**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 subsecton (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*.

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).

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 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, 2024.

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

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.

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.

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.

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).

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: Amended at 44 Ill. Reg. 17714, effective October 22, 2020)