



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2838

Introduced 2/13/2018, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-106	from Ch. 108 1/2, par. 16-106
40 ILCS 5/16-106.3	from Ch. 108 1/2, par. 16-106.3
40 ILCS 5/16-127	from Ch. 108 1/2, par. 16-127
105 ILCS 5/2-3.173 new	

Amends the School Code. Provides that, by January 1, 2019, the State Board of Education shall implement a program and adopt rules to allow school districts to supplement their substitute teacher recruitment for elementary and secondary schools with the use of recruiting firms. Defines "recruiting firm". Specifies program requirements. Prohibits school districts from using recruiting firms to circumvent collective bargaining agreements or laws. Amends the Illinois Pension Code. Provides that the term "teacher" or "substitute teacher" does not include and service credit may not be granted to an individual employed by an entity that provides substitute teaching services under the program and is not a school district. Effective immediately.

LRB100 18860 AXK 34102 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning education.

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 16-106, 16-106.3, and 16-127 as follows:

6 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)

7 Sec. 16-106. Teacher. "Teacher": The following
8 individuals, provided that, for employment prior to July 1,
9 1990, they are employed on a full-time basis, or if not
10 full-time, on a permanent and continuous basis in a position in
11 which services are expected to be rendered for at least one
12 school term:

13 (1) Any educational, administrative, professional or
14 other staff employed in the public common schools included
15 within this system in a position requiring certification
16 under the law governing the certification of teachers;

17 (2) Any educational, administrative, professional or
18 other staff employed in any facility of the Department of
19 Children and Family Services or the Department of Human
20 Services, in a position requiring certification under the
21 law governing the certification of teachers, and any person
22 who (i) works in such a position for the Department of
23 Corrections, (ii) was a member of this System on May 31,

1 1987, and (iii) did not elect to become a member of the
2 State Employees' Retirement System pursuant to Section
3 14-108.2 of this Code; except that "teacher" does not
4 include any person who (A) becomes a security employee of
5 the Department of Human Services, as defined in Section
6 14-110, after June 28, 2001 (the effective date of Public
7 Act 92-14), or (B) becomes a member of the State Employees'
8 Retirement System pursuant to Section 14-108.2c of this
9 Code;

10 (3) Any regional superintendent of schools, assistant
11 regional superintendent of schools, State Superintendent
12 of Education; any person employed by the State Board of
13 Education as an executive; any executive of the boards
14 engaged in the service of public common school education in
15 school districts covered under this system of which the
16 State Superintendent of Education is an ex-officio member;

17 (4) Any employee of a school board association
18 operating in compliance with Article 23 of the School Code
19 who is certificated under the law governing the
20 certification of teachers, provided that he or she becomes
21 such an employee before the effective date of this
22 amendatory Act of the 99th General Assembly;

23 (5) Any person employed by the retirement system who:

24 (i) was an employee of and a participant in the
25 system on August 17, 2001 (the effective date of Public
26 Act 92-416), or

1 (ii) becomes an employee of the system on or after
2 August 17, 2001;

3 (6) Any educational, administrative, professional or
4 other staff employed by and under the supervision and
5 control of a regional superintendent of schools, provided
6 such employment position requires the person to be
7 certificated under the law governing the certification of
8 teachers and is in an educational program serving 2 or more
9 districts in accordance with a joint agreement authorized
10 by the School Code or by federal legislation;

11 (7) Any educational, administrative, professional or
12 other staff employed in an educational program serving 2 or
13 more school districts in accordance with a joint agreement
14 authorized by the School Code or by federal legislation and
15 in a position requiring certification under the laws
16 governing the certification of teachers;

17 (8) Any officer or employee of a statewide teacher
18 organization or officer of a national teacher organization
19 who is certified under the law governing certification of
20 teachers, provided: (i) the individual had previously
21 established creditable service under this Article, (ii)
22 the individual files with the system an irrevocable
23 election to become a member before the effective date of
24 this amendatory Act of the 97th General Assembly, (iii) the
25 individual does not receive credit for such service under
26 any other Article of this Code, and (iv) the individual

1 first became an officer or employee of the teacher
2 organization and becomes a member before the effective date
3 of this amendatory Act of the 97th General Assembly;

4 (9) Any educational, administrative, professional, or
5 other staff employed in a charter school operating in
6 compliance with the Charter Schools Law who is certificated
7 under the law governing the certification of teachers;

8 (10) Any person employed, on the effective date of this
9 amendatory Act of the 94th General Assembly, by the
10 Macon-Piatt Regional Office of Education in a
11 birth-through-age-three pilot program receiving funds
12 under Section 2-389 of the School Code who is required by
13 the Macon-Piatt Regional Office of Education to hold a
14 teaching certificate, provided that the Macon-Piatt
15 Regional Office of Education makes an election, within 6
16 months after the effective date of this amendatory Act of
17 the 94th General Assembly, to have the person participate
18 in the system. Any service established prior to the
19 effective date of this amendatory Act of the 94th General
20 Assembly for service as an employee of the Macon-Piatt
21 Regional Office of Education in a birth-through-age-three
22 pilot program receiving funds under Section 2-389 of the
23 School Code shall be considered service as a teacher if
24 employee and employer contributions have been received by
25 the system and the system has not refunded those
26 contributions.

1 An annuitant receiving a retirement annuity under this
2 Article or under Article 17 of this Code who is employed by a
3 board of education or other employer as permitted under Section
4 16-118 or 16-150.1 is not a "teacher" for purposes of this
5 Article. A person who has received a single-sum retirement
6 benefit under Section 16-136.4 of this Article is not a
7 "teacher" for purposes of this Article. For purposes of this
8 Article, "teacher" does not include a person employed by an
9 entity that provides substitute teaching services under
10 Section 2-3.173 of the School Code and is not a school
11 district.

12 (Source: P.A. 98-463, eff. 8-16-13; 99-830, eff. 1-1-17.)

13 (40 ILCS 5/16-106.3) (from Ch. 108 1/2, par. 16-106.3)

14 Sec. 16-106.3. Substitute teacher. "Substitute teacher":
15 Any teacher employed on a temporary basis to replace another
16 teacher. "Substitute teacher" does not include an individual
17 employed by an entity that provides substitute teaching
18 services under Section 2-3.173 of the School Code and is not a
19 school district.

20 (Source: P.A. 86-273.)

21 (40 ILCS 5/16-127) (from Ch. 108 1/2, par. 16-127)

22 (Text of Section WITHOUT the changes made by P.A. 98-599,
23 which has been held unconstitutional)

24 Sec. 16-127. Computation of creditable service.

1 (a) Each member shall receive regular credit for all
2 service as a teacher from the date membership begins, for which
3 satisfactory evidence is supplied and all contributions have
4 been paid.

5 (b) The following periods of service shall earn optional
6 credit and each member shall receive credit for all such
7 service for which satisfactory evidence is supplied and all
8 contributions have been paid as of the date specified:

9 (1) Prior service as a teacher.

10 (2) Service in a capacity essentially similar or
11 equivalent to that of a teacher, in the public common
12 schools in school districts in this State not included
13 within the provisions of this System, or of any other
14 State, territory, dependency or possession of the United
15 States, or in schools operated by or under the auspices of
16 the United States, or under the auspices of any agency or
17 department of any other State, and service during any
18 period of professional speech correction or special
19 education experience for a public agency within this State
20 or any other State, territory, dependency or possession of
21 the United States, and service prior to February 1, 1951 as
22 a recreation worker for the Illinois Department of Public
23 Safety, for a period not exceeding the lesser of 2/5 of the
24 total creditable service of the member or 10 years. The
25 maximum service of 10 years which is allowable under this
26 paragraph shall be reduced by the service credit which is

1 validated by other retirement systems under paragraph (i)
2 of Section 15-113 and paragraph 1 of Section 17-133. Credit
3 granted under this paragraph may not be used in
4 determination of a retirement annuity or disability
5 benefits unless the member has at least 5 years of
6 creditable service earned subsequent to this employment
7 with one or more of the following systems: Teachers'
8 Retirement System of the State of Illinois, State
9 Universities Retirement System, and the Public School
10 Teachers' Pension and Retirement Fund of Chicago. Whenever
11 such service credit exceeds the maximum allowed for all
12 purposes of this Article, the first service rendered in
13 point of time shall be considered. The changes to this
14 subdivision (b) (2) made by Public Act 86-272 shall apply
15 not only to persons who on or after its effective date
16 (August 23, 1989) are in service as a teacher under the
17 System, but also to persons whose status as such a teacher
18 terminated prior to such effective date, whether or not
19 such person is an annuitant on that date.

20 (3) Any periods immediately following teaching
21 service, under this System or under Article 17, (or
22 immediately following service prior to February 1, 1951 as
23 a recreation worker for the Illinois Department of Public
24 Safety) spent in active service with the military forces of
25 the United States; periods spent in educational programs
26 that prepare for return to teaching sponsored by the

1 federal government following such active military service;
2 if a teacher returns to teaching service within one
3 calendar year after discharge or after the completion of
4 the educational program, a further period, not exceeding
5 one calendar year, between time spent in military service
6 or in such educational programs and the return to
7 employment as a teacher under this System; and a period of
8 up to 2 years of active military service not immediately
9 following employment as a teacher.

10 The changes to this Section and Section 16-128 relating
11 to military service made by P.A. 87-794 shall apply not
12 only to persons who on or after its effective date are in
13 service as a teacher under the System, but also to persons
14 whose status as a teacher terminated prior to that date,
15 whether or not the person is an annuitant on that date. In
16 the case of an annuitant who applies for credit allowable
17 under this Section for a period of military service that
18 did not immediately follow employment, and who has made the
19 required contributions for such credit, the annuity shall
20 be recalculated to include the additional service credit,
21 with the increase taking effect on the date the System
22 received written notification of the annuitant's intent to
23 purchase the credit, if payment of all the required
24 contributions is made within 60 days of such notice, or
25 else on the first annuity payment date following the date
26 of payment of the required contributions. In calculating

1 the automatic annual increase for an annuity that has been
2 recalculated under this Section, the increase attributable
3 to the additional service allowable under P.A. 87-794 shall
4 be included in the calculation of automatic annual
5 increases accruing after the effective date of the
6 recalculation.

7 Credit for military service shall be determined as
8 follows: if entry occurs during the months of July, August,
9 or September and the member was a teacher at the end of the
10 immediately preceding school term, credit shall be granted
11 from July 1 of the year in which he or she entered service;
12 if entry occurs during the school term and the teacher was
13 in teaching service at the beginning of the school term,
14 credit shall be granted from July 1 of such year. In all
15 other cases where credit for military service is allowed,
16 credit shall be granted from the date of entry into the
17 service.

18 The total period of military service for which credit
19 is granted shall not exceed 5 years for any member unless
20 the service: (A) is validated before July 1, 1964, and (B)
21 does not extend beyond July 1, 1963. Credit for military
22 service shall be granted under this Section only if not
23 more than 5 years of the military service for which credit
24 is granted under this Section is used by the member to
25 qualify for a military retirement allotment from any branch
26 of the armed forces of the United States. The changes to

1 this subdivision (b) (3) made by Public Act 86-272 shall
2 apply not only to persons who on or after its effective
3 date (August 23, 1989) are in service as a teacher under
4 the System, but also to persons whose status as such a
5 teacher terminated prior to such effective date, whether or
6 not such person is an annuitant on that date.

7 (4) Any periods served as a member of the General
8 Assembly.

9 (5) (i) Any periods for which a teacher, as defined in
10 Section 16-106, is granted a leave of absence, provided he
11 or she returns to teaching service creditable under this
12 System or the State Universities Retirement System
13 following the leave; (ii) periods during which a teacher is
14 involuntarily laid off from teaching, provided he or she
15 returns to teaching following the lay-off; (iii) periods
16 prior to July 1, 1983 during which a teacher ceased covered
17 employment due to pregnancy, provided that the teacher
18 returned to teaching service creditable under this System
19 or the State Universities Retirement System following the
20 pregnancy and submits evidence satisfactory to the Board
21 documenting that the employment ceased due to pregnancy;
22 and (iv) periods prior to July 1, 1983 during which a
23 teacher ceased covered employment for the purpose of
24 adopting an infant under 3 years of age or caring for a
25 newly adopted infant under 3 years of age, provided that
26 the teacher returned to teaching service creditable under

1 this System or the State Universities Retirement System
2 following the adoption and submits evidence satisfactory
3 to the Board documenting that the employment ceased for the
4 purpose of adopting an infant under 3 years of age or
5 caring for a newly adopted infant under 3 years of age.
6 However, total credit under this paragraph (5) may not
7 exceed 3 years.

8 Any qualified member or annuitant may apply for credit
9 under item (iii) or (iv) of this paragraph (5) without
10 regard to whether service was terminated before the
11 effective date of this amendatory Act of 1997. In the case
12 of an annuitant who establishes credit under item (iii) or
13 (iv), the annuity shall be recalculated to include the
14 additional service credit. The increase in annuity shall
15 take effect on the date the System receives written
16 notification of the annuitant's intent to purchase the
17 credit, if the required evidence is submitted and the
18 required contribution paid within 60 days of that
19 notification, otherwise on the first annuity payment date
20 following the System's receipt of the required evidence and
21 contribution. The increase in an annuity recalculated
22 under this provision shall be included in the calculation
23 of automatic annual increases in the annuity accruing after
24 the effective date of the recalculation.

25 Optional credit may be purchased under this subsection
26 (b) (5) for periods during which a teacher has been granted

1 a leave of absence pursuant to Section 24-13 of the School
2 Code. A teacher whose service under this Article terminated
3 prior to the effective date of P.A. 86-1488 shall be
4 eligible to purchase such optional credit. If a teacher who
5 purchases this optional credit is already receiving a
6 retirement annuity under this Article, the annuity shall be
7 recalculated as if the annuitant had applied for the leave
8 of absence credit at the time of retirement. The difference
9 between the entitled annuity and the actual annuity shall
10 be credited to the purchase of the optional credit. The
11 remainder of the purchase cost of the optional credit shall
12 be paid on or before April 1, 1992.

13 The change in this paragraph made by Public Act 86-273
14 shall be applicable to teachers who retire after June 1,
15 1989, as well as to teachers who are in service on that
16 date.

17 (6) Any days of unused and uncompensated accumulated
18 sick leave earned by a teacher. The service credit granted
19 under this paragraph shall be the ratio of the number of
20 unused and uncompensated accumulated sick leave days to 170
21 days, subject to a maximum of 2 years of service credit.
22 Prior to the member's retirement, each former employer
23 shall certify to the System the number of unused and
24 uncompensated accumulated sick leave days credited to the
25 member at the time of termination of service. The period of
26 unused sick leave shall not be considered in determining

1 the effective date of retirement. A member is not required
2 to make contributions in order to obtain service credit for
3 unused sick leave.

4 Credit for sick leave shall, at retirement, be granted
5 by the System for any retiring regional or assistant
6 regional superintendent of schools at the rate of 6 days
7 per year of creditable service or portion thereof
8 established while serving as such superintendent or
9 assistant superintendent.

10 (7) Periods prior to February 1, 1987 served as an
11 employee of the Illinois Mathematics and Science Academy
12 for which credit has not been terminated under Section
13 15-113.9 of this Code.

14 (8) Service as a substitute teacher for work performed
15 prior to July 1, 1990.

16 (9) Service as a part-time teacher for work performed
17 prior to July 1, 1990.

18 (10) Up to 2 years of employment with Southern Illinois
19 University - Carbondale from September 1, 1959 to August
20 31, 1961, or with Governors State University from September
21 1, 1972 to August 31, 1974, for which the teacher has no
22 credit under Article 15. To receive credit under this item
23 (10), a teacher must apply in writing to the Board and pay
24 the required contributions before May 1, 1993 and have at
25 least 12 years of service credit under this Article.

26 (b-1) A member may establish optional credit for up to 2

1 years of service as a teacher or administrator employed by a
2 private school recognized by the Illinois State Board of
3 Education, provided that the teacher (i) was certified under
4 the law governing the certification of teachers at the time the
5 service was rendered, (ii) applies in writing on or after
6 August 1, 2009 and on or before August 1, 2012, (iii) supplies
7 satisfactory evidence of the employment, (iv) completes at
8 least 10 years of contributing service as a teacher as defined
9 in Section 16-106, and (v) pays the contribution required in
10 subsection (d-5) of Section 16-128. The member may apply for
11 credit under this subsection and pay the required contribution
12 before completing the 10 years of contributing service required
13 under item (iv), but the credit may not be used until the item
14 (iv) contributing service requirement has been met.

15 (c) The service credits specified in this Section shall be
16 granted only if: (1) such service credits are not used for
17 credit in any other statutory tax-supported public employee
18 retirement system other than the federal Social Security
19 program; and (2) the member makes the required contributions as
20 specified in Section 16-128. Except as provided in subsection
21 (b-1) of this Section, the service credit shall be effective as
22 of the date the required contributions are completed.

23 Any service credits granted under this Section shall
24 terminate upon cessation of membership for any cause.

25 Credit may not be granted under this Section covering any
26 period for which an age retirement or disability retirement

1 allowance has been paid.

2 Credit may not be granted under this Section for service as
3 an employee of an entity that provides substitute teaching
4 services under Section 2-3.173 of the School Code and is not a
5 school district.

6 (Source: P.A. 96-546, eff. 8-17-09.)

7 Section 10. The School Code is amended by adding Section
8 2-3.173 as follows:

9 (105 ILCS 5/2-3.173 new)

10 Sec. 2-3.173. Substitute teachers; recruiting firms.

11 (a) In this Section, "recruiting firm" means a company with
12 expertise in finding qualified applicants for positions and
13 screening those potential workers for an employer.

14 (b) By January 1, 2019, the State Board of Education shall
15 implement a program and adopt rules to allow school districts
16 to supplement their substitute teacher recruitment for
17 elementary and secondary schools with the use of recruiting
18 firms. To qualify for the program, a school district shall
19 demonstrate to the State Board that, because of the severity of
20 its substitute teacher shortage, it is unable to find an
21 adequate amount of substitute or retired teachers and has
22 exhausted all other efforts. Substitute teachers provided by a
23 recruiting firm must adhere to all mandated State laws, rules,
24 and screening requirements for substitute teachers not

1 provided by a recruiting firm and must be paid on the same wage
2 scale as substitute teachers not provided by a recruiting firm.
3 This Section shall not be construed to require school districts
4 to use recruiting firms for substitute teachers. A school
5 district may not use a recruiting firm under this Section to
6 circumvent any collective bargaining agreements or State laws,
7 rules, or screening requirements for teachers.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.