



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6140

by Rep. Tom Cross

SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-107
40 ILCS 5/16-106

from Ch. 108 1/2, par. 15-107
from Ch. 108 1/2, par. 16-106

Amends the Illinois Pension Code. Limits participation in the Teachers' Retirement System after the effective date by employees of a school board association operating in compliance with Article 23 of the School Code. Limits participation in the State Universities Retirement System after the effective date by employees of the Illinois Association of School Administrators, the Illinois Principals Association, Special Olympics Illinois, the Illinois Association of School Business Officials, the Illinois Association for Supervision and Curriculum Development, the Illinois Manufacturing Extension Center, and the Association of Illinois Middle Grade Schools. Does not exclude from participation a person so employed on the effective date, for the duration of that employment. Effective immediately.

LRB097 20665 EFG 66703 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 Sections 15-107 and 16-106 as follows:

6 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

7 Sec. 15-107. Employee.

8 (a) "Employee" means any member of the educational,
9 administrative, secretarial, clerical, mechanical, labor or
10 other staff of an employer whose employment is permanent and
11 continuous or who is employed in a position in which services
12 are expected to be rendered on a continuous basis for at least
13 4 months or one academic term, whichever is less, who (A)
14 receives payment for personal services on a warrant issued
15 pursuant to a payroll voucher certified by an employer and
16 drawn by the State Comptroller upon the State Treasurer or by
17 an employer upon trust, federal or other funds, or (B) is on a
18 leave of absence without pay. Employment which is irregular,
19 intermittent or temporary shall not be considered continuous
20 for purposes of this paragraph.

21 However, a person is not an "employee" if he or she:

22 (1) is a student enrolled in and regularly attending
23 classes in a college or university which is an employer,

1 and is employed on a temporary basis at less than full
2 time;

3 (2) is currently receiving a retirement annuity or a
4 disability retirement annuity under Section 15-153.2 from
5 this System;

6 (3) is on a military leave of absence;

7 (4) is eligible to participate in the Federal Civil
8 Service Retirement System and is currently making
9 contributions to that system based upon earnings paid by an
10 employer;

11 (5) is on leave of absence without pay for more than 60
12 days immediately following termination of disability
13 benefits under this Article;

14 (6) is hired after June 30, 1979 as a public service
15 employment program participant under the Federal
16 Comprehensive Employment and Training Act and receives
17 earnings in whole or in part from funds provided under that
18 Act; ~~or~~

19 (7) is employed on or after July 1, 1991 to perform
20 services that are excluded by subdivision (a)(7)(f) or
21 (a)(19) of Section 210 of the federal Social Security Act
22 from the definition of employment given in that Section (42
23 U.S.C. 410); or.

24 (8) becomes employed after the effective date of this
25 amendatory Act of the 97th General Assembly by the Illinois
26 Association of School Administrators, the Illinois

1 Principals Association, Special Olympics Illinois, the
2 Illinois Association of School Business Officials, the
3 Illinois Association for Supervision and Curriculum
4 Development, the Illinois Manufacturing Extension Center,
5 or the Association of Illinois Middle Grade Schools, with
6 respect to that employment, but this does not exclude
7 participation in the System by a person so employed on that
8 effective date for the duration of that employment.

9 (b) Any employer may, by filing a written notice with the
10 board, exclude from the definition of "employee" all persons
11 employed pursuant to a federally funded contract entered into
12 after July 1, 1982 with a federal military department in a
13 program providing training in military courses to federal
14 military personnel on a military site owned by the United
15 States Government, if this exclusion is not prohibited by the
16 federally funded contract or federal laws or rules governing
17 the administration of the contract.

18 (c) Any person appointed by the Governor under the Civil
19 Administrative Code of the State is an employee, if he or she
20 is a participant in this system on the effective date of the
21 appointment.

22 (d) A participant on lay-off status under civil service
23 rules is considered an employee for not more than 120 days from
24 the date of the lay-off.

25 (e) A participant is considered an employee during (1) the
26 first 60 days of disability leave, (2) the period, not to

1 exceed one year, in which his or her eligibility for disability
2 benefits is being considered by the board or reviewed by the
3 courts, and (3) the period he or she receives disability
4 benefits under the provisions of Section 15-152, workers'
5 compensation or occupational disease benefits, or disability
6 income under an insurance contract financed wholly or partially
7 by the employer.

8 (f) Absences without pay, other than formal leaves of
9 absence, of less than 30 calendar days, are not considered as
10 an interruption of a person's status as an employee. If such
11 absences during any period of 12 months exceed 30 work days,
12 the employee status of the person is considered as interrupted
13 as of the 31st work day.

14 (g) A staff member whose employment contract requires
15 services during an academic term is to be considered an
16 employee during the summer and other vacation periods, unless
17 he or she declines an employment contract for the succeeding
18 academic term or his or her employment status is otherwise
19 terminated, and he or she receives no earnings during these
20 periods.

21 (h) An individual who was a participating employee employed
22 in the fire department of the University of Illinois's
23 Champaign-Urbana campus immediately prior to the elimination
24 of that fire department and who immediately after the
25 elimination of that fire department became employed by the fire
26 department of the City of Urbana or the City of Champaign shall

1 continue to be considered as an employee for purposes of this
2 Article for so long as the individual remains employed as a
3 firefighter by the City of Urbana or the City of Champaign. The
4 individual shall cease to be considered an employee under this
5 subsection (h) upon the first termination of the individual's
6 employment as a firefighter by the City of Urbana or the City
7 of Champaign.

8 (i) An individual who is employed on a full-time basis as
9 an officer or employee of a statewide teacher organization that
10 serves System participants or an officer of a national teacher
11 organization that serves System participants may participate
12 in the System and shall be deemed an employee, provided that
13 (1) the individual has previously earned creditable service
14 under this Article, (2) the individual files with the System an
15 irrevocable election to become a participant before the
16 effective date of this amendatory Act of the 97th General
17 Assembly, (3) the individual does not receive credit for that
18 employment under any other Article of this Code, and (4) the
19 individual first became a full-time employee of the teacher
20 organization and becomes a participant before the effective
21 date of this amendatory Act of the 97th General Assembly. An
22 employee under this subsection (i) is responsible for paying to
23 the System both (A) employee contributions based on the actual
24 compensation received for service with the teacher
25 organization and (B) employer contributions equal to the normal
26 costs (as defined in Section 15-155) resulting from that

1 service; all or any part of these contributions may be paid on
2 the employee's behalf or picked up for tax purposes (if
3 authorized under federal law) by the teacher organization.

4 A person who is an employee as defined in this subsection
5 (i) may establish service credit for similar employment prior
6 to becoming an employee under this subsection by paying to the
7 System for that employment the contributions specified in this
8 subsection, plus interest at the effective rate from the date
9 of service to the date of payment. However, credit shall not be
10 granted under this subsection for any such prior employment for
11 which the applicant received credit under any other provision
12 of this Code, or during which the applicant was on a leave of
13 absence under Section 15-113.2.

14 (j) A person employed by the State Board of Higher
15 Education in a position with the Illinois Century Network as of
16 June 30, 2004 shall be considered to be an employee for so long
17 as he or she remains continuously employed after that date by
18 the Department of Central Management Services in a position
19 with the Illinois Century Network, the Bureau of Communication
20 and Computer Services, or, if applicable, any successor bureau
21 and meets the requirements of subsection (a).

22 (Source: P.A. 97-651, eff. 1-5-12.)

23 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)

24 Sec. 16-106. Teacher. "Teacher": The following
25 individuals, provided that, for employment prior to July 1,

1 1990, they are employed on a full-time basis, or if not
2 full-time, on a permanent and continuous basis in a position in
3 which services are expected to be rendered for at least one
4 school term:

5 (1) Any educational, administrative, professional or
6 other staff employed in the public common schools included
7 within this system in a position requiring certification
8 under the law governing the certification of teachers;

9 (2) Any educational, administrative, professional or
10 other staff employed in any facility of the Department of
11 Children and Family Services or the Department of Human
12 Services, in a position requiring certification under the
13 law governing the certification of teachers, and any person
14 who (i) works in such a position for the Department of
15 Corrections, (ii) was a member of this System on May 31,
16 1987, and (iii) did not elect to become a member of the
17 State Employees' Retirement System pursuant to Section
18 14-108.2 of this Code; except that "teacher" does not
19 include any person who (A) becomes a security employee of
20 the Department of Human Services, as defined in Section
21 14-110, after June 28, 2001 (the effective date of Public
22 Act 92-14), or (B) becomes a member of the State Employees'
23 Retirement System pursuant to Section 14-108.2c of this
24 Code;

25 (3) Any regional superintendent of schools, assistant
26 regional superintendent of schools, State Superintendent

1 of Education; any person employed by the State Board of
2 Education as an executive; any executive of the boards
3 engaged in the service of public common school education in
4 school districts covered under this system of which the
5 State Superintendent of Education is an ex-officio member;

6 (4) Any person participating in the System on the
7 effective date of this amendatory Act of the 97th General
8 Assembly as an employee of a school board association
9 operating in compliance with Article 23 of the School Code
10 who is certificated under the law governing the
11 certification of teachers, for the duration of that
12 employment, but not a person who becomes so employed after
13 that date;

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

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

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

20 (6) Any educational, administrative, professional or
21 other staff employed by and under the supervision and
22 control of a regional superintendent of schools, provided
23 such employment position requires the person to be
24 certificated under the law governing the certification of
25 teachers and is in an educational program serving 2 or more
26 districts in accordance with a joint agreement authorized

1 by the School Code or by federal legislation;

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

8 (8) Any officer or employee of a statewide teacher
9 organization or officer of a national teacher organization
10 who is certified under the law governing certification of
11 teachers, provided: (i) the individual had previously
12 established creditable service under this Article, (ii)
13 the individual files with the system an irrevocable
14 election to become a member before the effective date of
15 this amendatory Act of the 97th General Assembly, (iii) the
16 individual does not receive credit for such service under
17 any other Article of this Code, and (iv) the individual
18 first became an officer or employee of the teacher
19 organization and becomes a member before the effective date
20 of this amendatory Act of the 97th General Assembly;

21 (9) Any educational, administrative, professional, or
22 other staff employed in a charter school operating in
23 compliance with the Charter Schools Law who is certificated
24 under the law governing the certification of teachers.

25 (10) Any person employed, on the effective date of this
26 amendatory Act of the 94th General Assembly, by the

1 Macon-Piatt Regional Office of Education in a
2 birth-through-age-three pilot program receiving funds
3 under Section 2-389 of the School Code who is required by
4 the Macon-Piatt Regional Office of Education to hold a
5 teaching certificate, provided that the Macon-Piatt
6 Regional Office of Education makes an election, within 6
7 months after the effective date of this amendatory Act of
8 the 94th General Assembly, to have the person participate
9 in the system. Any service established prior to the
10 effective date of this amendatory Act of the 94th General
11 Assembly for service as an employee of the Macon-Piatt
12 Regional Office of Education in a birth-through-age-three
13 pilot program receiving funds under Section 2-389 of the
14 School Code shall be considered service as a teacher if
15 employee and employer contributions have been received by
16 the system and the system has not refunded those
17 contributions.

18 An annuitant receiving a retirement annuity under this
19 Article or under Article 17 of this Code who is employed by a
20 board of education or other employer as permitted under Section
21 16-118 or 16-150.1 is not a "teacher" for purposes of this
22 Article. A person who has received a single-sum retirement
23 benefit under Section 16-136.4 of this Article is not a
24 "teacher" for purposes of this Article.

25 (Source: P.A. 97-651, eff. 1-5-12.)

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

1 becoming law.