

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 Sections 17-106 and 17-132 as follows:

6 (40 ILCS 5/17-106) (from Ch. 108 1/2, par. 17-106)

7 Sec. 17-106. Contributor, member or teacher.

8 "Contributor", "member" or "teacher": All members of the  
9 teaching force of the city, including principals, assistant  
10 principals, the general superintendent of schools, deputy  
11 superintendents of schools, associate superintendents of  
12 schools, assistant and district superintendents of schools,  
13 members of the Board of Examiners, all other persons whose  
14 employment requires a teaching certificate issued under the  
15 laws governing the certification of teachers, any educational,  
16 administrative, professional, or other staff employed in a  
17 charter school operating in compliance with the Charter Schools  
18 Law who is certified under the law governing the certification  
19 of teachers, and employees of the Board, but excluding persons  
20 contributing concurrently to any other public employee pension  
21 system in Illinois for the same employment or receiving  
22 retirement pensions under another Article of this Code for that  
23 same employment, persons employed on an hourly basis (provided

1 that an Employer may not reclassify a non-hourly employee as an  
2 hourly employee for the purpose of evading or avoiding its  
3 obligations under this Article), and persons receiving  
4 pensions from the Fund who are employed temporarily by an  
5 Employer and not on an annual basis.

6 All teachers or staff regardless of their position shall  
7 presumptively be participants in the Fund, unless the Employer  
8 establishes to the satisfaction of the Board that an individual  
9 certified teacher or staff member is not working as a teacher  
10 or administrator directly or indirectly with the Charter  
11 School. Any certified teacher or staff employed by a corporate  
12 or non-profit entity engaged in the administration of a charter  
13 school shall presumptively be a participant in the Fund, unless  
14 the organization establishes to the satisfaction of the Board  
15 that an individual certified teacher or staff member is not  
16 working as a teacher or administrator directly or indirectly  
17 with the Charter School.

18 In the case of a person who has been making contributions  
19 and otherwise participating in this Fund prior to the effective  
20 date of this amendatory Act of the 91st General Assembly, and  
21 whose right to participate in the Fund is established or  
22 confirmed by this amendatory Act, such prior participation in  
23 the Fund, including all contributions previously made and  
24 service credits previously earned by the person, are hereby  
25 validated.

26 The changes made to this Section and Section 17-149 by this

1 amendatory Act of the 92nd General Assembly apply without  
2 regard to whether the person was in service on or after the  
3 effective date of this amendatory Act, notwithstanding  
4 Sections 1-103.1 and 17-157.

5 (Source: P.A. 91-887, eff. 7-6-00; 92-416, eff. 8-17-01;  
6 92-599, eff. 6-28-02.)

7 (40 ILCS 5/17-132) (from Ch. 108 1/2, par. 17-132)

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

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

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

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

1 contributions due, which shall be mandatory except for good  
2 cause shown and in the discretion of the Board ~~(calculated at~~  
3 ~~the average short term rate of interest earned by the Fund for~~  
4 ~~the calendar month preceding the calendar month in which the~~  
5 ~~delinquency occurs) starting from the predesignated payday and~~  
6 ~~ending on the date payment is received.~~

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

10 (c) The payroll records shall report (1) all pensionable  
11 salary earned in that pay period, exclusive of salaries for  
12 overtime, special services, or any employment on an optional  
13 basis, such as in summer school; (2) adjustments to pensionable  
14 salary, exclusive of salaries for overtime, special services,  
15 or any employment on an optional basis, such as in summer  
16 school, made in a pay period for any prior pay periods; (3)  
17 pension contributions attributable to pensionable salary  
18 earned in the reported pay period or the adjusted pay period as  
19 required by subsection (b) of Section 17-131.

20 (d) The appropriate officers of the Employer shall certify  
21 and submit the payroll records no later than 30 calendar days  
22 after each predesignated payday. The certification shall  
23 constitute a confirmation of the accuracy of such deductions  
24 according to the provisions of this Article.

25 Each Charter School shall designate an administrator as a  
26 "Pension Officer". The Pension Officer shall be responsible for

1 certifying payroll information and contributions due and  
2 assuring resolution of reported payroll and contribution  
3 deficiencies.

4 (e) The Board has the authority to conduct payroll audits  
5 of a charter school to determine the existence of any  
6 delinquencies in contributions to the Fund, and such charter  
7 school shall be required to provide such books and records and  
8 contribution information as the Board or its authorized  
9 representative may require. The Board is also authorized to  
10 collect delinquent contributions from charter schools and  
11 develop procedures for the collection of such delinquencies.  
12 Collection procedures may include legal proceedings in the  
13 courts of the State of Illinois. Expenses, including reasonable  
14 attorneys' fees, incurred in the collection of delinquent  
15 contributions may be assessed by the Board against the charter  
16 school.

17 (Source: P.A. 97-30, eff. 7-1-11.)

18 Section 90. The State Mandates Act is amended by adding  
19 Section 8.37 as follows:

20 (30 ILCS 805/8.37 new)

21 Sec. 8.37. Exempt mandate. Notwithstanding Sections 6 and 8  
22 of this Act, no reimbursement by the State is required for the  
23 implementation of any mandate created by this amendatory Act of  
24 the 98th General Assembly.

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.