

AN ACT concerning public employee benefits.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Pension Code is amended by changing Sections 17-106 and 17-132 as follows:

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

Sec. 17-106. Contributor, member or teacher. "Contributor", "member" or "teacher": All members of the teaching force of the city, including principals, assistant principals, the general superintendent of schools, deputy superintendents of schools, associate superintendents of schools, assistant and district superintendents of schools, members of the Board of Examiners, all other persons whose employment requires a teaching certificate issued under the laws governing the certification of teachers, any educational, administrative, professional, or other staff employed in a charter school operating in compliance with the Charter Schools Law who is certified under the law governing the certification of teachers, and employees of the Board, but excluding persons contributing concurrently to any other public employee pension system in Illinois for the same employment or receiving retirement pensions under another Article of this Code for that same employment, persons employed on an hourly basis (provided

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(30 ILCS 805/8.37 new)

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

Public Act 098-0427

HB2583 Enrolled

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