

SB1687



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1687

Introduced 2/15/2013, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-139.5
40 ILCS 5/15-168.2

Amends the State Universities Article of the Illinois Pension Code. Delays by one year the implementation of the return to service provisions added by Public Act 97-968. Authorizes an employer to notify the System that an annuitant is returning to service by providing the annuitant's rate of compensation and anticipated length of employment (now, an employer may give notice in that manner only if there is not a written employment contract). Effective immediately.

LRB098 07548 EFG 37619 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 Sections 15-139.5 and 15-168.2 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, 2014 ~~2013~~ must notify the
12 System of that employment within 60 days after employing the
13 annuitant. The notice must include a copy of the contract of
14 employment, or it ~~; if no written contract of employment~~
15 ~~exists, then the notice~~ must specify the rate of compensation
16 and the anticipated length of employment of that annuitant. The
17 notice must specify whether the annuitant will be compensated
18 from federal, corporate, foundation, or trust funds or grants
19 of State funds that identify the principal investigator by
20 name. The notice must include the employer's determination of
21 whether or not the annuitant is an "affected annuitant" as
22 defined in subsection (b).

23 The employer must also record, document, and certify to the

1 System (i) the number of paid days and paid weeks worked by the
2 annuitant in the academic year, (ii) the amount of compensation
3 paid to the annuitant for employment during the academic year,
4 and (iii) the amount of that compensation, if any, that comes
5 from either federal, corporate, foundation, or trust funds or
6 grants of State funds that identify the principal investigator
7 by name.

8 As used in this Section, "academic year" has the meaning
9 ascribed to that term in Section 15-126.1; "paid day" means a
10 day on which a person performs personal services for an
11 employer and for which the person is compensated by the
12 employer; and "paid week" means a calendar week in which a
13 person has at least one paid day.

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

18 The System may specify the time, form, and manner of
19 providing the determinations, notifications, certifications,
20 and documentation required under this Section.

21 (b) A person receiving a retirement annuity from the System
22 becomes an "affected annuitant" on the first day of the
23 academic year following the academic year in which the
24 annuitant first meets both of the following conditions:

25 (1) While receiving a retirement annuity under this
26 Article, the annuitant has been employed on or after August

1 1, 2014 ~~2013~~ by one or more employers under this Article
2 for a total of more than 18 paid weeks (which need not have
3 been with the same employer or in the same academic year);
4 except that any periods of employment for which the
5 annuitant was compensated solely from federal, corporate,
6 foundation, or trust funds or grants of State funds that
7 identify the principal investigator by name are excluded.

8 (2) While receiving a retirement annuity under this
9 Article, the annuitant was employed on or after August 1,
10 2014 ~~2013~~ by one or more employers under this Article and
11 received or became entitled to receive during an academic
12 year compensation for that employment in excess of 40% of
13 his or her highest annual earnings prior to retirement;
14 except that compensation paid from federal, corporate,
15 foundation, or trust funds or grants of State funds that
16 identify the principal investigator by name is excluded.

17 A person who becomes an affected annuitant remains an
18 affected annuitant, except for any period during which the
19 person returns to active service and does not receive a
20 retirement annuity from the System.

21 (c) It is the obligation of the employer to determine
22 whether an annuitant is an affected annuitant before employing
23 the annuitant. For that purpose the employer may require the
24 annuitant to disclose and document his or her relevant prior
25 employment and earnings history. Failure of the employer to
26 make this determination correctly and in a timely manner or to

1 include this determination with the notification required
2 under subsection (a) does not excuse the employer from making
3 the contribution required under subsection (e).

4 The System may assist the employer in determining whether a
5 person is an affected annuitant. The System shall inform the
6 employer if it discovers that the employer's determination is
7 inconsistent with the employment and earnings information in
8 the System's records.

9 (d) Upon the request of an annuitant, the System shall
10 certify to the annuitant the following information as reported
11 by the employers, as that information is indicated in the
12 records of the System: (i) the annuitant's highest annual
13 earnings prior to retirement, (ii) the number of paid weeks
14 worked by the annuitant for an employer on or after August 1,
15 2014 ~~2013~~, (iii) the compensation paid for that employment in
16 each academic year, and (iv) whether any of that employment or
17 compensation has been certified to the System as being paid
18 from federal, corporate, foundation, or trust funds or grants
19 of State funds that identify the principal investigator by
20 name. The System shall only be required to certify information
21 that is received from the employers.

22 (e) In addition to the requirements of subsection (a), an
23 employer who employs an affected annuitant must pay to the
24 System an employer contribution in the amount and manner
25 provided in this Section, unless the annuitant is compensated
26 by that employer solely from federal, corporate, foundation, or

1 trust funds or grants of State funds that identify the
2 principal investigator by name.

3 The employer contribution required under this Section for
4 employment of an affected annuitant in an academic year shall
5 be equal to 12 times the amount of the gross monthly retirement
6 annuity payable to the annuitant for the month in which the
7 first paid day of that employment in that academic year occurs,
8 after any reduction in that annuity that may be imposed under
9 subsection (b) of Section 15-139.

10 If an affected annuitant is employed by more than one
11 employer in an academic year, the employer contribution
12 required under this Section shall be divided among those
13 employers in proportion to their respective portions of the
14 total compensation paid to the affected annuitant for that
15 employment during that academic year.

16 If the System determines that an employer, without
17 reasonable justification, has failed to make the determination
18 of affected annuitant status correctly and in a timely manner,
19 or has failed to notify the System or to correctly document or
20 certify to the System any of the information required by this
21 Section, and that failure results in a delayed determination by
22 the System that a contribution is payable under this Section,
23 then the amount of that employer's contribution otherwise
24 determined under this Section shall be doubled.

25 The System shall deem a failure to correctly determine the
26 annuitant's status to be justified if the employer establishes

1 to the System's satisfaction that the employer, after due
2 diligence, made an erroneous determination that the annuitant
3 was not an affected annuitant due to reasonable reliance on
4 false or misleading information provided by the annuitant or
5 another employer, or an error in the annuitant's official
6 employment or earnings records.

7 (f) Whenever the System determines that an employer is
8 liable for a contribution under this Section, it shall so
9 notify the employer and certify the amount of the contribution.
10 The employer may pay the required contribution without interest
11 at any time within one year after receipt of the certification.
12 If the employer fails to pay within that year, then interest
13 shall be charged at a rate equal to the System's prescribed
14 rate of interest, compounded annually from the 366th day after
15 receipt of the certification from the System. Payment must be
16 concluded within 2 years after receipt of the certification by
17 the employer. If the employer fails to make complete payment,
18 including applicable interest, within 2 years, then the System
19 may, after giving notice to the employer, certify the
20 delinquent amount to the State Comptroller, and the Comptroller
21 shall thereupon deduct the certified delinquent amount from
22 State funds payable to the employer and pay them instead to the
23 System.

24 (g) If an employer is required to make a contribution to
25 the System as a result of employing an affected annuitant and
26 the annuitant later elects to forgo his or her annuity in that

1 same academic year pursuant to subsection (c) of Section
2 15-139, then the required contribution by the employer shall be
3 waived, and if the contribution has already been paid, it shall
4 be refunded to the employer without interest.

5 (h) Notwithstanding any other provision of this Article,
6 the employer contribution required under this Section shall not
7 be included in the determination of any benefit under this
8 Article or any other Article of this Code, regardless of
9 whether the annuitant returns to active service, and is in
10 addition to any other State or employer contribution required
11 under this Article.

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

25 (Source: P.A. 97-968, eff. 8-16-12.)

1 (40 ILCS 5/15-168.2)

2 Sec. 15-168.2. Audit of employers. Beginning August 1, 2014
3 ~~2013~~, the System may audit the employment records and payroll
4 records of all employers. When the System audits an employer,
5 it shall specify the exact information it requires, which may
6 include but need not be limited to the names, titles, and
7 earnings history of every individual receiving compensation
8 from the employer. If an employer is audited by the System,
9 then the employer must provide to the System all necessary
10 documents and records within 60 calendar days after receiving
11 notification from the System. When the System audits an
12 employer, it shall send related correspondence by certified
13 mail.

14 (Source: P.A. 97-968, eff. 8-16-12.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.