

No. 1-14-0400

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

BOARD OF TRUSTEES OF THE PUBLIC SCHOOL)	Appeal from the Circuit Court of
TEACHERS' PENSION AND RETIREMENT FUND)	Cook County.
OF CHICAGO,)	
)	
Plaintiff-Appellant,)	
)	
v.)	No. 11 CH 30863
)	
BOARD OF EDUCATION OF THE CITY OF)	
CHICAGO,)	Honorable
)	Kathleen M. Pantle,
Defendant-Appellee.)	Judge Presiding.

PRESIDING JUSTICE DELORT delivered the judgment of the court.
Justices Cunningham and Connors concurred in the judgment.

ORDER

¶ 1 **Held:** Interpreting various interrelated pension laws, we find that the trial court correctly held that the Chicago Board of Education did not owe its employee pension fund any additional monies for the year in question, and that the Fund owed the Board a refund for monies the Board had overpaid it. We affirm summary judgment in favor of the Board.

¶ 2 This case involves the interpretation of certain provisions of the Illinois Pension Code to ascertain whether defendant Board of Education of the City of Chicago (the Board) met its

pension funding obligation to plaintiff Board of Trustees of the Public School Teachers' Pension and Retirement Fund of Chicago (the Fund) for fiscal year 2011. The Fund sued the Board, alleging that the Board underpaid the Fund by \$32,522,400. The Board counterclaimed, alleging it had actually overpaid the Fund and was entitled to a credit of \$10,449,000. The parties filed cross-motions for summary judgment. The trial court denied the Fund's motion and granted the Board's motion, finding that the Board had indeed overpaid the Fund. The trial court, however, denied the Board's request for prejudgment interest. The Fund appeals. We affirm.

¶ 3

BACKGROUND

¶ 4 The Fund, which is administered by a board of trustees, is an Illinois public employee pension fund established to pay pensions to retired Chicago Public School teachers, principals, and certified administrators who participated in the Fund's retirement plan. The Board is the primary employer of the plan's participants.

¶ 5 Various provisions of the Illinois Pension Code are relevant to the issues presented in this case. Monies in the Fund come from various sources: "(1) amounts paid into the Fund by contributors thereto and from employer contributions and State appropriations in accordance with this Article; (2) amounts contributed to the Fund by an Employer; (3) amounts contributed to the Fund pursuant to any law now in force or hereafter to be enacted; (4) contributions from any other source; and (5) the earnings or investments." 40 ILCS 5/17-127 (West 2010). Additionally, the Pension Code requires the State to contribute to the Fund:

"The General Assembly finds that for many years the State has contributed to the Fund an annual amount that is between 20% and 30% of the amount of the annual State contribution to the Article 16 [Teachers' Retirement

System], and the General Assembly declares that it is its goal and intention to continue this level of contribution to the Fund in the future.

Beginning in State fiscal year 1999, the State shall include in its annual contribution to the Fund an additional amount equal to 0.544% of the Fund's total teacher payroll; except that this additional contribution need not be made in a fiscal year if the Board has certified in the previous fiscal year that the Fund is at least 90% funded, based on actuarial determinations. These additional State contributions are intended to offset a portion of the cost to the Fund of the increases in retirement benefits resulting from this amendatory Act of 1998.” 40 ILCS 5/17-127(b) (West 2010).

¶ 6 Before fiscal year 2011¹, actuarial calculations determined the Board's total annual contribution to the Fund. 40 ILCS 5/17-129(b)(i)-(iii) (West 2008). Section 17-129(b)(v) of the Pension Code reduced the Board's actuarially-determined payment by crediting the Board for any State payments made pursuant to subsection (b). 40 ILCS 5/17-129(b)(v) (West 2008).

¶ 7 In fiscal years 2008, 2009, 2010, and 2011, the Fund sent written notification to the Board detailing the required employer contribution and additional Board contribution, which was certified by actuarial valuation. The Fund's calculations included the subtraction of the State's contributions from the total employer contribution to arrive at the required amount. The Fund's letter for fiscal year 2011 stated that the amount owed by the Board “is eligible to be offset by any state contribution received in Fiscal Year 2011.” The actuarial valuation for fiscal year 2011 also stated that under section 17-129 of the Pension Code, “any contributions made by the State to the Fund in Fiscal Year 2011 (other than the Additional State Contributions indicated above) shall be applied toward the above Board of Education required contribution of \$586,903,000.”

¹ The 2011 fiscal year began on July 1, 2010 and ended on June 30, 2011.

¶ 8 On April 14, 2010, our legislature amended section 17-129 of the Pension Code and, among other things, set fixed employer contributions for fiscal years 2011, 2012, and 2013:

“(b)(i) Notwithstanding any other provision of this Section, and notwithstanding any prior certification by the Board under subsection (c) for fiscal year 2011, the Board of Education’s total required contribution to the Fund for fiscal year 2011 under this Section is \$187,000,000.

(ii) Notwithstanding any other provision of this Section, the Board of Education’s total required contribution to the Fund for fiscal year 2012 under this Section is \$192,000,000.

(iii) Notwithstanding any other provision of this Section, the Board of Education’s total required contribution to the Fund for fiscal year 2013 under this Section is \$196,000,000.

(iv) For fiscal years 2014 through 2059, the minimum contribution to the Fund to be made by the Board of Education in each fiscal year shall be an amount determined by the Fund to be sufficient to bring the total assets of the Fund up to 90% of the total actuarial liabilities of the Fund by the end of fiscal year 2059. In making these determinations, the required Board of Education contribution shall be calculated each year as a level percentage of the applicable employee payrolls over the years remaining to and including fiscal year 2059 and shall be determined under the projected unit credit actuarial cost method.

(v) Beginning in fiscal year 2060, the minimum Board of Education contribution for each fiscal year shall be the amount needed to maintain the total assets of the Fund at 90% of the total actuarial liabilities of the Fund.

(vi) Notwithstanding any other provision of this subsection (b), for any fiscal year, the contribution to the Fund from the Board of Education shall not be required to be in excess of the amount calculated as needed to maintain the assets (or cause the assets to be) at the 90% level by the end of the fiscal year.

(vii) Any contribution by the State to or for the benefit of the Fund, including, but without limitation, as referred to under Section 17-127, shall be a credit against any contribution required to be made by the Board of Education under this subsection (b).

(c) The Board shall determine the amount of Board of Education contributions required for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board and the recommendations of the actuary, in order to meet the minimum contribution requirements of subsections (a) and (b). Annually, on or before February 28, the Board shall certify to the Board of Education the amount of the required Board of Education contribution for the coming fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.” 40 ILCS 5/17-129(b), (c) (West 2010).

¶ 9 Section 17-127.2 of the Pension Code mandates the Board must provide an additional annual contribution to the Fund above and beyond those required in section 17-129:

“Beginning July 1, 1998, the employer of a teacher shall pay to the Fund an employer contribution computed as follows:

* * *

(2) Beginning July 1, 1999 and thereafter, the employer contribution shall be equal to 0.58% of each teacher's salary.

The employer may pay these employer contributions out of any source of funding available for that purpose and shall forward the contributions to the Fund on the schedule established for the payment of member contributions.

These employer contributions need not be made in a fiscal year if the Board has certified in the previous fiscal year that the Fund is at least 90% funded, based on actuarial determinations.” 40 ILCS 5/17-127.2 (West 2010).

¶ 10 The parties do not dispute that the Fund was not at least 90% funded in fiscal year 2010. Accordingly, in fiscal year 2011, the Board was required to contribute \$187,000,000 under section 17-129(b)(i) of the Pension Code and \$11,140,000 under the additional contribution requirement in section 17-127.2. The State contributed a total of \$42,971,400 to the Fund, including two separate appropriations of \$32,522,400 and \$10,449,000 under Article 99 of Public Act 96-0956, which became effective on July 1, 2010.

¶ 11 The Board contributed a total of \$165,617,600 to the Fund for fiscal year 2011. The Fund expected a total contribution from the Board of \$198,140,000 (\$187,000,000 pursuant to section 17-129(b)(i) plus \$11,140,000 under section 17-127.2). In an August 22, 2011 letter, counsel for the Fund notified the Board that it had received only \$165,617,000 from the Board and demanded payment of the balance due of \$32,522,400 by August 29, 2011. The Board responded that it overpaid the Fund by \$10,449,000. The Board calculated that sum as follows:

\$187,000,000 – Total required contribution under section 17-129(b)(i)
(\$42,971,400) – State payment credits under sections 17-127(b) and 17-129(b)(vii)
\$144,028,600 – Amount of contribution required after deducting State credits

\$165,617,600 – Total amount contributed by the Board
(\$144,028,600) – Amount of contribution required after deducting State credits
(\$11,140,000) – Additional Board contribution under section 17-127.2
\$10,449,000 – Amount overpaid by the Board

The Fund replied that Board's demand of \$10,449,000 was baseless.

¶ 12 On August 31, 2011, the Fund filed a three-count complaint against the Board seeking:

(1) a declaration that under the Pension Code, the Board owed the Fund \$32,522,400 in contributions for fiscal year 2011; (2) a mandatory injunction requiring the Board to pay the unpaid balance; and/or (3) a writ of *mandamus* compelling the Board to comply with the Pension Code and pay the balance owed. The Board filed an answer and counterclaim for declaratory judgment and unjust enrichment, seeking a return of its \$10,449,000 overpayment to the Fund.

The parties filed cross-motions for summary judgment.

¶ 13 In an August 23, 2013 written order, the trial court denied the Fund's motion, granted the Board's motion, and ordered briefing on the Board's request for prejudgment interest on the overpayment. The trial court rejected the Fund's argument that the term "notwithstanding" in section 17-129(b)(i) conflicts with and, therefore, negates, the State credit provided in section 17-129(b)(vii). The trial court found:

"Pursuant to section 17-129(b)(i), the legislature clearly indicated that the BOE's *total* required contribution is \$187,000,000 for FY 2011. (emphasis added). 'Total' means 'a comprising or constituting a whole: entire.' [Citations.] The entirety of the BOE's contribution is therefore \$187,000,000 under section 17-129(b)(i). (The BOE is also required to contribute an additional amount under section 17-127.2, which the BOE does not dispute.)

The legislature then granted a credit against any contribution required to be made by the Board of Education under subsection (b) of section 17-129 for

‘[a]ny contribution by the State to or for the benefit of the Fund.’ 40 ILCS 5/17-129(b)(vii) (emphasis added). Under subsection (b)(i) of section 17-129, therefore, the BOE is required to make a total contribution of \$187,000,000 for FY 2011 and the BOE is entitled to credit for any payments made by the State towards that total contribution amount as long as the BOE’s contribution was made pursuant to subsection (b) of section 17-129.

This is the harmonious way to read the statute and there is no conflict among the provisions of this portion of the Pension Code. Should the Fund’s reading be adopted, the State Payment Credit provision (*i.e.* section 17-129(b)(vii)) would be rendered meaningless for FY 2011, FY 2012, and FY 2013 as the BOE would not be entitled to any credit for amounts contributed by the State despite the clear legislative directive that allows for the credit. A conflict is not created between 17-129(b)(i) and the State Payment Credit provision because the legislature chose to express the total required contribution in certain dollar amounts for FY 2011, (as opposed to expressing a minimum required contribution reached by using actuarial calculations as is used for FY 2014 forward).”

¶ 14 In addition, the trial court found that the legislature “guaranteed the credit” provided under section 17-129(b)(vii) by inserting the phrase “without limitation,” which was further proof that the legislature intended the credit provision to apply to any contributions made by the Board under section 17-129(b)(i). The trial court also noted that section 17-129(b)(vii) included the terms “shall be a credit against any contribution,” which indicated that all amounts paid by the Board under section 17-129(b) are subject to the credit. Finally, the trial court found that section 17-129(c) conflicted with section 12-129(b)(i) “and the ‘notwithstanding’ language that

is present in subsection (b)(i) is an indication that the legislature intended that the fixed contribution rate set forth in subsection (b)(i) controls over the actuarially calculated contribution rate as set forth in subsection (c).”

¶ 15 On December 16, 2013, the trial court denied the Board’s motion for prejudgment interest. In a January 6, 2014 written order, the court entered declaratory judgment in favor of the Board and against the Fund, finding the Board overpaid the Fund in the amount of \$10,449,000. The court ordered the Fund to pay the Board \$10,449,000 and determined that the order was final and appealable under Illinois Supreme Court Rule 304(a) (Ill. S. Ct. R. 304(a) (eff. Feb. 26, 2010)). This appeal followed.

¶ 16 ANALYSIS

¶ 17 The Fund challenges the trial court’s application of the State credit under section 17-129(b)(vii) of the Pension Code. The Fund argues the trial court erred in its interpretation of section 17-129. Specifically, it claims that the phrase “[n]otwithstanding any other provision of this Section” expresses the legislature’s clear and unambiguous intent that section 17-129(b)(i) controls over all other provisions of section 17-129. According to the Fund, those terms trump the language in section 17-129(b)(vii) and, therefore, the Board was not entitled to a credit for contributions made by the State to the Fund. The Fund contends the Board should pay the unpaid balance of \$32,522,400 for fiscal year 2011. The Fund relies on the same grounds to argue that the court below erred by refusing to enter a mandatory injunction or writ of *mandamus* because the Board violated the Pension Code by failing to make the total required contribution to the Fund for fiscal year 2011.

¶ 18

Standard of Review

¶ 19 Summary judgment is appropriate “if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 735 ILCS 5/2-1005(c) (West 2010). Generally, an order denying a summary judgment motion is not final and appealable, but an exception exists “ ‘where parties have filed opposing motions for summary judgment and the circuit court has granted one and denied the other.’ ” *Bank of America, N.A. v. Carpenter*, 401 Ill. App. 3d 788, 795 (2010) (quoting *Illinois State Chamber of Commerce v. Filan*, 216 Ill. 2d 653, 677 (2005)). As the parties here have filed cross-motions for summary judgment, they concede the absence of a genuine issue of material fact and invite the court to decide the questions presented as a matter of law. *Steadfast Insurance Co. v. Caremark Rx, Inc.*, 359 Ill. App. 3d 749, 755 (2005). We review a trial court’s entry of summary judgment *de novo*. *Outboard Marine Corp. v. Liberty Mutual Insurance Co.*, 154 Ill. 2d 90, 102 (1992).

¶ 20 This case requires us to interpret section 17-129 of the Pension Code. The primary goal of statutory interpretation is to determine the legislative intent, which is best indicated by the statutory language, given its plain and ordinary meaning. *Nowak v. City of Country Club Hills*, 2011 IL 111838, ¶ 11. All other rules of statutory construction are subordinate. *Paszkowski v. Metropolitan Water Reclamation District of Greater Chicago*, 213 Ill. 2d 1, 6 (2004). Where statutory language is clear and unambiguous, we enforce it as written without reading into it exceptions, conditions, or limitations not expressed by the legislature. *Martin v. Office of State’s Attorney*, 2011 IL App (1st) 102718, ¶ 10. “A statute is ambiguous if its meaning cannot be interpreted from its plain language or if it is capable of being understood by reasonably well-informed persons in more than one manner.” *Commonwealth Edison Co. v. Illinois Commerce*

Comm’n, 2014 IL App (1st) 132011, ¶ 21. A statute is not ambiguous simply because the parties disagree as to its meaning. *Id.*

¶ 21 When the wording of a statute is allegedly in conflict, a court has the duty to interpret the statute in a manner that avoids inconsistency and gives effect to the statute as intended by the legislature where such an interpretation is reasonably possible. *Ferguson v. McKenzie*, 202 Ill. 2d 304, 311-12 (2001). “In construing a statute, we presume that the legislature did not intend absurdity, inconvenience or injustice.” *Alvarez v. Pappas*, 229 Ill. 2d 217, 228 (2008) (citing *Burger v. Lutheran General Hospital*, 198 Ill. 2d 21, 40 (2001)). We turn to the issues presented with those principles in mind.

¶ 22 Whether the Board is Entitled to State Credit Under Section 17-129 of the Pension Code

¶ 23 The Fund first argues the trial court incorrectly interpreted section 17-129 of the Pension Code when it determined the Board was entitled to a credit for contributions made by the State to the Fund for fiscal year 2011. The Fund asserts the phrase “[n]otwithstanding any other provision of this Section” in section 17-129(b)(i) clearly and unambiguously negates the State credit provision in section 17-129(b)(vii). The Fund contends that Illinois courts routinely have interpreted the term “[n]otwithstanding” when used in a statute to mean “in spite of.” As a result, the Fund argues subsection (b)(i) should be interpreted to say that, in spite of what any other provision of section 17-129 might say, the Board’s contribution to the Fund for fiscal year 2011 is \$187,000,000. No other provision in section 17-129 should impact the amount of the Board’s required contribution to the Fund for fiscal year 2011. The Fund cites *Toner v. Retirement Board of the Policemen’s Annuity and Benefit Fund of Chicago*, 259 Ill. App. 3d 67 (1994) and *Waliczek v. Retirement Board of the Firemen’s Annuity and Benefit Fund of Chicago*, 318 Ill. App. 3d 32 (2000), among other cases, in support of its position.

¶ 24 In *Toner*, the plaintiff widow of a police officer sought a correction to the fixed monthly annuity she was receiving pursuant to sections 5-136 and 5-148 of the Pension Code (Ill. Rev. Stat. 1987, ch. 108 1/2, ¶¶ 5-136, 5-148). The widow contended that her annuity should have been calculated pursuant to section 5-136.1(c) of the Pension Code, which would allow her to receive an annuity in excess of the \$500 maximum dollar amount initially awarded to her upon the death of her spouse. Her husband reached retirement age on December 5, 1985 while still employed as an active policeman. He retired from the police department on April 30, 1986 and began to receive annuity benefits until his death on August 17, 1987. Section 5-136.1 became effective on January 1, 1986 and included the terms “[n]otwithstanding the other provisions of this Article.” Ill. Rev. Stat. 1985, ch. 108 1/2, ¶ 5-136.1(a). The defendant retirement board argued that the husband’s pension benefits were fixed when he attained age 63 on December 9, 1985 and, consequently, the widow’s annuity was also fixed as of that date. The retirement board contended section 5-136.1 was not made specifically retroactive to benefits that were fixed prior to the effective date of January 1, 1986 and that the statute only applied prospectively to annuitants whose benefits became fixed after its initial effective date. The retirement board asserted that section 5-136.1 of the Pension Code did not apply to the calculation of the widow’s annuity until the effective date of a subsequent amendment to the statute on January 1, 1991. The trial court found that the widow’s annuity should have been calculated under section 5-136.1(c) of the Pension Code.

¶ 25 The reviewing court found no ambiguity in section 5-136.1 of the Pension Code and held the widow satisfied each of the stated requirements for its application. *Toner*, 259 Ill. App. 3d at 71. Noting the “[n]otwithstanding the other provisions of this Article” language and that “notwithstanding” is defined as “in spite of,” the court concluded section 5-136.1 “is an

exception to all other provisions of Article 5 and controls over any other section of that article *containing conflicting provisions.*” (Emphasis added.) *Id.* at 70.

¶ 26 The *Waliczek* case is similar to *Toner*. The plaintiffs, a retired firefighter and his wife, appealed from an order of the trial court on administrative review, which upheld the determination of the defendant retirement board that section 6-142(f) of the Pension Code (40 ILCS 5/6-142(f) (West 1998)) would prevent the wife from receiving a widow’s annuity pursuant to section 6-141.1(c) of the Pension Code (40 ILCS 5/6-141.1(c) (West 1998)) should the husband predecease her. The plaintiffs argued that section 6-141.1(c), which was enacted after section 6-142(f), should control whether the wife would be entitled to a widow’s annuity. After working as a Chicago firefighter for almost 30 years, the husband, Leroy, went on medical leave in 1981 following lung surgery. In 1982, the retirement board awarded him an occupational disease disability benefit. While receiving these benefits, Leroy married Dolores. In 1988, Leroy resigned from the fire department and, as a result, became eligible for and received a monthly age and service retirement annuity, which replaced his disability benefits. Ten years later, Leroy asked the retirement board for a determination of whether Dolores would be eligible for a widow’s annuity under section 6-141.1(c) of the Pension Code, which begins with the terms “[n]otwithstanding the other provisions of this Article.” Section 6-141.1(c) provides that the widow of a fireman who dies on or after June 30, 1984, while receiving a retirement annuity or while an active fireman with at least 1 1/2 years of creditable service, could elect to have the amount of the widow’s annuity calculated in an amount equal to 50% of the husband’s retirement annuity at the time of his death. 40 ILCS 5/6-141.1(c) (West 1998). Section 6-142(f) prohibits a wife or widow from receiving an annuity if she was married to a fireman while he was in receipt of a disability benefit. 40 ILCS 5/6-142(f) (West 1998). The

plaintiffs argued on appeal that the “notwithstanding” language in section 6-141.1(c) demonstrated the legislature’s intent that it is controlling over the other sections in Article 6 of the Pension Code and, specifically, section 6-142(f).

¶ 27 The decision in *Toner* persuaded the reviewing court to find that Dolores would be entitled to receive a widow’s annuity under section 6-141.1(c). *Waliczek*, 318 Ill. App. 3d at 36. “Interpreting this section in accordance with this court’s interpretation in *Toner*, ‘notwithstanding’ means ‘in spite of,’ and therefore is an exception to all other sections in Article 6, and controls over any other section of Article 6 *with which it conflicts*.” (Emphasis added.) *Id.*

¶ 28 In this case, the Fund repeatedly argues that the trial court side-stepped the application of controlling case law that interpreted the term “notwithstanding.” The Fund also acknowledged in its reply brief that “notwithstanding” means “the provision is an exception to all other provisions *with which it conflicts*.” (Emphasis added.) According to the Fund, the two subsections conflict because when both are given independent effect, subsection (b)(i) requires the Board to pay \$187,000,000 “notwithstanding any other provision of this Section [17-129],” but subsection (b)(vii) gives the Board a credit for the State’s contribution and thus allows it to pay less. However, this is not how section 17-129(b)(i) reads. The only conclusion we can distill from the Fund’s argument is that *the Board itself* must pay the entirety of the \$187,000,000 required by section 17-129(b)(i). The Fund believes the legislature intended a three-year holiday for the State credit provision for fiscal years 2011, 2012, and 2013. The Fund’s argument is not supported by the clear and unambiguous language of the statute.

¶ 29 We agree with the trial court that in all of the cases cited by the Fund, different statutory sections conflicted because the application of both sections would lead to opposing results. For

example, in both *Toner* and *Waliczek*, the application of the conflicting provision would prevent the respective widows from receiving an annuity they were entitled to receive under the applicable statute. In this case, whether the Board pays or whether the State contributes, section 17-129(b)(i) is satisfied so long as the Fund received a total of \$187,000,000 for fiscal year 2011.

¶ 30 Our supreme court has held:

“A court presumes that the legislature intended that two or more statutes which relate to the same subject are to be read harmoniously so that no provisions are rendered inoperative. Statutes relating to the same subject must be compared and construed with reference to each other so that effect may be given to all of the provisions of each if possible. Even when an apparent conflict between statutes exists, they must be construed in harmony with one another if reasonably possible. [Citations omitted.]” *Knolls Condominium Ass’n v. Harms*, 202 Ill. 2d 450, 458-59 (2002).

¶ 31 Section 17-129(b)(i) states that “the Board of Education’s total required contribution to the Fund for fiscal year 2011 under this Section is \$187,000,000.” 40 ILCS 5/17-129(b)(i) (West 2010). Section 17-129(b)(vii) states that “[a]ny contribution by the State to or for the benefit of the Fund, including, without limitation, as referred to under section 17-127, shall be a credit against any contribution required to be made by the Board of Education under this subsection (b).” 40 ILCS 5/17-129(b)(vii) (West 2010).

¶ 32 Section 17-129(b)(i) and section 17-129(b)(vii) relate to the same subject – contribution to the Fund to meet the funding requirement for the fiscal year in question. The language from section 17-129(b)(vii), specifically, “[a]ny contribution by the State to or for the benefit of the Fund,” “shall,” “without limitation,” and “under this subsection (b),” demonstrates the

legislature clearly and unambiguously intended for the State credit provision to apply throughout that particular portion of the statute. See, *e.g.*, *Schultz v. Performance Lighting, Inc.*, 2013 IL 115738 ¶ 16 (“The use of the word ‘shall’ generally indicates that the legislature intended to impose a mandatory obligation.”). When we examine the language in this way, the result is that section 17-129(b)(i) and section 17-129(b)(vii) harmoniously provide for the Fund to receive a total contribution of \$187,000,000 for fiscal year 2011. The fact that the State contributes to the \$187,000,000 obligation does not conflict with the primary necessity of meeting the total contribution requirement for the fiscal year. Stated another way, the State credit provision does not impede the ultimate obligation to contribute \$187,000,000 for fiscal year 2011. If for some reason the State provided no contribution for fiscal year 2011, then clearly the Board would be responsible for funding the entire \$187,000,000. The State credit provision does not afford an alternate way of calculating the Board’s contribution for fiscal year 2011 which would conflict with the fixed amount of \$187,000,000. A conflict is not created between these two subsections because the legislature chose to express the total required contribution in fixed dollar amounts in sections 17-129(b)(i), (ii), and (iii) (for fiscal years 2011, 2012, and 2013) as opposed to a minimum required contribution determined by actuarial calculations in section 17-129(b)(iv) (for fiscal years 2014 and beyond). Again, as long as the Fund receives the total required contribution of \$187,000,000 for fiscal year 2011, then the Board complies with section 17-129(b)(i) of the Pension Code.

¶ 33 We find no conflict exists between section 17-129(b)(i) and section 17-129(b)(vii) and that these subsections can be construed in harmony. The Board was entitled to a credit for contributions made by the State to the Fund for fiscal year 2011. Under section 17-129(b)(i), the Board contributed a total of \$165,617,600 and under section 17-129(b)(vii), the State contributed

\$32,522,400. Therefore, the Fund received a total of \$198,140,000, which is well in excess of the \$187,000,000 total contribution required for fiscal year 2011. We find the Board complied with section 17-129(b)(i) of the Pension Code.

¶ 34 This conclusion begs the question of what “[n]otwithstanding any other provision of this Section” refers to in section 17-129(b)(i). We agree with the trial court that this language refers not to the State credit provision under section 17-129(b)(vii), but rather to section 17-129(c). Subsection (c) states that “[t]he Board shall determine the amount of Board of Education contributions for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board and the recommendations of the actuary, in order to meet the minimum contribution requirements of subsections (a) and (b).” 40 ILCS 5/17-129(c) (West 2010). Subsection (c) conflicts with section 17-129(b)(i) and the “notwithstanding” language included in subsections (b)(i), (ii), and (iii) indicates that the legislature intended that the fixed contribution rates set forth in subsections (b)(i), (ii), and (iii) control over the actuarially calculated contribution rate set forth in subsection (c). The legislature included the “notwithstanding” language because otherwise, subsections (b)(i), (ii), and (iii) would conflict with subsection (c).

¶ 35 General Versus Specific Statutory Language

¶ 36 The Fund next argues that the trial court did not apply a required rule of statutory construction “that where there exists a general statutory provision and a specific statutory provision, either in the same or in another act, both relating to the same subject, the specific provision controls and should be applied.” *Knolls*, 202 Ill. 2d at 459. The Fund asserts section 17-129(b)(vii) is a general statutory provision because it states that the Board gets to credit any contribution by the State against the contribution it is required to make to the Fund under any of

the subsections within subsection (b). The Fund contends nowhere in section 17-129(b)(vii) does it state to which fiscal year it applies. Because the answer can only be found by looking to other, more specific provisions of the statute, such as section 17-129(b)(i), which provides the fiscal year, subsection (b)(i) controls over the general language of subsection (b)(vii).

¶ 37 In Illinois, if a general statute and a specific statute address the same subject matter *and are in irreconcilable conflict*, the general statute must yield to the specific statute unless the legislature expressed an intent to make the general statute controlling. *Stone v. Department of Employment Security Board of Review*, 151 Ill. 2d 257, 266 (1992). Statutes should be interpreted as a whole, meaning different sections of the same statute should be considered in reference to one another so that they are given harmonious effect. *Michigan Avenue National Bank v. County of Cook*, 191 Ill. 2d 493, 504 (2000). One section of a statute should not be interpreted in a way that renders another section of the same statute irrelevant. *Collinsville Community Unit School District No. 10 v. Regional Board of School Trustees*, 218 Ill. 2d 175, 185-86 (2006).

¶ 38 We reject the Fund's argument on this issue because there must be a conflict before resorting to a determination of whether a specific statute controls over a general statute. We previously found no conflict exists between section 17-129(b)(i) and section 17-129(b)(vii). Furthermore, if we construed the two subsections in the way the Fund suggests, it would render section 17-129(b)(vii) irrelevant. We have determined a reasonable construction that permits us to construe section 17-129(b)(i) and section 17-129(b)(vii) together in harmony.

¶ 39 **Declaratory Judgment**

¶ 40 An action for declaratory judgment is brought under section 2-701(a) of the Illinois Code of Civil Procedure, which provides that the trial court may, in cases of actual controversy, make

binding declarations of rights, having the force of final judgments, including a declaration of the rights of the parties. 735 ILCS 5/2-701(a) (West 2010). A declaratory judgment may be obtained by means of a pleading seeking that relief alone or as incident to or part of a complaint, counterclaim, or other pleading seeking relief as well. 735 ILCS 5/2-701(b) (West 2010). The essential requirements of a declaratory judgment action are: (1) a plaintiff with a legal tangible interest; (2) a defendant having an opposing interest; and (3) an actual controversy between the parties concerning such interest. *Beahringer v. Page*, 204 Ill. 2d 363, 372 (2003). A declaratory judgment action is strictly remedial. The statute does not create substantive rights or duties, but merely affords a new, additional, and cumulative procedural method for the judicial determination of the parties' rights. *Id.* at 373.

¶ 41 In this case, the Board counterclaimed that it was entitled to a declaratory judgment that enforced the State credit provision in section 17-129(b)(vii) of the Pension Code. The Board sought a declaration that it complied with section 17-129(b)(i) of the Pension Code and overpaid the contribution by \$10,449,000.

¶ 42 We have found that the Board is entitled to a credit for any State contributions made to the Fund under section 17-129(b)(vii). 40 ILCS 5/17-129(b)(vii) (West 2010). By the statute's plain language, the credit applies regardless of how the Board's total required contribution is calculated. We also concluded section 17-129(b)(i) and section 17-129(b)(vii) do not conflict and can be construed harmoniously. Based on these findings, we agree with the trial court that the Board's total required contribution for fiscal year 2011 after deducting the State credit under section 17-129(b)(vii) and section 17-127.2 of the Pension Code was \$144,028,600. Therefore, the Board overpaid the Fund by \$10,449,000. We agree with the trial court that the Fund should

pay the sum of \$10,449,000 to the Board. The trial court properly entered declaratory judgment in favor of the Board.

¶ 43 Mandatory Injunction and Writ of *Mandamus*

¶ 44 When the trial court concluded that the Board met its funding obligation for fiscal year 2011, granted summary judgment in its favor, and denied the Fund’s summary judgment motion, the ruling was dispositive as to all the remaining issues. We agree with the trial court’s decision and, therefore, we need not separately address the Fund’s arguments that it was entitled to a mandatory injunction and/or writ of *mandamus*.

¶ 45 CONCLUSION

¶ 46 We affirm the decision of the trial court to grant summary judgment in favor of the Board and against the Fund. The trial court properly denied the Fund’s motion for summary judgment. Finally, we affirm the trial court’s decision to enter declaratory judgment in favor of the Board and against the Fund.

¶ 47 Affirmed.