or leased by any public body. The requirement that a quorum be physically present at the location of an open meeting shall not apply, however, to Board committees that do not have authority to make binding recommendations or determinations or to take any other substantive action.

- c) Attendance by a Means Other Than Physical Presence
- 1) If a quorum of the members of the Board or a Board committee is physically present as required by subsection (b), a majority of those physically present, or at least 3 physically present members of a committee consisting of 5 members, may allow a member of that body to attend the meeting by other means (video or audio conference) if the member is prevented from physically attending because of:
 - A) personal illness or disability;
 - B) employment purposes or the business of the public body; or
 - C) a family or other emergency.
 - 2) If a member wishes to attend a meeting by other means, the member must notify the recording secretary of the Board or the Board committee before the meeting unless advance notice is impractical.
 - 3) A majority of the Board or a committee may allow a member to attend a meeting by other means only in accordance with and to the extent allowed by this subsection (c).

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- 4) Except as provided in this subsection (c)(4), the limitations of this subsection (c) shall not apply to closed meetings of the Board or the Executive Committee or to open or closed meetings of any other subsidiary body, including without limitation any committee other than the Executive Committee, that does not have authority to make binding recommendations or determinations or to take any other substantive action. If the limitations of this subsection (c) do not apply, any or all members of the Board or a subsidiary body may attend a meeting by audio or video conference. An open meeting attended by audio or video conference will be broadcast at the properly noticed location of the meeting. Neither advance notice nor permission for such means of attendance is required. No minimum number of members need be physically present at the noticed location of the meeting.
- d) Time and Place of Open Meetings
- 1) *All open meetings shall be held at specified times and places which are convenient and open to the public.*
 - 2) *No open meeting shall be held on a legal holiday unless the regular meeting day falls on that holiday. [5 ILCS 120/2.01]*
- e) Public Notice; Agenda; Schedule
- 1) *Posting. Public notice shall be given by posting a copy of the notice at the principal office of SURS [5 ILCS 120/2.02(a)]. Copies of the posted notice shall also be given to any news medium that has filed with the Executive Director an annual request for notice of meetings [5 ILCS 120/2.02(b)].*
 - 2) *News Medium Request. Any news medium may file with the Executive Director of SURS an annual request for public notice of all meetings of the Board of Trustees of SURS. The Executive Director shall maintain an updated list of all news media that have filed annual requests and shall be responsible for seeing that the news media receive the notices mandated by the Open Meetings Act and this Section.*
 - 3) *Regular Meetings. Public notice shall be given of the schedule of regular meetings at the beginning of each fiscal year, stating the regular dates,*

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times, and places of each meeting.

- A) *Agenda of Regular Meetings. An agenda for each regular meeting shall be posted in accordance with subsection (e)(1) at least 48 hours in advance of the holding of the meeting. However, this requirement shall not preclude the consideration of items not specifically set forth in the agenda. [5 ILCS 120/2.02(a)]*
 - B) *Schedule of Regular Meetings. At the beginning of each fiscal year, the Executive Director of SURS shall prepare and make available a schedule of all its regular meetings for that fiscal year, listing the times and places of meetings.*
 - C) *Change in Regular Meeting Date. If a change is made in a regular meeting date, at least 10 days' notice of the change shall be given by publication in the official State newspaper. Notice of the change shall also be posted at the principal office of SURS. Notice of the change shall also be given to any news medium that has filed with the Executive Director an annual request for notice of meetings. [5 ILCS 120/2.03]*
- 4) *Special Meetings. Public notice of any special meeting shall be given at least 48 hours before the meeting.*
- A) *Agenda of Special Meetings. An agenda of a special meeting shall also be included with the public notice of the meeting. However, the validity of any action taken by the Board that is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda. [5 ILCS 120/2.02(a)]*
 - B) *News Medium Notice. Any news medium that has filed an annual request for notice shall be given the same notice of any special meeting in the same manner as is given to members of the Board, provided that the news medium has given the Executive Director an address or telephone number within Illinois at which notice may be given. [5 ILCS 120/2.02(b)]*
- 5) *Rescheduled or Reconvened Meetings. Public notice of any rescheduled or reconvened meeting shall be given at least 48 hours before the meeting.*

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- A) Exception to Notice Requirement. No public notice is required to be given of any reconvened meeting when *the meeting was open to the public and either:*
- i) *the meeting is to be reconvened within 24 hours; or*
 - ii) *an announcement of the time and place of the reconvened meeting is made at the original meeting and there is no change in the agenda. [5 ILCS 120/2.02(a)]*
- B) Agenda of Rescheduled or Reconvened Meeting. *An agenda of a rescheduled or reconvened meeting shall also be included with the public notice of the meeting. However, the validity of any action taken by the Board that is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda. [5 ILCS 120/2.02(a)]*
- C) News Medium Notice. *Any news medium that has filed an annual request for notice shall be given the same notice of any rescheduled or reconvened meeting in the same manner as is given to members of the Board, provided that the news medium has given the Executive Director an address or telephone number within Illinois at which notice may be given. [5 ILCS 120/2.02(b)]*
- 6) Emergency Meeting. *Notice of an emergency meeting shall be given as soon as is practicable. In any event, prior to an emergency meeting being held, notice shall be given to any news medium that has filed an annual request for notice. [5 ILCS 120/2.02(a)] Any news medium that has filed an annual request for notice shall be given the same notice of any emergency meeting in the same manner as is given to members of the Board, provided that the news medium has given the Executive Director an address or telephone number within Illinois at which notice may be given. [5 ILCS 120/2.02(b)]*
- f) Recording Meeting
- 1) *Any person may record by tape, film or other means the proceedings at any open meeting, subject to rules as may be prescribed by the Board of*

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Trustees, and subject to subsection (f)(2) and the provisions of Section 8-701 of the Code of Civil Procedure [735 ILCS 120/8-701]. [5 ILCS 120/2.05]

- 2) *If any witness at any meeting required to be open under the Open Meetings Act refuses to testify on the grounds that he or she may not be compelled to testify if any portion of his or her testimony is to be broadcast or televised or if motion pictures are to be taken, then the authority holding the meeting shall prohibit any recording during the testimony of the witness. Nothing in this subsection (f) shall be construed to extend the right to refuse to testify at any meeting not subject to the provisions of Section 8-701 of the Code of Civil Procedure.* [5 ILCS 120/2.05]

g) Closed Meetings

- 1) Subject. The Board or a Board committee may hold closed meetings to consider any subject permitted under Section 2(c) of the Open Meetings Act, including the following subjects:
- A) *The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of SURS, including hearing testimony on a complaint lodged against an employee to determine its validity* [5 ILCS 120/2(c)(1)];
 - B) *Collective negotiating matters between SURS and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees* [5 ILCS 120/2(c)(2)];
 - C) *Evidence or testimony presented in open hearing, or in closed hearing when specifically authorized by law, to a quasi-adjudicative body, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning* [5 ILCS 120/2(c)(4)];
 - D) *The purchase or lease of real property for the use of SURS* [5 ILCS 120/2(c)(5)];
 - E) *The setting of a price for sale or lease of real property owned by*

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SURS [5 ILCS 120/2(c)(6)];

- F) *The sale or purchase of securities, investments, or investment contracts* [5 ILCS 120/2(c)(7)];
- G) *Emergency security procedures and the use of personnel and equipment to respond to actual danger to the safety of employees, staff, or public property, provided that a description of the actual danger shall be made a part of the motion to close the meeting* [5 ILCS 120/2(c)(8)];
- H) *Litigation, when an action against, affecting or on behalf of SURS has been filed and is pending before a court or administrative tribunal, or when the Board or a Board committee finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting* [5 ILCS 120/2(c)(11)];
- I) *Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which SURS is a member* [5 ILCS 120/2(c)(16)];
- J) *The classification and discussion of matters classified as confidential or continued confidential by the State Employees Suggestion Award Board (see 20 ILCS 405/67.28)* [5 ILCS 120/2(c)(20)]; and
- K) *Discussion of minutes of closed meetings, whether for purposes of approval by the Board or Board committee of the minutes, or for purposes of semiannual review of the minutes* [5 ILCS 120/2(c)(21)].
- 2) Procedure
- A) *Vote. Upon the majority vote of a quorum present of the Board or Board committee at an open meeting, the Board may hold a meeting closed to the public or may close a portion of a meeting to the public. The motion to close a meeting, or a portion of the meeting, shall state a citation to the specific exemption set forth in*

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Section 2 of the Open Meetings Act. The vote of each member shall be taken by roll call vote, *shall be publicly disclosed, and shall be recorded and entered into the minutes of the meeting.*

- B) Subject. *Only topics specified in the vote to close may be considered during the closed meeting.*
 - C) Series of Meetings. *A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, provided each meeting in the series involves the same particular matters and is scheduled to be held within no more than 3 months after the vote.* [5 ILCS 120/2a]
- h) Minutes of Meetings
- 1) Open Meetings
 - A) Content. The Board or Board committee shall keep written minutes of all open meetings. The minutes shall include:
 - i) the date, time and place of the meeting;
 - ii) the members of the Board recorded as either present or absent, and whether the members were physically present or present by means of video or audio conference; and
 - iii) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.
 - B) Public Inspection. The minutes of any open meeting shall be available for public inspection within 7 days after the approval of the minutes by the Board or Board committee.
 - 2) Closed Meetings
 - A) Content. The Board or Board committee *shall keep written minutes of all closed meetings. The minutes shall include:*
 - i) *the date, time and place of the meeting;*

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- ii) *the members of the Board recorded as either present or absent; and*
 - iii) *a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.*
- B) **Public Inspection.** *The minutes of any closed meeting shall be available for public inspection only after the Board determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping the minutes confidential.*
- C) **Semiannual Review.** *The Board shall semiannually review minutes of all closed meetings. At closed meetings, a determination shall be made, and reported in an open session, that either:*
- i) *the need for confidentiality still exists as to all or a part of those minutes; or*
 - ii) *the minutes or portions of the minutes no longer require confidential treatment and are available for public inspection. [5 ILCS 120/2.06]*

(Source: Amended at 36 Ill. Reg. 3938, effective February 22, 2012)

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section 1600.205 Compensation Subject to Withholding

Section 15-157 of the Illinois Pension Code requires every participating employee to make contributions of 8% of his or her pay to fund the benefits payable under SURS. This contribution is deducted from the participating employee's pay on a pre-tax basis and remitted to SURS via payroll deduction. The contributions are made as a percentage of the participating employee's "earnings". Earnings are defined at Section 15-111 of the Code. This Section states SURS' interpretation of what items of compensation are includable as earnings for the purposes of Section 15-111. The following shall be used when determining whether certain payments to employees are subject to SURS withholding.

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- a) Determination of the Purpose of the Payment
- 1) If the payment is for services rendered, then the payment is subject to SURS withholding.
 - 2) If the payment is for a reason other than services rendered, it would not be subject to SURS withholding.
 - 3) Other Payments
 - A) Bonuses; Awards. Bonuses received by an employee that are related to services rendered for a specific period of time, not to exceed one academic year, shall be included in earnings subject to SURS withholding. Awards, such as longevity of service awards or outstanding employee awards, that are not associated with a particular time period are not subject to SURS withholding.
 - B) Retirement Payments or Incentives. Payments made to induce someone to retire, or not to retire, are not for services rendered, but are made in conjunction with an employee's retirement and are not subject to SURS withholding. These payments are also not includable in the final rate of earnings under Section 15-112.
 - C) Group Fringe Benefits. Group fringe benefits provided by the employer are not subject to SURS withholding. However, employer paid premiums on employer-provided group term life insurance in excess of \$50,000 are subject to SURS withholding.
 - D) Housing Allowance. A housing allowance, whether in the form of a direct salary payment or as a residence in which the employee resides, is subject to SURS withholding.
 - E) Automobile Allowance. An automobile allowance in the form of a direct salary payment is subject to SURS withholding. However, neither business use nor personal use of an employer-provided automobile is subject to SURS withholding.

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- F) Non-Qualified Moving Expenses. Non-qualified moving expenses (see 26 USC 217) are not subject to SURS withholding as they are not furnished in lieu of salary.
- G) Unused Sick Leave Paid at Termination of Employment. These payments are not subject to SURS withholding, except for collectively bargained payments made in accordance with Section 15-112 of the Code.
- H) Overtime. Overtime is subject to SURS withholding.
- I) Miscellaneous Other Benefits. Fringe benefits that are provided in lieu of salary are subject to SURS withholding. Items that are not provided in lieu of salary (such as reimbursement for out-of-pocket travel expenses, relocation expenses, etc.) are not subject to SURS withholding. Items such as country club dues, tuition waivers, tickets to athletic and performing arts events for family members of employees, and other items that are reported as taxable income on the employee's Form W-2 are not subject to SURS withholding, unless those items are a negotiated fringe benefit in lieu of salary.
- J) Military Differential Wage Payments and Salary Continuation Benefits. For payments made on or after January 1, 2009, differential wage payments, as defined under section 414(u)(12) of the IRC (26 USC 414(u)(12)), and payments to an individual who does not currently perform services for an employer by reason of qualified military service, as defined under section 414(u)(1) of the IRC (26 USC 414(u)(1)), to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service, shall be earnings subject to SURS withholding and shall be compensation paid or made available during the limitation year for purposes of applying the limitations under section 415 of the IRC.

b) Earning History

Certain earnings may be excludable from the "final rate of earnings" determined under Section 15-112 of the Code. Earnings are always attributable to the period when earned, not when paid. SURS reserves the right to reallocate reported

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earnings to the period when earned, when this is necessary to accurately reflect the employee's earning history.

(Source: Amended at 36 Ill. Reg. 3938, effective February 22, 2012)

Section 1600.241 Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA

For deaths occurring on or after January 1, 2007, in the case of a participant who dies while performing "qualified military service", as defined in section 414(u) of the IRC, any survivor or beneficiary of the participant is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under SURS had the participant resumed employee status and then terminated employment on account of death.

(Source: Added at 36 Ill. Reg. 3938, effective February 22, 2012)