



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1523

Introduced 2/13/2013, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

| | |
|----------------------|-------------------------------|
| 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 |
| 30 ILCS 805/8.37 new | |

Amends the Chicago Teacher Article of the Illinois Pension Code. In the definition of "member", specifies that an employer may not reclassify a non-hourly employee as an hourly employee for the purpose of evading or avoiding its obligations. Provides that any certified teacher or staff employed by a corporate or non-profit entity engaged in the administration of a charter school shall presumptively be a participant in the Fund, unless the organization establishes to the satisfaction of the Board that an individual certified teacher or staff member is not working as a teacher or administrator directly or indirectly with the Charter School. Changes and imposes penalties for failure to submit payroll records and pension contributions on time. Provides that an employer in possession of member contributions deducted from payroll checks is holding Fund assets, and thus becomes a fiduciary over those assets. Requires each Charter School to appoint a Pension Officer. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

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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 changing
5 Sections 17-106 and 17-132 as follows:

6 (40 ILCS 5/17-106) (from Ch. 108 1/2, par. 17-106)

7 Sec. 17-106. Contributor, member or teacher.

8 "Contributor", "member" or "teacher": All members of the
9 teaching force of the city, including principals, assistant
10 principals, the general superintendent of schools, deputy
11 superintendents of schools, associate superintendents of
12 schools, assistant and district superintendents of schools,
13 members of the Board of Examiners, all other persons whose
14 employment requires a teaching certificate issued under the
15 laws governing the certification of teachers, any educational,
16 administrative, professional, or other staff employed in a
17 charter school operating in compliance with the Charter Schools
18 Law who is certified under the law governing the certification
19 of teachers, and employees of the Board, but excluding persons
20 contributing concurrently to any other public employee pension
21 system in Illinois for the same employment or receiving
22 retirement pensions under another Article of this Code for that
23 same employment, persons employed on an hourly basis (provided

1 that an Employer may not reclassify a non-hourly employee as an
2 hourly employee for the purpose of evading or avoiding its
3 obligations under this Article), and persons receiving
4 pensions from the Fund who are employed temporarily by an
5 Employer and not on an annual basis.

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

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

26 The changes made to this Section and Section 17-149 by this

1 amendatory Act of the 92nd General Assembly apply without
2 regard to whether the person was in service on or after the
3 effective date of this amendatory Act, notwithstanding
4 Sections 1-103.1 and 17-157.

5 (Source: P.A. 91-887, eff. 7-6-00; 92-416, eff. 8-17-01;
6 92-599, eff. 6-28-02.)

7 (40 ILCS 5/17-132) (from Ch. 108 1/2, par. 17-132)
8 Sec. 17-132. Payments and certification of salary
9 deductions.

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

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

20 Amounts not received by the 30th calendar day after the
21 predesignated payday shall be deemed delinquent and subject to
22 a late interest penalty consisting of interest, which shall
23 accrue on a monthly basis at the Fund's then effective
24 actuarial rate of return, and liquidated damages in the amount
25 of \$100 per day, not to exceed 20% of the principal

1 contributions due, which shall be mandatory except for good
2 cause shown and in the discretion of the Board ~~(calculated at~~
3 ~~the average short term rate of interest earned by the Fund for~~
4 ~~the calendar month preceding the calendar month in which the~~
5 ~~delinquency occurs) starting from the predesignated payday and~~
6 ~~ending on the date payment is received.~~

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

10 (c) The payroll records shall report (1) all pensionable
11 salary earned in that pay period, exclusive of salaries for
12 overtime, special services, or any employment on an optional
13 basis, such as in summer school; (2) adjustments to pensionable
14 salary, exclusive of salaries for overtime, special services,
15 or any employment on an optional basis, such as in summer
16 school, made in a pay period for any prior pay periods; (3)
17 pension contributions attributable to pensionable salary
18 earned in the reported pay period or the adjusted pay period as
19 required by subsection (b) of Section 17-131.

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

25 Each Charter School shall designate an administrator as a
26 "Pension Officer". The Pension Officer shall be responsible for

1 certifying payroll information and contributions due and
2 assuring resolution of reported payroll and contribution
3 deficiencies.

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

17 (Source: P.A. 97-30, eff. 7-1-11.)

18 Section 90. The State Mandates Act is amended by adding
19 Section 8.37 as follows:

20 (30 ILCS 805/8.37 new)

21 Sec. 8.37. Exempt mandate. Notwithstanding Sections 6 and 8
22 of this Act, no reimbursement by the State is required for the
23 implementation of any mandate created by this amendatory Act of
24 the 98th General Assembly.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.