**Section 1600.145 Compliance with Final 415 Treasury Regulations**

a) Subject to Section 1600.140(f), the limitations of this Section in compliance with IRC section 415 and the Final Treasury Regulations under IRC section 415 (26 CFR 1.415(a)-1 through (j)-1, T.D. 9319, April 5, 2007) shall apply in limitation years beginning on or after January 1, 2008, except as otherwise provided in this subsection (a).

1) The IRC section 415(b) limit with respect to any member who, at any time has been a participant in any other defined benefit plan (defined in IRC section 414(j)) maintained by the member's same employer in the System shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a participant were payable from one plan.

2) The IRC section 415(c) limit with respect to any member who, at any time, has been a participant of any other defined contribution plan, as defined in IRC section 414(i), that was maintained by the member's same employer in the System shall apply as if the total annual additions under all such defined contribution plans in which the member has been a participant were payable to one plan.

3) For purposes of this Section, the "limitation year" shall be the calendar year, and "plan" shall be any one or more of the SURS retirement plans, as the context requires.

b) Basic IRC Section 415(b) Limitation

1) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in IRC section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in IRC section 415(b)(1)(A), subject to the applicable adjustments in IRC section 415(b), and subject to any additional limits that may be specified in the Code. In no event shall a member's benefit payable under the System in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to IRC section 415(d) and 26 CFR 1.415(d)-1.

2) For purposes of IRC section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to IRC section 415(n)) and to rollover contributions (as defined in IRC section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with 26 CFR 1.415(b)-1(b).

A) Mandatory Employee Contributions. In the case of mandatory employee contributions, as defined in IRC section 411(c)(2)(C) and 26 CFR 1.411(c)-1(c)(4) (or contributions that would be mandatory employee contributions if section 411 applied to the plan), the annual benefit attributable to those contributions is determined by applying the factors applicable to mandatory employee contributions, as described in IRC section 411(c)(2)(B) and (C) and Treasury Regulations under section 411 to those contributions to determine the amount of a straight life annuity commencing at the annuity starting date, regardless of whether the requirements of sections 411 and 417 apply to that plan. For purposes of applying those factors to a plan that is not subject to the requirements of section 411, the applicable effective date of IRC section 411(a)(2) (which is used under 26 CFR 1.411(c)‑1(c)(3) to determine the beginning date from which statutorily specified interest must be credited to mandatory employee contributions) must be determined as if IRC section 411 applied to the plan, and in determining the annual benefit that is actuarially equivalent to these accumulated contributions, the plan must determine the interest rate that would have been required under IRC section 417(e)(3) as if IRC 417 applied to the plan.

B) Voluntary Employee Contributions. If voluntary employee contributions are made to the plan (to the extent not made pursuant to IRC section 415(n)), the portion of the plan to which voluntary employee contributions are made is treated as a defined contribution plan pursuant to IRC section 414(k) and, accordingly, is a defined contribution plan pursuant to 26 CFR 1.415(c)‑1(a)(2)(i). Accordingly, the portion of a plan to which voluntary employee contributions are made is not taken into account in determining the annual benefit.

C) Rollover Contributions. The annual benefit attributable to rollover contributions from an eligible retirement plan, as defined in IRC section 402(c)(8)(B), is determined in the same manner as the annual benefit attributable to mandatory employee contributions. Thus, in the case of rollover contributions from a defined contribution plan to a defined benefit plan to provide an annuity distribution, the annual benefit attributable to those rollover contributions for purposes of IRC section 415(b) is determined by applying the rules of IRC section 411(c) as described in subsection (b)(2)(A) of this Section, regardless of the assumptions used to compute the annuity distribution under the plan and regardless of whether the plan is subject to the requirements of IRC sections 411 and 417. Accordingly, in such a case, if the plan uses more favorable factors than those specified in IRC section 411(c) to determine the amount of annuity payments arising from rollover contributions, the annual benefit under the plan would reflect the excess of those annuity payments over the amounts that would be payable using the factors specified in IRC section 411(c).

c) Adjustments to Basic IRC Section 415(b) Limitation for Form of Benefit

1) If the benefit under the System is other than the form specified in subsection (b)(2), the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in 26 CFR 1.415(b).

2) If the form of benefit, without regard to automatic annual increases, is not a straight life annuity or a qualified joint and survivor annuity, then subsection (c)(1) is applied by either reducing the IRC section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in 26 CFR 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:

A) For a benefit paid in a form to which IRC section 417(e)(3) does not apply (such as a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

i) The annual amount of the straight life annuity (if any) payable to the member under the System commencing at the same annuity starting date as the form of benefit to the member; or

ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and:

• for limitation years prior to January 1, 2009, the applicable mortality tables described in 26 CFR 1.417(e)‑1(d)(2) (Revenue Ruling 2001-62, or any subsequent Revenue Ruling modifying the applicable provisions of that Revenue Ruling; and

• for limitation years after December 31, 2008, the applicable mortality tables described in IRC section 417(e)(3)(B) (Notice 2008-85, or any subsequent IRS guidance implementing IRC section 417(e)(3)(B)).

B) For a benefit paid in a form to which IRC section 417(e)(3) applies (such as a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:

i) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, adopted by the Board under Section 1600.140(g) for actuarial experience;

ii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and:

• for limitation years prior to January 1, 2009, the applicable mortality tables described in 26 CFR 1.417(e)‑1(d)(2) (Revenue Ruling 2001-62, or any subsequent Revenue Ruling modifying the applicable provisions of that Revenue Ruling); and

• for limitation years after December 31, 2008, the applicable mortality tables described in IRC section 417(e)(3)(B) (Notice 2008-85, or any subsequent IRS guidance implementing IRC section 417(e)(3)(B)); or

iii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under 26 CFR 1.417(e)-1(d)(3), using the rate in effect for the third month prior to the beginning of the plan year with a one-year stabilization period) and:

• for limitation years prior to January 1, 2009, the applicable mortality tables described in 26 CFR 1.417(e)‑1(d)(2) (Revenue Ruling 2001-62, or any subsequent that Revenue Ruling modifying the applicable provisions of that Revenue Ruling); and

• for limitation years after December 31, 2008, the applicable mortality tables described in IRC section 417(e)(3)(B) (Notice 2008-85, or any subsequent IRS guidance implementing IRC section 417(e)(3)(B)), divided by 1.05.

C) The System's actuary may adjust the IRC section 415(b) limit at the annuity starting date in accordance with subsection (c)(2)(A) and (B).

d) Benefits for Which No Adjustment of IRC section 415(b) Limit Is Required. For purposes of this Section, the following benefits shall not be taken into account in applying these limits:

1) Any ancillary benefit that is not directly related to retirement income benefits;

2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;

3) Any other benefit not required under IRC section 415(b)(2) and 26 CFR 1.415(b) to be taken into account for purposes of the limitation of IRC section 415(b)(1).

e) Other Adjustments in IRC Section 415(b) Limitation

1) In the event the member's retirement benefits become payable before age 62, the limit prescribed by this Section shall be reduced in accordance with 26 CFR 1.415(b), pursuant to the provisions of IRC section 415(b), so that the limit (as reduced) equals an annual straight life benefit (when the retirement annuity begins) that is equivalent to a $160,000 (as adjusted) annual benefit beginning at age 62.

2) In the event the member's benefit is based on at least 15 years of service as a full-time employee of any police department or fire department that is organized and operated by the state or political subdivision maintaining the defined benefit plan to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of the state or political subdivision, or 15 years of service as a member of the Armed Forces of the United States, or is based on 15 years of combined service, the adjustments provided for in subsection1 (e)(1) shall not apply.

3) The reductions provided for in subsection (e)(1) shall not apply to System benefits received as a pension, annuity or similar allowance as a result of the member becoming disabled by reason of personal injuries or sickness, or to amounts received by beneficiaries, survivors or the estate of the member as a result of the death of the member.

f) Less than 10 Years of Participation or Service Adjustment for IRC Section 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less than 10 years of participation shall be the amount determined under subsection (b), as adjusted under subsection (c) and/or (e), multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is 10. The limit under subsection (g) concerning the $10,000 limit shall be similarly reduced for any member who has accrued less than 10 years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reductions provided for in this subsection shall not be applicable to income received as a pension, annuity or similar allowance as a result of the member becoming disabled by reason of personal injuries or sickness, or to amounts received by beneficiaries, survivors or the estate of the member as a result of the death of the member.

g) $10,000 Limit. Notwithstanding the other provisions of this Section, the retirement benefit payable with respect to a member shall be deemed not to exceed the IRC section 415(b) limit if the benefits payable, with respect to a member under this System and under all other qualified defined benefit pension plans of the member's employer, do not exceed $10,000 for the applicable limitation year, and for any prior limitation year, and the employer has not, at any time, maintained a qualified defined contribution plan in which the member participated.

h) Effect of COLA without a Lump Sum Component on IRC Section 415(b) Testing. Effective on and after January 1, 2008, for purposes of applying the limits under IRC section 415(b) (the "limit") to a member with no lump sum benefit, the following will apply:

1) A member's applicable limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic annual increases under the System;

2) To the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for automatic annual increases from the System until such time as the benefit, plus the accumulated increases, is less than the limit; and

3) Thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic annual increases under the System, shall be tested under the then applicable benefit limit, including any adjustment to the IRC section 415(b)(1)(A) dollar limit under IRC section 415(d) and 26 CFR 1.415(b).

i) Effect of COLA with a Lump Sum Component on IRC Section 415(b) Testing. On and after January 1, 2008, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied, taking into consideration cost-of-living increases as required by IRC section 415(b) and 26 CFR 1.415(b).

j) IRC Section 415(c) Limit. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of $40,000 (as adjusted pursuant to IRC section 415(d)) or 100% of the member's compensation.

1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account.  Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

2) For purposes of applying the IRC Section 415(c) limits only and for no other purpose, the definition of compensation, when applicable, will be compensation actually paid or made available during a limitation year, except as noted in IRC Section 415(c) and as permitted by 26 CFR 1.415(c)-2; however, member contributions picked up under IRC section 414(h) shall not be treated as compensation.

3) Unless another definition of compensation that is permitted by 26 CFR 1.415(c)-2 is specified by the plan, compensation will be defined as wages within the meaning of IRC section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under IRC sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under IRC section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC section 3401(a)(2)).

A) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under IRC section 125(a), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b).  For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of IRC section 132(f)(4).

B) For limitation years beginning on and after January 1, 2008, compensation for the limitation year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

i) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

ii) the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.

C) Back pay, within the meaning of 26 CFR 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this subsection (j)(3).

k) Service Purchases under IRC Section 415(n)

1) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the System, the requirements of IRC section 415(n) will be treated as met only if:

A) The requirements of IRC section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of IRC section 415(b); or

B) The requirements of IRC section 415(c) are met, determined by treating all such contributions as annual additions for purposes of IRC section 415(c).

2) For purposes of applying this Section, the System will not fail to meet the reduced limit under IRC section 415(b)(2)(C) solely by reason of this subsection (k)(2) and will not fail to meet the percentage limitation under IRC section 415(c)(1)(B) solely by reason of this Section.

3) Permissive Service Credit

A) For purposes of this Section, the term "permissive service credit" means service credit:

i) recognized by the System for purposes of calculating a member's benefit under the System;

ii) that the member has not received under the System; and

iii) that the member may receive only by making a voluntary additional contribution, in an amount determined under the System, that does not exceed the amount necessary to fund the benefit attributable to the service credit.

B) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, "permissive service credit" may include service credit for periods for which there is no performance of service and, notwithstanding subsection (k)(3)(A)(ii), may include service credited in order to provide an increased benefit for service credit a member is receiving under the System.

4) The System will fail to meet the requirements of this Section if:

A) more than 5 years of nonqualified service credit are taken into account for purposes of this subsection (k)(4)(A); or

B) any nonqualified service credit is taken into account under this subsection (k)(4)(B) before the member has at least 5 years of participation under the System.

5) For purposes of subsection (k)(4), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:

A) service (including parental, medical, sabbatical and similar leave) as an employee of the Government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit obtained as a result of a repayment described in IRC section 415(k)(3));

B) service (including parental, medical, sabbatical and similar leave) as an employee (other than as an employee described in subsection (k)(5)(A) of an education organization described in IRC section 170(b)(1)(A)(ii) that is a public, private or sectarian school that provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

C) service as an employee of an association of employees who are described in subsection (k)(5)(A); or

D) military service (other than qualified military service under IRC section 414(u)) recognized by the System.

6) In the case of service described in subsection (k)(5)(A) through (C), that service will be nonqualified service if recognition of that service would cause a member to receive a retirement benefit for the same service under more than one plan.

7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which IRC section 403(b)(13)(A) or IRC section 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer):

A) the limitations of subsection (k)(4) will not apply in determining whether the transfer is for the purchase of permissive service credit; and

B) the distribution rules applicable under federal law to the System will apply to amounts transferred and any benefits attributable to those amounts.

8) For an eligible member, the limitation of IRC section 415(c)(1) shall not be applied to reduce the amount of permissive service credit that may be purchased to an amount less than the amount allowed to be purchased under the terms of the System in effect on August 5, 1997. For purposes of this subsection (k)(8), an eligible member is an individual who first became a member in the System before January 1, 1998.

9) Notwithstanding any other provision of law to the contrary, the System may modify a request by a member to make a contribution for the purchase of service credit if the amount of the contribution would exceed the limits provided in IRC section 415 by using the following methods:

A) If the law requires a lump sum payment for the purchase of service credit, the System may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under IRC section 415(c) or 415(n).

B) If payment pursuant to this subsection (k)(9) will not avoid a contribution in excess of the limits imposed by IRC section 415(c) or 415(n), a pension fund may either reduce the member's contribution to an amount within the limits of those IRC sections or refuse the member's contribution.

l) Repayments of Refunds. Any repayment of contributions (including interest thereon) to the System with respect to an amount previously refunded upon a forfeiture of service credit under the System, or another governmental plan maintained by an employer, shall not be taken into account for purposes of IRC section 415, in accordance with IRC section 415(k)(3).

m) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans under the Illinois Pension Code that cover the same member, when required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, with the reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in the priority determined by the plan and the plan administrator of the other plans and, next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, with the reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in the priority established by the plan and the plan administrator for the other plans provided; however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering the member.

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