



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### SB3252

Introduced 2/6/2024, by Sen. Michael W. Halpin

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/17-132 from Ch. 108 1/2, par. 17-132  
105 ILCS 5/27A-11  
30 ILCS 805/8.48 new

Amends the Chicago Teachers Article of the Illinois Pension Code. Provides that if an Employer fails to transmit to the Fund contributions required of the Employer under the Article or contributions required of teachers for more than 180 days after those contributions are due, then, after giving notice to the Board of Education, the Fund may certify to the State Comptroller or the State Superintendent of Education the amounts of the delinquent payments, and the State Comptroller or the State Superintendent of Education shall deduct the amounts so certified, or any part thereof, from any State funds to be remitted to the Board of Education and shall pay the amount so deducted to the Fund. Amends the Charter Schools Article of the School Code. Provides that a charter school contract shall provide that the school district shall withhold from any funding to the charter school an amount equal to any delinquent pension contributions by the charter school and that the school district shall remit that amount to the affected pension fund or retirement system. Amends the State Mandates Act to require implementation without reimbursement.

LRB103 37704 RPS 67831 b

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  
5 changing Section 17-132 as follows:

6 (40 ILCS 5/17-132) (from Ch. 108 1/2, par. 17-132)

7 Sec. 17-132. Payments and certification of salary  
8 deductions.

9 (a) An Employer shall cause the Fund to receive all  
10 members' payroll records and pension contributions within 30  
11 calendar days after each predesignated payday. For purposes of  
12 this Section, the predesignated payday shall be determined in  
13 accordance with each Employer's payroll schedule for  
14 contributions to the Fund.

15 (b) An Employer that fails to timely certify and submit  
16 payroll records to the Fund is subject to a statutory penalty  
17 in the amount of \$100 per day for each day that a required  
18 certification and submission is late.

19 Amounts not received by the 30th calendar day after the  
20 predesignated payday shall be deemed delinquent and subject to  
21 a penalty consisting of interest, which shall accrue on a  
22 monthly basis at the Fund's then effective actuarial rate of  
23 return, and liquidated damages in the amount of \$100 per day,

1 not to exceed 20% of the principal contributions due, which  
2 shall be mandatory except for good cause shown and in the  
3 discretion of the Board.

4 An Employer in possession of member contributions deducted  
5 from payroll checks is holding Fund assets, and thus becomes a  
6 fiduciary over those assets.

7 (c) The payroll records shall report (1) all pensionable  
8 salary earned in that pay period, exclusive of salaries for  
9 overtime, extracurricular activities, or any employment on an  
10 optional basis, such as in summer school; (2) adjustments to  
11 pensionable salary, exclusive of salaries for overtime,  
12 extracurricular activities, or any employment on an optional  
13 basis, such as in summer school, made in a pay period for any  
14 prior pay periods; (3) pension contributions attributable to  
15 pensionable salary earned in the reported pay period or the  
16 adjusted pay period as required by subsection (b) of Section  
17 17-131; and (4) any salary paid by an Employer if that salary  
18 is compensation for validated service and is exclusive of  
19 salary for overtime, extracurricular activities, or any  
20 employment on an optional basis, such as in summer school.  
21 Payroll records required by item (4) of this paragraph shall  
22 identify the number of days of service rendered by the member  
23 and whether each day of service represents a partial or whole  
24 day of service.

25 (d) The appropriate officers of the Employer shall certify  
26 and submit the payroll records no later than 30 calendar days

1 after each predesignated payday. The certification shall  
2 constitute a confirmation of the accuracy of such deductions  
3 according to the provisions of this Article.

4 Each Charter School and contract school shall designate an  
5 administrator as a "Pension Officer". The Pension Officer  
6 shall be responsible for certifying all payroll information,  
7 including contributions due and certified sick days payable  
8 pursuant to Section 17-134, and assuring resolution of  
9 reported payroll and contribution deficiencies.

10 (d-5) If an Employer fails to transmit to the Fund  
11 contributions required of the Employer under this Article or  
12 contributions required of teachers for more than 180 days  
13 after those contributions are due, then, after giving notice  
14 to the Board of Education, the Fund may certify to the State  
15 Comptroller or the State Superintendent of Education the  
16 amounts of the delinquent payments, and the State Comptroller  
17 or the State Superintendent of Education, whichever is  
18 applicable, shall deduct the amounts so certified or any part  
19 thereof from any State funds to be remitted to the Board of  
20 Education and shall pay the amount so deducted to the Fund. If  
21 State funds from which such deductions may be made are not  
22 available, the Fund may proceed in accordance with subsection  
23 (e) to recover the amounts of such delinquent payments.

24 (e) The Board has the authority to conduct payroll audits  
25 of a charter school or contract school to determine the  
26 existence of any delinquencies in contributions to the Fund,

1 and such charter school or contract school shall be required  
2 to provide such books and records and contribution information  
3 as the Board or its authorized representative may require. The  
4 Board is also authorized to collect delinquent contributions  
5 from charter schools and contract schools and develop  
6 procedures for the collection of such delinquencies.  
7 Collection procedures may include legal proceedings in the  
8 courts of the State of Illinois. Expenses, including  
9 reasonable attorneys' fees, incurred in the collection of  
10 delinquent contributions may be assessed by the Board against  
11 the charter school or contract school.

12 (f) The Fund shall provide a conditional grace period for  
13 contract schools that show evidence of timely and good faith  
14 efforts to submit payroll records and make pension  
15 contributions due between January 1, 2022 and April 1, 2022.  
16 If payroll records and pension contributions due during that  
17 time period are not submitted by April 1, 2022, the statutory  
18 penalties, liquidated damages, and interest shall be  
19 calculated from the original due date to the submission date  
20 of the pension contributions or payroll records, as  
21 applicable.

22 Evidence of timely and good faith efforts shall include,  
23 but are not limited to, the following:

24 (1) evidence of the contract school's continuing  
25 efforts to submit payroll records and make pension  
26 contributions, both before and after the date the payroll

1 records and pension contributions were due;

2 (2) documented evidence submitted by the contract  
3 school of the contract school's continuing efforts to  
4 submit payroll records and make pension contributions;

5 (3) evidence in the possession of the Fund of the  
6 contract school's continuing efforts to submit payroll  
7 records and make pension contributions; and

8 (4) contact by the contract school with the Fund to  
9 seek assistance and notify the Fund of difficulties with  
10 submitting the payroll records and making the pension  
11 contributions within a period of time determined by the  
12 Board after the date the pension contributions and payroll  
13 records were due.

14 The Fund may adopt rules to implement the changes made by  
15 this amendatory Act of the 102nd General Assembly.

16 (Source: P.A. 101-261, eff. 8-9-19; 102-636, eff. 8-27-21.)

17 Section 10. The School Code is amended by changing Section  
18 27A-11 as follows:

19 (105 ILCS 5/27A-11)

20 Sec. 27A-11. Local financing.

21 (a) For purposes of the School Code, pupils enrolled in a  
22 charter school shall be included in the pupil enrollment of  
23 the school district within which the pupil resides. Each  
24 charter school (i) shall determine the school district in

1 which each pupil who is enrolled in the charter school  
2 resides, (ii) shall report the aggregate number of pupils  
3 resident of a school district who are enrolled in the charter  
4 school to the school district in which those pupils reside,  
5 and (iii) shall maintain accurate records of daily attendance  
6 that shall be deemed sufficient to file claims under Section  
7 18-8.15 notwithstanding any other requirements of that Section  
8 regarding hours of instruction and teacher licensure.

9 (b) Except for a charter school established by referendum  
10 under Section 27A-6.5, as part of a charter school contract,  
11 the charter school and the local school board shall agree on  
12 funding and any services to be provided by the school district  
13 to the charter school. Agreed funding that a charter school is  
14 to receive from the local school board for a school year shall  
15 be paid in equal quarterly installments with the payment of  
16 the installment for the first quarter being made not later  
17 than July 1, unless the charter establishes a different  
18 payment schedule. However, if a charter school dismisses a  
19 pupil from the charter school after receiving a quarterly  
20 payment, the charter school shall return to the school  
21 district, on a quarterly basis, the prorated portion of public  
22 funding provided for the education of that pupil for the time  
23 the student is not enrolled at the charter school. Likewise,  
24 if a pupil transfers to a charter school between quarterly  
25 payments, the school district shall provide, on a quarterly  
26 basis, a prorated portion of the public funding to the charter

1 school to provide for the education of that pupil. The charter  
2 school contract shall provide that the school district shall  
3 withhold from any funding to the charter school an amount  
4 equal to any delinquent pension contributions by the charter  
5 school and that the school district shall remit that amount to  
6 the affected pension fund or retirement system.

7 All services centrally or otherwise provided by the school  
8 district including, but not limited to, rent, food services,  
9 custodial services, maintenance, curriculum, media services,  
10 libraries, transportation, and warehousing shall be subject to  
11 negotiation between a charter school and the local school  
12 board and paid for out of the revenues negotiated pursuant to  
13 this subsection (b); provided that the local school board  
14 shall not attempt, by negotiation or otherwise, to obligate a  
15 charter school to provide pupil transportation for pupils for  
16 whom a district is not required to provide transportation  
17 under the criteria set forth in subsection (a)(13) of Section  
18 27A-7.

19 In no event shall the funding be less than 97% or more than  
20 103% of the school district's per capita student tuition  
21 multiplied by the number of students residing in the district  
22 who are enrolled in the charter school.

23 It is the intent of the General Assembly that funding and  
24 service agreements under this subsection (b) shall be neither  
25 a financial incentive nor a financial disincentive to the  
26 establishment of a charter school.



1           The charter school may set and collect reasonable fees.  
2 Fees collected from students enrolled at a charter school  
3 shall be retained by the charter school.

4           (c) Notwithstanding subsection (b) of this Section, the  
5 proportionate share of State and federal resources generated  
6 by students with disabilities or staff serving them shall be  
7 directed to charter schools enrolling those students by their  
8 school districts or administrative units. The proportionate  
9 share of moneys generated under other federal or State  
10 categorical aid programs shall be directed to charter schools  
11 serving students eligible for that aid.

12           (d) The governing body of a charter school is authorized  
13 to accept gifts, donations, or grants of any kind made to the  
14 charter school and to expend or use gifts, donations, or  
15 grants in accordance with the conditions prescribed by the  
16 donor; however, a gift, donation, or grant may not be accepted  
17 by the governing body if it is subject to any condition  
18 contrary to applicable law or contrary to the terms of the  
19 contract between the charter school and the local school  
20 board. Charter schools shall be encouraged to solicit and  
21 utilize community volunteer speakers and other instructional  
22 resources when providing instruction on the Holocaust and  
23 other historical events.

24           (e) (Blank).

25           (f) (Blank).

26           (g) At the non-renewal or revocation of its charter, each

1 charter school shall refund to the local board of education  
2 all unspent funds.

3 (h) A charter school is authorized to incur temporary,  
4 short term debt to pay operating expenses in anticipation of  
5 receipt of funds from the local school board.

6 (Source: P.A. 103-175, eff. 6-30-23.)

7 Section 90. The State Mandates Act is amended by adding  
8 Section 8.48 as follows:

9 (30 ILCS 805/8.48 new)

10 Sec. 8.48. Exempt mandate. Notwithstanding Sections 6 and  
11 8 of this Act, no reimbursement by the State is required for  
12 the implementation of any mandate created by this amendatory  
13 Act of the 103rd General Assembly.