



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1570

Introduced 2/9/2017, by Sen. Iris Y. Martinez

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/17-132

from Ch. 108 1/2, par. 17-132

Amends the Chicago Teacher Article of the Illinois Pension Code. In a provision that requires Employers to submit payroll records and pension contributions within 30 calendar days after each predesignated payday and establishes penalties for delinquent submissions, requires the Fund to provide a written notice of delinquency to an Employer within 10 business days of the Fund's discovery of any payroll record that is not timely certified or submitted or any incomplete pension contribution. Prohibits the Fund from administering certain penalties if the Fund fails to provide the written notice of delinquency. Provides that an Employer that provides necessary corrections to a payroll record or makes the required contribution within 12 months after receipt of the notice of delinquency shall not be subject to certain penalties. Makes changes to an exception to the mandatory penalty for delinquent payments. Provides that any penalties that are outstanding on the effective date of the amendatory Act shall be waived if the Employer makes the necessary corrections or amendments to the required payroll records or submits the required contribution. Effective immediately.

LRB100 06322 RPS 16360 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

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 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 (a-5) The Fund shall provide a written notice of  
16 delinquency to an Employer within 10 business days of the  
17 Fund's discovery of any payroll record that is not timely  
18 certified or submitted or any incomplete pension contribution.  
19 The notice shall describe the specific grounds for the  
20 delinquency. An Employer shall have 30 business days to respond  
21 to and, if necessary, contest the notice of delinquency. If the  
22 Fund fails to provide an Employer with a written notice of  
23 delinquency within 10 business days of the Fund's discovery of

1 any payroll record that is not timely certified or submitted or  
2 any incomplete pension contribution, the Fund shall be  
3 prohibited from administering any penalty set forth in  
4 subsection (b) to the Employer for such payroll record or  
5 contribution. An Employer that provides necessary corrections  
6 or amendments to a payroll record or makes the required  
7 contribution before receiving a written notice of delinquency  
8 from the Fund shall not be subject to a penalty. An Employer  
9 that provides necessary corrections or amendments to a payroll  
10 record or makes the required contribution within 12 months  
11 after receipt of the notice of delinquency shall not be subject  
12 to a statutory penalty set forth in subsection (b).

13 (b) An Employer that fails to timely certify and submit  
14 payroll records to the Fund within the timelines set forth in  
15 subsections (a) and (a-5) of this Section is subject to a  
16 statutory penalty in the amount of \$100 per day for each day  
17 that a required certification and submission is late, not to  
18 exceed 100% of the principal contributions due.

19 Amounts not received by the timelines set forth in  
20 subsection (a-5) ~~the 30th calendar day after the predesignated~~  
21 ~~payday~~ shall be deemed delinquent and subject to a penalty  
22 consisting of interest, which shall accrue on a monthly basis  
23 at the Fund's then effective actuarial rate of return, and  
24 liquidated damages in the amount of \$100 per day, not to exceed  
25 20% of the principal contributions due, which shall be  
26 mandatory except for good cause shown ~~and in the discretion of~~

1 ~~the Board.~~

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

5 Any penalties that are outstanding on the effective date of  
6 this amendatory Act of the 100th General Assembly shall be  
7 waived if the Employer makes the necessary corrections or  
8 amendments to the required payroll records or submits the  
9 required contribution.

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; and (4) any  
20 salary paid by an Employer if that salary is compensation for  
21 validated service and is exclusive of salary for overtime,  
22 special services, or any employment on an optional basis, such  
23 as in summer school. Payroll records required by item (4) of  
24 this paragraph shall identify the number of days of service  
25 rendered by the member and whether each day of service  
26 represents a partial or whole day of service.

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

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

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

25 (Source: P.A. 98-427, eff. 8-16-13; 99-176, eff. 7-29-15.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.