



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2938

Introduced 2/1/2012, by Sen. Steven M. Landek

SYNOPSIS AS INTRODUCED:

| | |
|-------------------------|----------------------------------|
| 40 ILCS 5/2-105 | from Ch. 108 1/2, par. 2-105 |
| 40 ILCS 5/2-117 | from Ch. 108 1/2, par. 2-117 |
| 40 ILCS 5/2-117.4 new | |
| 40 ILCS 5/14-103.05 | from Ch. 108 1/2, par. 14-103.05 |
| 40 ILCS 5/14-104.14 new | |

Amends the General Assembly and State Employees Articles of the Illinois Pension Code. Provides for a person first elected or appointed to the Senate after the effective date of the amendatory Act to be a member of the State Employees' Retirement System of Illinois (rather than the General Assembly Retirement System). Allows a member of the Senate who is first appointed to that office on or after February 1, 2011 and who, prior to that date, has no service credit in the General Assembly Retirement System to transfer creditable service earned in the General Assembly Retirement System to the State Employees' Retirement System of Illinois for a limited time. Effective immediately.

LRB097 15497 JDS 60612 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 2-105, 2-117, and 14-103.05 and by adding Sections
6 2-117.4 and 14-104.14 as follows:

7 (40 ILCS 5/2-105) (from Ch. 108 1/2, par. 2-105)

8 Sec. 2-105. Member. "Member": Members of the General
9 Assembly of this State including persons who enter military
10 service while a member of the General Assembly and any person
11 serving as Governor, Lieutenant Governor, Secretary of State,
12 Treasurer, Comptroller, or Attorney General for the period of
13 service in such office.

14 Any person who has served for 10 or more years as Clerk or
15 Assistant Clerk of the House of Representatives, Secretary or
16 Assistant Secretary of the Senate, or any combination thereof,
17 may elect to become a member of this system while thenceforth
18 engaged in such service by filing a written election with the
19 board. Any person so electing shall be deemed an active member
20 of the General Assembly for the purpose of validating and
21 transferring any service credits earned under any of the funds
22 and systems established under Articles 3 through 18 of this
23 Code.

1 "Member" does not include a person first elected or
2 appointed to the Senate on or after the effective date of this
3 amendatory Act of the 97th General Assembly.

4 (Source: P.A. 85-1008.)

5 (40 ILCS 5/2-117) (from Ch. 108 1/2, par. 2-117)

6 Sec. 2-117. Participants - Election not to participate.

7 (a) Every person who was a member on November 1, 1947, or
8 in military service on such date, is subject to the provisions
9 of this system beginning upon such date, unless prior to such
10 date he or she filed with the board a written notice of
11 election not to participate.

12 Every person who becomes a member after November 1, 1947,
13 and who is then not a participant becomes a participant
14 beginning upon the date of becoming a member unless (i) 7
15 within 24 months from that date, he or she has filed with the
16 board a written notice of election not to participate or (ii)
17 within 6 months after the effective date of this amendatory Act
18 of the 97th General Assembly, he or she has transferred,
19 pursuant to Section 2-117.4, all of his or her credit
20 accumulated under this Article to Article 14.

21 (b) A member who has filed notice of an election not to
22 participate (and a former member who has not yet begun to
23 receive a retirement annuity under this Article) may become a
24 participant with respect to the period for which the member
25 elected not to participate upon filing with the board, before

1 April 1, 1993, a written rescission of the election not to
2 participate. Upon contributing an amount equal to the
3 contributions he or she would have made as a participant from
4 November 1, 1947, or the date of becoming a member, whichever
5 is later, to the date of becoming a participant, with interest
6 at the rate of 4% per annum until the contributions are paid,
7 the participant shall receive credit for service as a member
8 prior to the date of the rescission, both before and after
9 November 1, 1947. The required contributions shall be made
10 before commencement of the retirement annuity; otherwise no
11 credit for service prior to the date of participation shall be
12 granted.

13 (Source: P.A. 86-273; 87-1265.)

14 (40 ILCS 5/2-117.4 new)

15 Sec. 2-117.4. Transfer of creditable service to Article 14
16 fund.

17 (a) A member of the Senate who is first appointed to that
18 office on or after February 1, 2011 and who has accrued no
19 service credit under this Article before that date may, within
20 6 months after the effective date of this Section, apply for
21 the transfer of all of his or her creditable service
22 accumulated under this System to the system established under
23 Article 14. Such creditable service shall be transferred
24 forthwith. Payment by this System to the system established
25 under Article 14 shall be made at the same time and shall

1 consist of:

2 (1) the amounts credited to the participant under this
3 System through participant contributions, including
4 interest, if any, on the date of the transfer; plus

5 (2) employer contributions in an amount equal to the
6 amount determined under clause (1).

7 Participation in this System as to any credits transferred
8 under this Section shall terminate on the date of transfer.

9 (b) Any such employee who has credits and creditable
10 service under the System may establish additional credits and
11 creditable service for periods during which he or she could
12 have elected to participate but did not so elect. Credits and
13 creditable service may be established by payment to the System
14 of an amount equal to the contributions he or she would have
15 made if he or she had elected to participate, plus interest to
16 the date of payment.

17 (c) Any such employee may reinstate credits and creditable
18 service terminated upon receipt of a refund, by payment to the
19 System of the amount of the refund plus interest thereon to the
20 date of payment.

21 (40 ILCS 5/14-103.05) (from Ch. 108 1/2, par. 14-103.05)
22 Sec. 14-103.05. Employee.

23 (a) Any person employed by a Department who receives salary
24 for personal services rendered to the Department on a warrant
25 issued pursuant to a payroll voucher certified by a Department

1 and drawn by the State Comptroller upon the State Treasurer,
2 including an elected official described in subparagraph (d) of
3 Section 14-104, shall become an employee for purpose of
4 membership in the Retirement System on the first day of such
5 employment.

6 A person entering service on or after January 1, 1972 and
7 prior to January 1, 1984 shall become a member as a condition
8 of employment and shall begin making contributions as of the
9 first day of employment.

10 A person entering service on or after January 1, 1984
11 shall, upon completion of 6 months of continuous service which
12 is not interrupted by a break of more than 2 months, become a
13 member as a condition of employment. Contributions shall begin
14 the first of the month after completion of the qualifying
15 period.

16 A person employed by the Chicago Metropolitan Agency for
17 Planning on the effective date of this amendatory Act of the
18 95th General Assembly who was a member of this System as an
19 employee of the Chicago Area Transportation Study and makes an
20 election under Section 14-104.13 to participate in this System
21 for his or her employment with the Chicago Metropolitan Agency
22 for Planning.

23 The qualifying period of 6 months of service is not
24 applicable to: (1) a person who has been granted credit for
25 service in a position covered by the State Universities
26 Retirement System, the Teachers' Retirement System of the State

1 of Illinois, the General Assembly Retirement System, or the
2 Judges Retirement System of Illinois unless that service has
3 been forfeited under the laws of those systems; (2) a person
4 entering service on or after July 1, 1991 in a noncovered
5 position; (3) a person to whom Section 14-108.2a or 14-108.2b
6 applies; or (4) a person to whom subsection (a-5) of this
7 Section applies.

8 (a-5) A person entering service on or after December 1,
9 2010 shall become a member as a condition of employment and
10 shall begin making contributions as of the first day of
11 employment. A person serving in the qualifying period on
12 December 1, 2010 will become a member on December 1, 2010 and
13 shall begin making contributions as of December 1, 2010.

14 (a-10) A person first elected or appointed to the Senate on
15 or after the effective date of this amendatory Act of the 97th
16 General Assembly shall be deemed an employee under this
17 Article, unless that person elects not to participate in this
18 System.

19 (a-11) A person who elects to transfer his or her
20 creditable service to this System under Section 2-117.4 shall
21 be deemed an employee under this Article upon receipt of the
22 amounts transferred to the System under Section 2-117.4.

23 (b) The term "employee" does not include the following:

24 (1) except as otherwise provided in this Section,
25 members of the State Legislature, and persons electing to
26 become members of the General Assembly Retirement System

1 pursuant to Section 2-105;

2 (2) incumbents of offices normally filled by vote of
3 the people;

4 (3) except as otherwise provided in this Section, any
5 person appointed by the Governor with the advice and
6 consent of the Senate unless that person elects to
7 participate in this system;

8 (3.1) any person serving as a commissioner of an ethics
9 commission created under the State Officials and Employees
10 Ethics Act unless that person elects to participate in this
11 system with respect to that service as a commissioner;

12 (3.2) any person serving as a part-time employee in any
13 of the following positions: Legislative Inspector General,
14 Special Legislative Inspector General, employee of the
15 Office of the Legislative Inspector General, Executive
16 Director of the Legislative Ethics Commission, or staff of
17 the Legislative Ethics Commission, regardless of whether
18 he or she is in active service on or after July 8, 2004
19 (the effective date of Public Act 93-685), unless that
20 person elects to participate in this System with respect to
21 that service; in this item (3.2), a "part-time employee" is
22 a person who is not required to work at least 35 hours per
23 week;

24 (3.3) any person who has made an election under Section
25 1-123 and who is serving either as legal counsel in the
26 Office of the Governor or as Chief Deputy Attorney General;

1 (4) except as provided in Section 14-108.2 or
2 14-108.2c, any person who is covered or eligible to be
3 covered by the Teachers' Retirement System of the State of
4 Illinois, the State Universities Retirement System, or the
5 Judges Retirement System of Illinois;

6 (5) an employee of a municipality or any other
7 political subdivision of the State;

8 (6) any person who becomes an employee after June 30,
9 1979 as a public service employment program participant
10 under the Federal Comprehensive Employment and Training
11 Act and whose wages or fringe benefits are paid in whole or
12 in part by funds provided under such Act;

13 (7) enrollees of the Illinois Young Adult Conservation
14 Corps program, administered by the Department of Natural
15 Resources, authorized grantee pursuant to Title VIII of the
16 "Comprehensive Employment and Training Act of 1973", 29 USC
17 993, as now or hereafter amended;

18 (8) enrollees and temporary staff of programs
19 administered by the Department of Natural Resources under
20 the Youth Conservation Corps Act of 1970;

21 (9) any person who is a member of any professional
22 licensing or disciplinary board created under an Act
23 administered by the Department of Professional Regulation
24 or a successor agency or created or re-created after the
25 effective date of this amendatory Act of 1997, and who
26 receives per diem compensation rather than a salary,

1 notwithstanding that such per diem compensation is paid by
2 warrant issued pursuant to a payroll voucher; such persons
3 have never been included in the membership of this System,
4 and this amendatory Act of 1987 (P.A. 84-1472) is not
5 intended to effect any change in the status of such
6 persons;

7 (10) any person who is a member of the Illinois Health
8 Care Cost Containment Council, and receives per diem
9 compensation rather than a salary, notwithstanding that
10 such per diem compensation is paid by warrant issued
11 pursuant to a payroll voucher; such persons have never been
12 included in the membership of this System, and this
13 amendatory Act of 1987 is not intended to effect any change
14 in the status of such persons;

15 (11) any person who is a member of the Oil and Gas
16 Board created by Section 1.2 of the Illinois Oil and Gas
17 Act, and receives per diem compensation rather than a
18 salary, notwithstanding that such per diem compensation is
19 paid by warrant issued pursuant to a payroll voucher;

20 (12) a person employed by the State Board of Higher
21 Education in a position with the Illinois Century Network
22 as of June 30, 2004, who remains continuously employed
23 after that date by the Department of Central Management
24 Services in a position with the Illinois Century Network
25 and participates in the Article 15 system with respect to
26 that employment;

1 (13) any person who first becomes a member of the Civil
2 Service Commission on or after January 1, 2012;

3 (14) any person, other than the Director of Employment
4 Security, who first becomes a member of the Board of Review
5 of the Department of Employment Security on or after
6 January 1, 2012;

7 (15) any person who first becomes a member of the Civil
8 Service Commission on or after January 1, 2012;

9 (16) any person who first becomes a member of the
10 Illinois Liquor Control Commission on or after January 1,
11 2012;

12 (17) any person who first becomes a member of the
13 Secretary of State Merit Commission on or after January 1,
14 2012;

15 (18) any person who first becomes a member of the Human
16 Rights Commission on or after January 1, 2012;

17 (19) any person who first becomes a member of the State
18 Mining Board on or after January 1, 2012;

19 (20) any person who first becomes a member of the
20 Property Tax Appeal Board on or after January 1, 2012;

21 (21) any person who first becomes a member of the
22 Illinois Racing Board on or after January 1, 2012;

23 (22) any person who first becomes a member of the
24 Department of State Police Merit Board on or after January
25 1, 2012;

26 (23) any person who first becomes a member of the

1 Illinois State Toll Highway Authority on or after January
2 1, 2012; or

3 (24) any person who first becomes a member of the
4 Illinois State Board of Elections on or after January 1,
5 2012.

6 (c) An individual who represents or is employed as an
7 officer or employee of a statewide labor organization that
8 represents members of this System may participate in the System
9 and shall be deemed an employee, provided that (1) the
10 individual has previously earned creditable service under this
11 Article, (2) the individual files with the System an
12 irrevocable election to become a participant within 6 months
13 after the effective date of this amendatory Act of the 94th
14 General Assembly, and (3) the individual does not receive
15 credit for that employment under any other provisions of this
16 Code. An employee under this subsection (c) is responsible for
17 paying to the System both (i) employee contributions based on
18 the actual compensation received for service with the labor
19 organization and (ii) employer contributions based on the
20 percentage of payroll certified by the board; all or any part
21 of these contributions may be paid on the employee's behalf or
22 picked up for tax purposes (if authorized under federal law) by
23 the labor organization.

24 A person who is an employee as defined in this subsection
25 (c) may establish service credit for similar employment prior
26 to becoming an employee under this subsection by paying to the

1 System for that employment the contributions specified in this
2 subsection, plus interest at the effective rate from the date
3 of service to the date of payment. However, credit shall not be
4 granted under this subsection (c) for any such prior employment
5 for which the applicant received credit under any other
6 provision of this Code or during which the applicant was on a
7 leave of absence.

8 (Source: P.A. 96-1490, eff. 1-1-11; 97-609, eff. 1-1-12.)

9 (40 ILCS 5/14-104.14 new)

10 Sec. 14-104.14. Service transferred from Article 2.
11 Service also includes any period as a participant for which
12 credit was established under Article 2 of this Code, subject to
13 the following conditions:

14 (1) the credits accrued for such employment under
15 Article 2 have been transferred to this System; and

16 (2) the participant has contributed to this System an
17 amount equal to (A) employee contributions at the rate in
18 effect for noncoordinated eligible creditable service at
19 the date of membership in this System, based upon the
20 salary in effect during such period of service, plus (B)
21 the employer's share of the normal cost under this System
22 for each year that credit is being established, based on
23 the salary in effect during such period of service, plus
24 (C) regular interest, compounded annually, less (D) the
25 amount transferred on behalf of the participant under

1 Section 2-117.4.

2 Credit established under this Section shall be deemed
3 noncoordinated eligible creditable service as defined in
4 Section 14-110.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.