



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 2838

2 AMENDMENT NO. _____. Amend Senate Bill 2838 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Section 16-106, 16-106.3, and 16-127 as follows:

6 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)

7 Sec. 16-106. Teacher. "Teacher": The following
8 individuals, provided that, for employment prior to July 1,
9 1990, they are employed on a full-time basis, or if not
10 full-time, on a permanent and continuous basis in a position in
11 which services are expected to be rendered for at least one
12 school term:

13 (1) Any educational, administrative, professional or
14 other staff employed in the public common schools included
15 within this system in a position requiring certification
16 under the law governing the certification of teachers;

1 (2) Any educational, administrative, professional or
2 other staff employed in any facility of the Department of
3 Children and Family Services or the Department of Human
4 Services, in a position requiring certification under the
5 law governing the certification of teachers, and any person
6 who (i) works in such a position for the Department of
7 Corrections, (ii) was a member of this System on May 31,
8 1987, and (iii) did not elect to become a member of the
9 State Employees' Retirement System pursuant to Section
10 14-108.2 of this Code; except that "teacher" does not
11 include any person who (A) becomes a security employee of
12 the Department of Human Services, as defined in Section
13 14-110, after June 28, 2001 (the effective date of Public
14 Act 92-14), or (B) becomes a member of the State Employees'
15 Retirement System pursuant to Section 14-108.2c of this
16 Code;

17 (3) Any regional superintendent of schools, assistant
18 regional superintendent of schools, State Superintendent
19 of Education; any person employed by the State Board of
20 Education as an executive; any executive of the boards
21 engaged in the service of public common school education in
22 school districts covered under this system of which the
23 State Superintendent of Education is an ex-officio member;

24 (4) Any employee of a school board association
25 operating in compliance with Article 23 of the School Code
26 who is certificated under the law governing the

1 certification of teachers, provided that he or she becomes
2 such an employee before the effective date of this
3 amendatory Act of the 99th General Assembly;

4 (5) Any person employed by the retirement system who:

5 (i) was an employee of and a participant in the
6 system on August 17, 2001 (the effective date of Public
7 Act 92-416), or

8 (ii) becomes an employee of the system on or after
9 August 17, 2001;

10 (6) Any educational, administrative, professional or
11 other staff employed by and under the supervision and
12 control of a regional superintendent of schools, provided
13 such employment position requires the person to be
14 certificated under the law governing the certification of
15 teachers and is in an educational program serving 2 or more
16 districts in accordance with a joint agreement authorized
17 by the School Code or by federal legislation;

18 (7) Any educational, administrative, professional or
19 other staff employed in an educational program serving 2 or
20 more school districts in accordance with a joint agreement
21 authorized by the School Code or by federal legislation and
22 in a position requiring certification under the laws
23 governing the certification of teachers;

24 (8) Any officer or employee of a statewide teacher
25 organization or officer of a national teacher organization
26 who is certified under the law governing certification of

1 teachers, provided: (i) the individual had previously
2 established creditable service under this Article, (ii)
3 the individual files with the system an irrevocable
4 election to become a member before the effective date of
5 this amendatory Act of the 97th General Assembly, (iii) the
6 individual does not receive credit for such service under
7 any other Article of this Code, and (iv) the individual
8 first became an officer or employee of the teacher
9 organization and becomes a member before the effective date
10 of this amendatory Act of the 97th General Assembly;

11 (9) Any educational, administrative, professional, or
12 other staff employed in a charter school operating in
13 compliance with the Charter Schools Law who is certificated
14 under the law governing the certification of teachers;

15 (10) Any person employed, on the effective date of this
16 amendatory Act of the 94th General Assembly, by the
17 Macon-Piatt Regional Office of Education in a
18 birth-through-age-three pilot program receiving funds
19 under Section 2-389 of the School Code who is required by
20 the Macon-Piatt Regional Office of Education to hold a
21 teaching certificate, provided that the Macon-Piatt
22 Regional Office of Education makes an election, within 6
23 months after the effective date of this amendatory Act of
24 the 94th General Assembly, to have the person participate
25 in the system. Any service established prior to the
26 effective date of this amendatory Act of the 94th General

1 Assembly for service as an employee of the Macon-Piatt
2 Regional Office of Education in a birth-through-age-three
3 pilot program receiving funds under Section 2-389 of the
4 School Code shall be considered service as a teacher if
5 employee and employer contributions have been received by
6 the system and the system has not refunded those
7 contributions.

8 An annuitant receiving a retirement annuity under this
9 Article or under Article 17 of this Code who is employed by a
10 board of education or other employer as permitted under Section
11 16-118 or 16-150.1 is not a "teacher" for purposes of this
12 Article. A person who has received a single-sum retirement
13 benefit under Section 16-136.4 of this Article is not a
14 "teacher" for purposes of this Article. For purposes of this
15 Article, "teacher" does not include a person employed by an
16 entity that provides substitute teaching services under
17 Section 2-3.173 of the School Code and is not a school
18 district.

19 (Source: P.A. 98-463, eff. 8-16-13; 99-830, eff. 1-1-17.)

20 (40 ILCS 5/16-106.3) (from Ch. 108 1/2, par. 16-106.3)

21 Sec. 16-106.3. Substitute teacher. "Substitute teacher":
22 Any teacher employed on a temporary basis to replace another
23 teacher. "Substitute teacher" does not include an individual
24 employed by an entity that provides substitute teaching
25 services under Section 2-3.173 of the School Code and is not a

1 school district.

2 (Source: P.A. 86-273.)

3 (40 ILCS 5/16-127) (from Ch. 108 1/2, par. 16-127)

4 (Text of Section WITHOUT the changes made by P.A. 98-599,
5 which has been held unconstitutional)

6 Sec. 16-127. Computation of creditable service.

7 (a) Each member shall receive regular credit for all
8 service as a teacher from the date membership begins, for which
9 satisfactory evidence is supplied and all contributions have
10 been paid.

11 (b) The following periods of service shall earn optional
12 credit and each member shall receive credit for all such
13 service for which satisfactory evidence is supplied and all
14 contributions have been paid as of the date specified:

15 (1) Prior service as a teacher.

16 (2) Service in a capacity essentially similar or
17 equivalent to that of a teacher, in the public common
18 schools in school districts in this State not included
19 within the provisions of this System, or of any other
20 State, territory, dependency or possession of the United
21 States, or in schools operated by or under the auspices of
22 the United States, or under the auspices of any agency or
23 department of any other State, and service during any
24 period of professional speech correction or special
25 education experience for a public agency within this State

1 or any other State, territory, dependency or possession of
2 the United States, and service prior to February 1, 1951 as
3 a recreation worker for the Illinois Department of Public
4 Safety, for a period not exceeding the lesser of 2/5 of the
5 total creditable service of the member or 10 years. The
6 maximum service of 10 years which is allowable under this
7 paragraph shall be reduced by the service credit which is
8 validated by other retirement systems under paragraph (i)
9 of Section 15-113 and paragraph 1 of Section 17-133. Credit
10 granted under this paragraph may not be used in
11 determination of a retirement annuity or disability
12 benefits unless the member has at least 5 years of
13 creditable service earned subsequent to this employment
14 with one or more of the following systems: Teachers'
15 Retirement System of the State of Illinois, State
16 Universities Retirement System, and the Public School
17 Teachers' Pension and Retirement Fund of Chicago. Whenever
18 such service credit exceeds the maximum allowed for all
19 purposes of this Article, the first service rendered in
20 point of time shall be considered. The changes to this
21 subdivision (b)(2) made by Public Act 86-272 shall apply
22 not only to persons who on or after its effective date
23 (August 23, 1989) are in service as a teacher under the
24 System, but also to persons whose status as such a teacher
25 terminated prior to such effective date, whether or not
26 such person is an annuitant on that date.

1 (3) Any periods immediately following teaching
2 service, under this System or under Article 17, (or
3 immediately following service prior to February 1, 1951 as
4 a recreation worker for the Illinois Department of Public
5 Safety) spent in active service with the military forces of
6 the United States; periods spent in educational programs
7 that prepare for return to teaching sponsored by the
8 federal government following such active military service;
9 if a teacher returns to teaching service within one
10 calendar year after discharge or after the completion of
11 the educational program, a further period, not exceeding
12 one calendar year, between time spent in military service
13 or in such educational programs and the return to
14 employment as a teacher under this System; and a period of
15 up to 2 years of active military service not immediately
16 following employment as a teacher.

17 The changes to this Section and Section 16-128 relating
18 to military service made by P.A. 87-794 shall apply not
19 only to persons who on or after its effective date are in
20 service as a teacher under the System, but also to persons
21 whose status as a teacher terminated prior to that date,
22 whether or not the person is an annuitant on that date. In
23 the case of an annuitant who applies for credit allowable
24 under this Section for a period of military service that
25 did not immediately follow employment, and who has made the
26 required contributions for such credit, the annuity shall

1 be recalculated to include the additional service credit,
2 with the increase taking effect on the date the System
3 received written notification of the annuitant's intent to
4 purchase the credit, if payment of all the required
5 contributions is made within 60 days of such notice, or
6 else on the first annuity payment date following the date
7 of payment of the required contributions. In calculating
8 the automatic annual increase for an annuity that has been
9 recalculated under this Section, the increase attributable
10 to the additional service allowable under P.A. 87-794 shall
11 be included in the calculation of automatic annual
12 increases accruing after the effective date of the
13 recalculation.

14 Credit for military service shall be determined as
15 follows: if entry occurs during the months of July, August,
16 or September and the member was a teacher at the end of the
17 immediately preceding school term, credit shall be granted
18 from July 1 of the year in which he or she entered service;
19 if entry occurs during the school term and the teacher was
20 in teaching service at the beginning of the school term,
21 credit shall be granted from July 1 of such year. In all
22 other cases where credit for military service is allowed,
23 credit shall be granted from the date of entry into the
24 service.

25 The total period of military service for which credit
26 is granted shall not exceed 5 years for any member unless

1 the service: (A) is validated before July 1, 1964, and (B)
2 does not extend beyond July 1, 1963. Credit for military
3 service shall be granted under this Section only if not
4 more than 5 years of the military service for which credit
5 is granted under this Section is used by the member to
6 qualify for a military retirement allotment from any branch
7 of the armed forces of the United States. The changes to
8 this subdivision (b)(3) made by Public Act 86-272 shall
9 apply not only to persons who on or after its effective
10 date (August 23, 1989) are in service as a teacher under
11 the System, but also to persons whose status as such a
12 teacher terminated prior to such effective date, whether or
13 not such person is an annuitant on that date.

14 (4) Any periods served as a member of the General
15 Assembly.

16 (5) (i) Any periods for which a teacher, as defined in
17 Section 16-106, is granted a leave of absence, provided he
18 or she returns to teaching service creditable under this
19 System or the State Universities Retirement System
20 following the leave; (ii) periods during which a teacher is
21 involuntarily laid off from teaching, provided he or she
22 returns to teaching following the lay-off; (iii) periods
23 prior to July 1, 1983 during which a teacher ceased covered
24 employment due to pregnancy, provided that the teacher
25 returned to teaching service creditable under this System
26 or the State Universities Retirement System following the

1 pregnancy and submits evidence satisfactory to the Board
2 documenting that the employment ceased due to pregnancy;
3 and (iv) periods prior to July 1, 1983 during which a
4 teacher ceased covered employment for the purpose of
5 adopting an infant under 3 years of age or caring for a
6 newly adopted infant under 3 years of age, provided that
7 the teacher returned to teaching service creditable under
8 this System or the State Universities Retirement System
9 following the adoption and submits evidence satisfactory
10 to the Board documenting that the employment ceased for the
11 purpose of adopting an infant under 3 years of age or
12 caring for a newly adopted infant under 3 years of age.
13 However, total credit under this paragraph (5) may not
14 exceed 3 years.

15 Any qualified member or annuitant may apply for credit
16 under item (iii) or (iv) of this paragraph (5) without
17 regard to whether service was terminated before the
18 effective date of this amendatory Act of 1997. In the case
19 of an annuitant who establishes credit under item (iii) or
20 (iv), the annuity shall be recalculated to include the
21 additional service credit. The increase in annuity shall
22 take effect on the date the System receives written
23 notification of the annuitant's intent to purchase the
24 credit, if the required evidence is submitted and the
25 required contribution paid within 60 days of that
26 notification, otherwise on the first annuity payment date

1 following the System's receipt of the required evidence and
2 contribution. The increase in an annuity recalculated
3 under this provision shall be included in the calculation
4 of automatic annual increases in the annuity accruing after
5 the effective date of the recalculation.

6 Optional credit may be purchased under this subsection
7 (b) (5) for periods during which a teacher has been granted
8 a leave of absence pursuant to Section 24-13 of the School
9 Code. A teacher whose service under this Article terminated
10 prior to the effective date of P.A. 86-1488 shall be
11 eligible to purchase such optional credit. If a teacher who
12 purchases this optional credit is already receiving a
13 retirement annuity under this Article, the annuity shall be
14 recalculated as if the annuitant had applied for the leave
15 of absence credit at the time of retirement. The difference
16 between the entitled annuity and the actual annuity shall
17 be credited to the purchase of the optional credit. The
18 remainder of the purchase cost of the optional credit shall
19 be paid on or before April 1, 1992.

20 The change in this paragraph made by Public Act 86-273
21 shall be applicable to teachers who retire after June 1,
22 1989, as well as to teachers who are in service on that
23 date.

24 (6) Any days of unused and uncompensated accumulated
25 sick leave earned by a teacher. The service credit granted
26 under this paragraph shall be the ratio of the number of

1 unused and uncompensated accumulated sick leave days to 170
2 days, subject to a maximum of 2 years of service credit.
3 Prior to the member's retirement, each former employer
4 shall certify to the System the number of unused and
5 uncompensated accumulated sick leave days credited to the
6 member at the time of termination of service. The period of
7 unused sick leave shall not be considered in determining
8 the effective date of retirement. A member is not required
9 to make contributions in order to obtain service credit for
10 unused sick leave.

11 Credit for sick leave shall, at retirement, be granted
12 by the System for any retiring regional or assistant
13 regional superintendent of schools at the rate of 6 days
14 per year of creditable service or portion thereof
15 established while serving as such superintendent or
16 assistant superintendent.

17 (7) Periods prior to February 1, 1987 served as an
18 employee of the Illinois Mathematics and Science Academy
19 for which credit has not been terminated under Section
20 15-113.9 of this Code.

21 (8) Service as a substitute teacher for work performed
22 prior to July 1, 1990.

23 (9) Service as a part-time teacher for work performed
24 prior to July 1, 1990.

25 (10) Up to 2 years of employment with Southern Illinois
26 University - Carbondale from September 1, 1959 to August

1 31, 1961, or with Governors State University from September
2 1, 1972 to August 31, 1974, for which the teacher has no
3 credit under Article 15. To receive credit under this item
4 (10), a teacher must apply in writing to the Board and pay
5 the required contributions before May 1, 1993 and have at
6 least 12 years of service credit under this Article.

7 (b-1) A member may establish optional credit for up to 2
8 years of service as a teacher or administrator employed by a
9 private school recognized by the Illinois State Board of
10 Education, provided that the teacher (i) was certified under
11 the law governing the certification of teachers at the time the
12 service was rendered, (ii) applies in writing on or after
13 August 1, 2009 and on or before August 1, 2012, (iii) supplies
14 satisfactory evidence of the employment, (iv) completes at
15 least 10 years of contributing service as a teacher as defined
16 in Section 16-106, and (v) pays the contribution required in
17 subsection (d-5) of Section 16-128. The member may apply for
18 credit under this subsection and pay the required contribution
19 before completing the 10 years of contributing service required
20 under item (iv), but the credit may not be used until the item
21 (iv) contributing service requirement has been met.

22 (c) The service credits specified in this Section shall be
23 granted only if: (1) such service credits are not used for
24 credit in any other statutory tax-supported public employee
25 retirement system other than the federal Social Security
26 program; and (2) the member makes the required contributions as

1 specified in Section 16-128. Except as provided in subsection
2 (b-1) of this Section, the service credit shall be effective as
3 of the date the required contributions are completed.

4 Any service credits granted under this Section shall
5 terminate upon cessation of membership for any cause.

6 Credit may not be granted under this Section covering any
7 period for which an age retirement or disability retirement
8 allowance has been paid.

9 Credit may not be granted under this Section for service as
10 an employee of an entity that provides substitute teaching
11 services under Section 2-3.173 of the School Code and is not a
12 school district.

13 (Source: P.A. 96-546, eff. 8-17-09.)

14 Section 10. The School Code is amended by adding Section
15 2-3.173 as follows:

16 (105 ILCS 5/2-3.173 new)

17 Sec. 2-3.173. Substitute teachers; recruiting firms.

18 (a) In this Section, "recruiting firm" means a company with
19 expertise in finding qualified applicants for positions and
20 screening those potential workers for an employer.

21 (b) By January 1, 2019, the State Board of Education shall
22 implement a program and adopt rules to allow school districts
23 to supplement their substitute teacher recruitment for
24 elementary and secondary schools with the use of recruiting

1 firms, subject to the other provisions of this Section. To
2 qualify for the program, a school district shall demonstrate to
3 the State Board that, because of the severity of its substitute
4 teacher shortage, it is unable to find an adequate amount of
5 substitute or retired teachers and has exhausted all other
6 efforts. Substitute teachers provided by a recruiting firm must
7 adhere to all mandated State laws, rules, and screening
8 requirements for substitute teachers not provided by a
9 recruiting firm and must be paid on the same wage scale as
10 substitute teachers not provided by a recruiting firm. This
11 Section shall not be construed to require school districts to
12 use recruiting firms for substitute teachers. A school district
13 may not use a recruiting firm under this Section to circumvent
14 any collective bargaining agreements or State laws, rules, or
15 screening requirements for teachers. A school district may not
16 reduce the number of full-time staff members of a department as
17 a result of hiring a substitute teacher recruiting firm. In the
18 event of a teacher's strike, a school district may not use a
19 recruiting firm to hire a substitute teacher.

20 (c) A school district organized under Article 34 of this
21 Code may contract with a substitute teacher recruiting firm
22 under this Section only if the district meets the following
23 requirements:

24 (1) certifies to the State Board of Education that it
25 has adequate funds to fill and pay for all substitute
26 teacher positions;

1 (2) prioritizes existing substitute teachers over
2 substitute teachers from recruiting firms;

3 (3) files copies of all substitute teacher contracts
4 with the State Board of Education; and

5 (4) requires that the substitute teacher recruiting
6 firm file an annual report with the school district that
7 would include the number of substitute teachers that were
8 placed in the district, the total cost of the contract to
9 the district, and the percentage of substitute teacher
10 openings that were filled.

11 (d) A substitute teacher recruiting firm may enter into an
12 agreement with a labor organization that has a collective
13 bargaining agreement with a school district.

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