

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 15-126.1, 15-139, 15-139.5, and 15-168.2 as follows:

6 (40 ILCS 5/15-126.1) (from Ch. 108 1/2, par. 15-126.1)

7 Sec. 15-126.1. Academic year. "Academic year": The
8 12-month period beginning on the first day of the fall term as
9 determined by each employer, or if the employer does not have
10 an academic program divided into terms, then beginning
11 September 1. For the purposes of Section 15-139.5 and
12 subsection (b) of Section 15-139, however, "academic year"
13 means the 12-month period beginning September 1.

14 (Source: P.A. 84-1472.)

15 (40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

16 Sec. 15-139. Retirement annuities; cancellation; suspended
17 during employment.

18 (a) If an annuitant returns to employment for an employer
19 within 60 days after the beginning of the retirement annuity
20 payment period, the retirement annuity shall be cancelled, and
21 the annuitant shall refund to the System the total amount of
22 the retirement annuity payments which he or she received. If

1 the retirement annuity is cancelled, the participant shall
2 continue to participate in the System.

3 (b) If an annuitant retires prior to age 60 and receives or
4 becomes entitled to receive during any month compensation in
5 excess of the monthly retirement annuity (including any
6 automatic annual increases) for services performed after the
7 date of retirement for any employer under this System, that
8 portion of the monthly retirement annuity provided by employer
9 contributions shall not be payable.

10 If an annuitant retires at age 60 or over and receives or
11 becomes entitled to receive during any academic year
12 compensation in excess of the difference between his or her
13 highest annual earnings prior to retirement and his or her
14 annual retirement annuity computed under Rule 1, Rule 2, Rule
15 3, Rule 4, or Rule 5 of Section 15-136, or under Section
16 15-136.4, for services performed after the date of retirement
17 for any employer under this System, that portion of the monthly
18 retirement annuity provided by employer contributions shall be
19 reduced by an amount equal to the compensation that exceeds
20 such difference.

21 However, any remuneration received for serving as a member
22 of the Illinois Educational Labor Relations Board shall be
23 excluded from "compensation" for the purposes of this
24 subsection (b), and serving as a member of the Illinois
25 Educational Labor Relations Board shall not be deemed to be a
26 return to employment for the purposes of this Section. This

1 provision applies without regard to whether service was
2 terminated prior to the effective date of this amendatory Act
3 of 1991.

4 "Academic year", as used in this subsection (b), means the
5 12-month period beginning September 1.

6 (c) If an employer certifies that an annuitant has been
7 reemployed on a permanent and continuous basis or in a position
8 in which the annuitant is expected to serve for at least 9
9 months, the annuitant shall resume his or her status as a
10 participating employee and shall be entitled to all rights
11 applicable to participating employees upon filing with the
12 board an election to forgo all annuity payments during the
13 period of reemployment. Upon subsequent retirement, the
14 retirement annuity shall consist of the annuity which was
15 terminated by the reemployment, plus the additional retirement
16 annuity based upon service granted during the period of
17 reemployment, but the combined retirement annuity shall not
18 exceed the maximum annuity applicable on the date of the last
19 retirement.

20 The total service and earnings credited before and after
21 the initial date of retirement shall be considered in
22 determining eligibility of the employee or the employee's
23 beneficiary to benefits under this Article, and in calculating
24 final rate of earnings.

25 In determining the death benefit payable to a beneficiary
26 of an annuitant who again becomes a participating employee

1 under this Section, accumulated normal and additional
2 contributions shall be considered as the sum of the accumulated
3 normal and additional contributions at the date of initial
4 retirement and the accumulated normal and additional
5 contributions credited after that date, less the sum of the
6 annuity payments received by the annuitant.

7 The survivors insurance benefits provided under Section
8 15-145 shall not be applicable to an annuitant who resumes his
9 or her status as a participating employee, unless the
10 annuitant, at the time of initial retirement, has a survivors
11 insurance beneficiary who could qualify for such benefits.

12 If the participant's employment is terminated because of
13 circumstances other than death before 9 months from the date of
14 reemployment, the provisions of this Section regarding
15 resumption of status as a participating employee shall not
16 apply. The normal and survivors insurance contributions which
17 are deducted during this period shall be refunded to the
18 annuitant without interest, and subsequent benefits under this
19 Article shall be the same as those which were applicable prior
20 to the date the annuitant resumed employment.

21 The amendments made to this Section by this amendatory Act
22 of the 91st General Assembly apply without regard to whether
23 the annuitant was in service on or after the effective date of
24 this amendatory Act.

25 (Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12.)

1 (40 ILCS 5/15-139.5)

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

4 (a) An employer who employs or re-employs a person
5 receiving a retirement annuity from the System in an academic
6 year beginning on or after August 1, 2014 ~~2013~~ must notify the
7 System of that employment within 60 days after employing the
8 annuitant. The notice must include a summary ~~copy~~ of the
9 contract of employment or; ~~if no written contract of employment~~
10 ~~exists, then the notice must~~ specify the rate of compensation
11 and the anticipated length of employment of that annuitant. The
12 notice must specify whether the annuitant will be compensated
13 from federal, corporate, foundation, or trust funds or grants
14 of State funds that identify the principal investigator by
15 name. The notice must include the employer's determination of
16 whether or not the annuitant is an "affected annuitant" as
17 defined in subsection (b).

18 The employer must also record, document, and certify to the
19 System (i) ~~the number of paid days and paid weeks worked by the~~
20 ~~annuitant in the academic year, (ii)~~ the amount of compensation
21 paid to the annuitant for employment during the academic year,
22 and (ii) ~~(iii)~~ the amount of that compensation, if any, that
23 comes from either federal, corporate, foundation, or trust
24 funds or grants of State funds that identify the principal
25 investigator by name.

26 As used in this Section, "academic year" means the 12-month

1 ~~period beginning September 1. has the meaning ascribed to that~~
2 ~~term in Section 15-126.1; "paid day" means a day on which a~~
3 ~~person performs personal services for an employer and for which~~
4 ~~the person is compensated by the employer; and "paid week"~~
5 ~~means a calendar week in which a person has at least one paid~~
6 ~~day.~~

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 ~~both of~~ the following condition
18 conditions:

19 (1) (Blank). ~~While receiving a retirement annuity~~
20 ~~under this Article, the annuitant has been employed on or~~
21 ~~after August 1, 2013 by one or more employers under this~~
22 ~~Article for a total of more than 18 paid weeks (which need~~
23 ~~not have been with the same employer or in the same~~
24 ~~academic year); except that any periods of employment for~~
25 ~~which the annuitant was compensated solely from federal,~~
26 ~~corporate, foundation, or trust funds or grants of State~~

1 ~~funds that identify the principal investigator by name are~~
2 ~~excluded.~~

3 (2) While receiving a retirement annuity under this
4 Article, the annuitant was employed on or after August 1,
5 2014 ~~2013~~ by one or more employers under this Article and
6 received or became entitled to receive during an academic
7 year compensation for that employment in excess of 40% of
8 his or her highest annual earnings prior to retirement;
9 except that compensation paid from federal, corporate,
10 foundation, or trust funds or grants of State funds that
11 identify the principal investigator by name is excluded.

12 A person who becomes an affected annuitant remains an
13 affected annuitant, except for any period during which the
14 person returns to active service and does not receive a
15 retirement annuity from the System.

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

25 The System may assist the employer in determining whether a
26 person is an affected annuitant. The System shall inform the

1 employer if it discovers that the employer's determination is
2 inconsistent with the employment and earnings information in
3 the System's records.

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

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

24 The employer contribution required under this Section for
25 employment of an affected annuitant in an academic year shall
26 be equal to 12 times the amount of the gross monthly retirement

1 annuity payable to the annuitant for the month in which the
2 first paid day of that employment in that academic year occurs,
3 after any reduction in that annuity that may be imposed under
4 subsection (b) of Section 15-139.

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

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

20 The System shall deem a failure to correctly determine the
21 annuitant's status to be justified if the employer establishes
22 to the System's satisfaction that the employer, after due
23 diligence, made an erroneous determination that the annuitant
24 was not an affected annuitant due to reasonable reliance on
25 false or misleading information provided by the annuitant or
26 another employer, or an error in the annuitant's official

1 employment or earnings records.

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

19 (g) If an employer is required to make a contribution to
20 the System as a result of employing an affected annuitant and
21 the annuitant later elects to forgo his or her annuity in that
22 same academic year pursuant to subsection (c) of Section
23 15-139, then the required contribution by the employer shall be
24 waived, and if the contribution has already been paid, it shall
25 be refunded to the employer without interest.

26 (h) Notwithstanding any other provision of this Article,

1 the employer contribution required under this Section shall not
2 be included in the determination of any benefit under this
3 Article or any other Article of this Code, regardless of
4 whether the annuitant returns to active service, and is in
5 addition to any other State or employer contribution required
6 under this Article.

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

20 (j) This Section shall be applied and coordinated with the
21 regulatory obligations contained in the State Universities
22 Civil Service Act. This Section shall not apply to an annuitant
23 if the employer of that annuitant provides documentation to the
24 System that (1) the annuitant is employed in a status
25 appointment position, as that term is defined in 80 Ill. Adm.
26 Code 250.80, and (2) due to obligations contained under the

1 State Universities Civil Service Act, the employer does not
2 have the ability to limit the earnings or duration of
3 employment for the annuitant while employed in the status
4 appointment position.

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

6 (40 ILCS 5/15-168.2)

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

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.