

SB3600



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3600

Introduced 2/14/2020, by Sen. Scott M. Bennett

SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-139.5

Amends the State Universities Article of the Illinois Pension Code. Provides that if an employer employs an affected annuitant to fill a posted position that has gone unfilled for at least 180 days, then, for one and only one academic year, the employer is not required to pay a specified additional contribution. Provides that the employer shall immediately notify the System upon employing such a person.

LRB101 20011 RPS 69540 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

A BILL FOR

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Section 15-139.5 as follows:

6 (40 ILCS 5/15-139.5)

7 Sec. 15-139.5. Return to work by affected annuitant; notice
8 and contribution by employer.

9 (a) An employer who employs or re-employs a person
10 receiving a retirement annuity from the System in an academic
11 year beginning on or after August 1, 2013 must notify the
12 System of that employment within 60 days after employing the
13 annuitant. The notice must include a summary of the contract of
14 employment or specify the rate of compensation and the
15 anticipated length of employment of that annuitant. The notice
16 must specify whether the annuitant will be compensated from
17 federal, corporate, foundation, or trust funds or grants of
18 State funds that identify the principal investigator by name.
19 The notice must include the employer's determination of whether
20 or not the annuitant is an "affected annuitant" as defined in
21 subsection (b).

22 The employer must also record, document, and certify to the
23 System (i) the amount of compensation paid to the annuitant for

1 employment during the academic year, and (ii) the amount of
2 that compensation, if any, that comes from either federal,
3 corporate, foundation, or trust funds or grants of State funds
4 that identify the principal investigator by name.

5 As used in this Section, "academic year" means the 12-month
6 period beginning September 1.

7 For the purposes of this Section, an annuitant whose
8 employment by an employer extends over more than one academic
9 year shall be deemed to be re-employed by that employer in each
10 of those academic years.

11 The System may specify the time, form, and manner of
12 providing the determinations, notifications, certifications,
13 and documentation required under this Section.

14 (b) A person receiving a retirement annuity from the System
15 becomes an "affected annuitant" on the first day of the
16 academic year following the academic year in which the
17 annuitant first meets the following conditions:

18 (1) (Blank).

19 (2) While receiving a retirement annuity under this
20 Article, the annuitant was employed on or after August 1,
21 2013 by one or more employers under this Article and
22 received or became entitled to receive during an academic
23 year compensation for that employment in excess of 40% of
24 his or her highest annual earnings prior to retirement;
25 except that compensation paid from federal, corporate,
26 foundation, or trust funds or grants of State funds that

1 identify the principal investigator by name is excluded.

2 (3) The annuitant received an annualized retirement
3 annuity under this Article of at least \$10,000.

4 A person who becomes an affected annuitant remains an
5 affected annuitant, except for (i) any period during which the
6 person returns to active service and does not receive a
7 retirement annuity from the System or (ii) any period on or
8 after the effective date of this amendatory Act of the 100th
9 General Assembly during which an annuitant received an
10 annualized retirement annuity under this Article that is less
11 than \$10,000.

12 (c) It is the obligation of the employer to determine
13 whether an annuitant is an affected annuitant before employing
14 the annuitant. For that purpose the employer may require the
15 annuitant to disclose and document his or her relevant prior
16 employment and earnings history. Failure of the employer to
17 make this determination correctly and in a timely manner or to
18 include this determination with the notification required
19 under subsection (a) does not excuse the employer from making
20 the contribution required under subsection (e).

21 The System may assist the employer in determining whether a
22 person is an affected annuitant. The System shall inform the
23 employer if it discovers that the employer's determination is
24 inconsistent with the employment and earnings information in
25 the System's records.

26 (d) Upon the request of an annuitant, the System shall

1 certify to the annuitant or the employer the following
2 information as reported by the employers, as that information
3 is indicated in the records of the System: (i) the annuitant's
4 highest annual earnings prior to retirement, (ii) the
5 compensation paid for that employment in each academic year,
6 and (iii) whether any of that employment or compensation has
7 been certified to the System as being paid from federal,
8 corporate, foundation, or trust funds or grants of State funds
9 that identify the principal investigator by name. The System
10 shall only be required to certify information that is received
11 from the employers.

12 (e) In addition to the requirements of subsection (a), an
13 employer who employs an affected annuitant must pay to the
14 System an employer contribution in the amount and manner
15 provided in this Section, unless the annuitant is compensated
16 by that employer solely from federal, corporate, foundation, or
17 trust funds or grants of State funds that identify the
18 principal investigator by name.

19 The employer contribution required under this Section for
20 employment of an affected annuitant in an academic year shall
21 be equal to 12 times the amount of the gross monthly retirement
22 annuity payable to the annuitant for the month in which the
23 first paid day of that employment in that academic year occurs,
24 after any reduction in that annuity that may be imposed under
25 subsection (b) of Section 15-139.

26 If an affected annuitant is employed by more than one

1 employer in an academic year, the employer contribution
2 required under this Section shall be divided among those
3 employers in proportion to their respective portions of the
4 total compensation paid to the affected annuitant for that
5 employment during that academic year.

6 If the System determines that an employer, without
7 reasonable justification, has failed to make the determination
8 of affected annuitant status correctly and in a timely manner,
9 or has failed to notify the System or to correctly document or
10 certify to the System any of the information required by this
11 Section, and that failure results in a delayed determination by
12 the System that a contribution is payable under this Section,
13 then the amount of that employer's contribution otherwise
14 determined under this Section shall be doubled.

15 The System shall deem a failure to correctly determine the
16 annuitant's status to be justified if the employer establishes
17 to the System's satisfaction that the employer, after due
18 diligence, made an erroneous determination that the annuitant
19 was not an affected annuitant due to reasonable reliance on
20 false or misleading information provided by the annuitant or
21 another employer, or an error in the annuitant's official
22 employment or earnings records.

23 (f) Whenever the System determines that an employer is
24 liable for a contribution under this Section, it shall so
25 notify the employer and certify the amount of the contribution.
26 The employer may pay the required contribution without interest

1 at any time within one year after receipt of the certification.
2 If the employer fails to pay within that year, then interest
3 shall be charged at a rate equal to the System's prescribed
4 rate of interest, compounded annually from the 366th day after
5 receipt of the certification from the System. Payment must be
6 concluded within 2 years after receipt of the certification by
7 the employer. If the employer fails to make complete payment,
8 including applicable interest, within 2 years, then the System
9 may, after giving notice to the employer, certify the
10 delinquent amount to the State Comptroller, and the Comptroller
11 shall thereupon deduct the certified delinquent amount from
12 State funds payable to the employer and pay them instead to the
13 System.

14 (g) If an employer is required to make a contribution to
15 the System as a result of employing an affected annuitant and
16 the annuitant later elects to forgo his or her annuity in that
17 same academic year pursuant to subsection (c) of Section
18 15-139, then the required contribution by the employer shall be
19 waived, and if the contribution has already been paid, it shall
20 be refunded to the employer without interest.

21 (h) Notwithstanding any other provision of this Article,
22 the employer contribution required under this Section shall not
23 be included in the determination of any benefit under this
24 Article or any other Article of this Code, regardless of
25 whether the annuitant returns to active service, and is in
26 addition to any other State or employer contribution required

1 under this Article.

2 (i) Notwithstanding any other provision of this Section to
3 the contrary, if an employer employs an affected annuitant in
4 order to continue critical operations in the event of either an
5 employee's unforeseen illness, accident, or death or a
6 catastrophic incident or disaster, then, for one and only one
7 academic year, the employer is not required to pay the
8 contribution set forth in this Section for that annuitant. The
9 employer shall, however, immediately notify the System upon
10 employing a person subject to this subsection (i). For the
11 purposes of this subsection (i), "critical operations" means
12 teaching services, medical services, student welfare services,
13 and any other services that are critical to the mission of the
14 employer.

15 (i-5) Notwithstanding any other provision of this Section
16 to the contrary, if an employer employs an affected annuitant
17 to fill a posted position that has gone unfilled for at least
18 180 days, then, for one and only one academic year, the
19 employer is not required to pay the contribution set forth in
20 this Section for that annuitant. The employer shall, however,
21 immediately notify the System upon employing a person subject
22 to this subsection (i-5).

23 (j) This Section shall be applied and coordinated with the
24 regulatory obligations contained in the State Universities
25 Civil Service Act. This Section shall not apply to an annuitant
26 if the employer of that annuitant provides documentation to the

1 System that (1) the annuitant is employed in a status
2 appointment position, as that term is defined in 80 Ill. Adm.
3 Code 250.80, and (2) due to obligations contained under the
4 State Universities Civil Service Act, the employer does not
5 have the ability to limit the earnings or duration of
6 employment for the annuitant while employed in the status
7 appointment position.

8 (Source: P.A. 100-556, eff. 12-8-17.)