



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

### SB2093

Introduced 2/26/2021, by Sen. Robert F. Martwick

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/17-105.1  
40 ILCS 5/17-106 from Ch. 108 1/2, par. 17-106  
40 ILCS 5/17-132 from Ch. 108 1/2, par. 17-132  
40 ILCS 5/17-134.2 new  
30 ILCS 805/8.45 new

Amends the Chicago Teacher Article of the Illinois Pension Code. Adds to the definition of "teacher", educational staff employed by a Chicago contract school in a position requiring certification or licensure, except for managerial, supervisory, or confidential employees, who are required to or elect to participate in the Fund. Requires such educational staff to participate, unless they began employment with the contract school before the effective date of the amendatory Act. Provides that educational staff that began employment with the contract school before the effective date of the amendatory Act may elect to participate as a member for service accrued after the effective date of the election. Makes conforming and other changes. Amends the State Mandates Act to require implementation without reimbursement by the State. Effective July 1, 2021.

LRB102 12831 RPS 18173 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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  
5 changing Sections 17-105.1, 17-106, and 17-132 and by adding  
6 Section 17-134.2 as follows:

7 (40 ILCS 5/17-105.1)

8 Sec. 17-105.1. Employer. "Employer": The Board of  
9 Education, ~~and~~ a charter school as defined under the  
10 provisions of Section 27A-5 of the School Code, and a contract  
11 school operating pursuant to an agreement with the Board of  
12 Education.

13 (Source: P.A. 90-566, eff. 1-2-98.)

14 (40 ILCS 5/17-106) (from Ch. 108 1/2, par. 17-106)

15 Sec. 17-106. Contributor, member or teacher.  
16 "Contributor", "member" or "teacher": All members of the  
17 teaching force of the city, including principals, assistant  
18 principals, the general superintendent of schools, deputy  
19 superintendents of schools, associate superintendents of  
20 schools, assistant and district superintendents of schools,  
21 members of the Board of Examiners, all other persons whose  
22 employment requires a teaching certificate issued under the

1 laws governing the certification of teachers, any educational  
2 staff employed in a contract school operating pursuant to an  
3 agreement with the Board of Education who is employed in a  
4 position requiring certification or licensure under the School  
5 Code (excluding all managerial, supervisory, and confidential  
6 employees) and is required to or elects to participate  
7 pursuant to Section 17-134.2, any educational, administrative,  
8 professional, or other staff employed in a charter school  
9 operating in compliance with the Charter Schools Law who is  
10 certified under the law governing the certification of  
11 teachers, and employees of the Board, but excluding persons  
12 contributing concurrently to any other public employee pension  
13 system in Illinois for the same employment or receiving  
14 retirement pensions under another Article of this Code for  
15 that same employment, persons employed on an hourly basis  
16 (provided that an Employer may not reclassify a non-hourly  
17 employee as an hourly employee for the purpose of evading or  
18 avoiding its obligations under this Article), and persons  
19 receiving pensions from the Fund who are employed temporarily  
20 by an Employer and not on an annual basis.

21 All teachers or staff regardless of their position shall  
22 presumptively be participants in the Fund, unless the Employer  
23 establishes to the satisfaction of the Board that an  
24 individual certified teacher or staff member is not working as  
25 a teacher or administrator directly or indirectly with the  
26 Charter School. Any certified teacher or staff employed by a

1 corporate or non-profit entity engaged in the administration  
2 of a charter school shall presumptively be a participant in  
3 the Fund, unless the organization establishes to the  
4 satisfaction of the Board that an individual certified teacher  
5 or staff member is not working as a teacher or administrator  
6 directly or indirectly with the Charter School.

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

15 The changes made to this Section and Section 17-149 by  
16 this amendatory Act of the 92nd General Assembly apply without  
17 regard to whether the person was in service on or after the  
18 effective date of this amendatory Act, notwithstanding  
19 Sections 1-103.1 and 17-157.

20 (Source: P.A. 98-427, eff. 8-16-13.)

21 (40 ILCS 5/17-132) (from Ch. 108 1/2, par. 17-132)

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

24 (a) An Employer shall cause the Fund to receive all  
25 members' payroll records and pension contributions within 30

1 calendar days after each predesignated payday. For purposes of  
2 this Section, the predesignated payday shall be determined in  
3 accordance with each Employer's payroll schedule for  
4 contributions to the Fund.

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

9 Amounts not received by the 30th calendar day after the  
10 predesignated payday shall be deemed delinquent and subject to  
11 a penalty consisting of interest, which shall accrue on a  
12 monthly basis at the Fund's then effective actuarial rate of  
13 return, and liquidated damages in the amount of \$100 per day,  
14 not to exceed 20% of the principal contributions due, which  
15 shall be mandatory except for good cause shown and in the  
16 discretion of the Board.

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

20 (c) The payroll records shall report (1) all pensionable  
21 salary earned in that pay period, exclusive of salaries for  
22 overtime, extracurricular activities, or any employment on an  
23 optional basis, such as in summer school; (2) adjustments to  
24 pensionable salary, exclusive of salaries for overtime,  
25 extracurricular activities, or any employment on an optional  
26 basis, such as in summer school, made in a pay period for any

1 prior pay periods; (3) pension contributions attributable to  
2 pensionable salary earned in the reported pay period or the  
3 adjusted pay period as required by subsection (b) of Section  
4 17-131; and (4) any salary paid by an Employer if that salary  
5 is compensation for validated service and is exclusive of  
6 salary for overtime, extracurricular activities, or any  
7 employment on an optional basis, such as in summer school.  
8 Payroll records required by item (4) of this paragraph shall  
9 identify the number of days of service rendered by the member  
10 and whether each day of service represents a partial or whole  
11 day of service.

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

17 Each Charter School and contract school shall designate an  
18 administrator as a "Pension Officer". The Pension Officer  
19 shall be responsible for certifying all payroll information,  
20 including contributions due and certified sick days payable  
21 pursuant to Section 17-134, and assuring resolution of  
22 reported payroll and contribution deficiencies.

23 (e) The Board has the authority to conduct payroll audits  
24 of a charter school or contract school to determine the  
25 existence of any delinquencies in contributions to the Fund,  
26 and such charter school or contract school shall be required

1 to provide such books and records and contribution information  
2 as the Board or its authorized representative may require. The  
3 Board is also authorized to collect delinquent contributions  
4 from charter schools and contract schools and develop  
5 procedures for the collection of such delinquencies.  
6 Collection procedures may include legal proceedings in the  
7 courts of the State of Illinois. Expenses, including  
8 reasonable attorneys' fees, incurred in the collection of  
9 delinquent contributions may be assessed by the Board against  
10 the charter school or contract school.

11 (Source: P.A. 101-261, eff. 8-9-19.)

12 (40 ILCS 5/17-134.2 new)

13 Sec. 17-134.2. Employee of a contract school. Any  
14 educational staff of a contract school operating pursuant to  
15 an agreement with the Board of Education who is employed in a  
16 position requiring certification or licensure under the School  
17 Code on or after the effective date of this amendatory Act of  
18 the 102nd General Assembly (excluding all managerial,  
19 supervisory, and confidential employees) shall participate as  
20 a member, unless the person began employment with the contract  
21 school before the effective date of this amendatory Act of the  
22 102nd General Assembly.

23 Any educational staff employed in a contract school  
24 operating pursuant to an agreement with the Board of Education  
25 who began employment in a position requiring certification or

1 licensure under the School Code before the effective date of  
2 this amendatory Act of the 102nd General Assembly (excluding  
3 all managerial, supervisory, and confidential employees) may  
4 irrevocably elect, in a manner prescribed by the Board, to  
5 participate as a member for service accrued after the  
6 effective date of the election with the contract school or  
7 with another contract school. In no event shall a person  
8 accrue service for employment with a contract school that  
9 occurred before the effective date of the election to  
10 participate as a member.

11 Section 90. The State Mandates Act is amended by adding  
12 Section 8.45 as follows:

13 (30 ILCS 805/8.45 new)

14 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and  
15 8 of this Act, no reimbursement by the State is required for  
16 the implementation of any mandate created by this amendatory  
17 Act of the 102nd General Assembly.

18 Section 99. Effective date. This Act takes effect July 1,  
19 2021.