



Rep. Lindsey LaPointe

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10200SB2093ham002

LRB102 12831 SMS 26821 a

1 AMENDMENT TO SENATE BILL 2093

2 AMENDMENT NO. _____. Amend Senate Bill 2093 by replacing
3 everything after the enacting clause with the following:

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.

1 "Contributor", "member" or "teacher": All members of the
2 teaching force of the city, including principals, assistant
3 principals, the general superintendent of schools, deputy
4 superintendents of schools, associate superintendents of
5 schools, assistant and district superintendents of schools,
6 members of the Board of Examiners, all other persons whose
7 employment requires a teaching certificate issued under the
8 laws governing the certification of teachers, any educational
9 staff employed in a contract school operating pursuant to an
10 agreement with the Board of Education who is employed in a
11 position requiring certification or licensure under the School
12 Code (excluding all managerial, supervisory, and confidential
13 employees) and is required to or elects to participate
14 pursuant to Section 17-134.2, any educational, administrative,
15 professional, or other staff employed in a charter school
16 operating in compliance with the Charter Schools Law who is
17 certified under the law governing the certification of
18 teachers, and employees of the Board, but excluding persons
19 contributing concurrently to any other public employee pension
20 system in Illinois for the same employment or receiving
21 retirement pensions under another Article of this Code for
22 that same employment, persons employed on an hourly basis
23 (provided that an Employer may not reclassify a non-hourly
24 employee as an hourly employee for the purpose of evading or
25 avoiding its obligations under this Article), and persons
26 receiving pensions from the Fund who are employed temporarily

1 by an Employer and not on an annual basis.

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

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

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

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

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

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

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

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

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

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

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

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

24 Each Charter School and contract school shall designate an
25 administrator as a "Pension Officer". The Pension Officer
26 shall be responsible for certifying all payroll information,

1 including contributions due and certified sick days payable
2 pursuant to Section 17-134, and assuring resolution of
3 reported payroll and contribution deficiencies.

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

18 (f) The Fund shall provide a conditional grace period for
19 contract schools that show evidence of timely and good faith
20 efforts to submit payroll records and make pension
21 contributions due between January 1, 2022 and April 1, 2022.
22 If payroll records and pension contributions due during that
23 time period are not submitted by April 1, 2022, the statutory
24 penalties, liquidated damages, and interest shall be
25 calculated from the original due date to the submission date
26 of the pension contributions or payroll records, as

1 applicable.

2 Evidence of timely and good faith efforts shall include,
3 but are not limited to, the following:

4 (1) evidence of the contract school's continuing
5 efforts to submit payroll records and make pension
6 contributions, both before and after the date the payroll
7 records and pension contributions were due;

8 (2) documented evidence submitted by the contract
9 school of the contract school's continuing efforts to
10 submit payroll records and make pension contributions;

11 (3) evidence in the possession of the Fund of the
12 contract school's continuing efforts to submit payroll
13 records and make pension contributions; and

14 (4) contact by the contract school with the Fund to
15 seek assistance and notify the Fund of difficulties with
16 submitting the payroll records and making the pension
17 contributions within a period of time determined by the
18 Board after the date the pension contributions and payroll
19 records were due.

20 The Fund may adopt rules to implement the changes made by
21 this amendatory Act of the 102nd General Assembly.

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

23 (40 ILCS 5/17-134.2 new)

24 Sec. 17-134.2. Employee of a contract school. Any
25 educational staff of a contract school operating pursuant to

1 an agreement with the Board of Education who is employed in a
2 position requiring certification or licensure under the School
3 Code on or after the effective date of this amendatory Act of
4 the 102nd General Assembly (excluding all managerial,
5 supervisory, and confidential employees) shall participate as
6 a member beginning on January 1, 2022, unless the person began
7 employment with the contract school before the effective date
8 of this amendatory Act of the 102nd General Assembly.

9 Any educational staff employed in a contract school
10 operating pursuant to an agreement with the Board of Education
11 who began employment in a position requiring certification or
12 licensure under the School Code before the effective date of
13 this amendatory Act of the 102nd General Assembly (excluding
14 all managerial, supervisory, and confidential employees) may
15 irrevocably elect, in a manner prescribed by the Board, to
16 participate as a member for service accrued after January 1,
17 2022 with the contract school, another contract school, a
18 charter school, or the Board of Education. In no event shall a
19 person accrue service for employment with a contract school
20 that occurred before January 1, 2022.

21 Section 90. The State Mandates Act is amended by adding
22 Section 8.45 as follows:

23 (30 ILCS 805/8.45 new)

24 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and

1 8 of this Act, no reimbursement by the State is required for
2 the implementation of any mandate created by this amendatory
3 Act of the 102nd General Assembly.

4 Section 99. Effective date. This Act takes effect July 1,
5 2021.".