



Sen. Daniel Biss

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1 AMENDMENT TO SENATE BILL 1687

2 AMENDMENT NO. _____. Amend Senate Bill 1687 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 15-126.1, 15-139, 15-139.5, and 15-168.2 as
6 follows:

7 (40 ILCS 5/15-126.1) (from Ch. 108 1/2, par. 15-126.1)

8 Sec. 15-126.1. Academic year. "Academic year": The
9 12-month period beginning on the first day of the fall term as
10 determined by each employer, or if the employer does not have
11 an academic program divided into terms, then beginning
12 September 1. For the purposes of Section 15-139.5 and
13 subsection (b) of Section 15-139, however, "academic year"
14 means the 12-month period beginning September 1.

15 (Source: P.A. 84-1472.)

1 (40 ILCS 5/15-139) (from Ch. 108 1/2, par. 15-139)

2 Sec. 15-139. Retirement annuities; cancellation; suspended
3 during employment.

4 (a) If an annuitant returns to employment for an employer
5 within 60 days after the beginning of the retirement annuity
6 payment period, the retirement annuity shall be cancelled, and
7 the annuitant shall refund to the System the total amount of
8 the retirement annuity payments which he or she received. If
9 the retirement annuity is cancelled, the participant shall
10 continue to participate in the System.

11 (b) If an annuitant retires prior to age 60 and receives or
12 becomes entitled to receive during any month compensation in
13 excess of the monthly retirement annuity (including any
14 automatic annual increases) for services performed after the
15 date of retirement for any employer under this System, that
16 portion of the monthly retirement annuity provided by employer
17 contributions shall not be payable.

18 If an annuitant retires at age 60 or over and receives or
19 becomes entitled to receive during any academic year
20 compensation in excess of the difference between his or her
21 highest annual earnings prior to retirement and his or her
22 annual retirement annuity computed under Rule 1, Rule 2, Rule
23 3, Rule 4, or Rule 5 of Section 15-136, or under Section
24 15-136.4, for services performed after the date of retirement
25 for any employer under this System, that portion of the monthly
26 retirement annuity provided by employer contributions shall be

1 reduced by an amount equal to the compensation that exceeds
2 such difference.

3 However, any remuneration received for serving as a member
4 of the Illinois Educational Labor Relations Board shall be
5 excluded from "compensation" for the purposes of this
6 subsection (b), and serving as a member of the Illinois
7 Educational Labor Relations Board shall not be deemed to be a
8 return to employment for the purposes of this Section. This
9 provision applies without regard to whether service was
10 terminated prior to the effective date of this amendatory Act
11 of 1991.

12 "Academic year", as used in this subsection (b), means the
13 12-month period beginning September 1.

14 (c) If an employer certifies that an annuitant has been
15 reemployed on a permanent and continuous basis or in a position
16 in which the annuitant is expected to serve for at least 9
17 months, the annuitant shall resume his or her status as a
18 participating employee and shall be entitled to all rights
19 applicable to participating employees upon filing with the
20 board an election to forgo all annuity payments during the
21 period of reemployment. Upon subsequent retirement, the
22 retirement annuity shall consist of the annuity which was
23 terminated by the reemployment, plus the additional retirement
24 annuity based upon service granted during the period of
25 reemployment, but the combined retirement annuity shall not
26 exceed the maximum annuity applicable on the date of the last

1 retirement.

2 The total service and earnings credited before and after
3 the initial date of retirement shall be considered in
4 determining eligibility of the employee or the employee's
5 beneficiary to benefits under this Article, and in calculating
6 final rate of earnings.

7 In determining the death benefit payable to a beneficiary
8 of an annuitant who again becomes a participating employee
9 under this Section, accumulated normal and additional
10 contributions shall be considered as the sum of the accumulated
11 normal and additional contributions at the date of initial
12 retirement and the accumulated normal and additional
13 contributions credited after that date, less the sum of the
14 annuity payments received by the annuitant.

15 The survivors insurance benefits provided under Section
16 15-145 shall not be applicable to an annuitant who resumes his
17 or her status as a participating employee, unless the
18 annuitant, at the time of initial retirement, has a survivors
19 insurance beneficiary who could qualify for such benefits.

20 If the participant's employment is terminated because of
21 circumstances other than death before 9 months from the date of
22 reemployment, the provisions of this Section regarding
23 resumption of status as a participating employee shall not
24 apply. The normal and survivors insurance contributions which
25 are deducted during this period shall be refunded to the
26 annuitant without interest, and subsequent benefits under this

1 Article shall be the same as those which were applicable prior
2 to the date the annuitant resumed employment.

3 The amendments made to this Section by this amendatory Act
4 of the 91st General Assembly apply without regard to whether
5 the annuitant was in service on or after the effective date of
6 this amendatory Act.

7 (Source: P.A. 97-933, eff. 8-10-12; 97-968, eff. 8-16-12.)

8 (40 ILCS 5/15-139.5)

9 Sec. 15-139.5. Return to work by affected annuitant; notice
10 and contribution by employer.

11 (a) An employer who employs or re-employs a person
12 receiving a retirement annuity from the System in an academic
13 year beginning on or after August 1, 2014 ~~2013~~ must notify the
14 System of that employment within 60 days after employing the
15 annuitant. The notice must include a summary ~~copy~~ of the
16 contract of employment ~~or, if no written contract of employment~~
17 ~~exists, then the notice must~~ specify the rate of compensation
18 and the anticipated length of employment of that annuitant. The
19 notice must specify whether the annuitant will be compensated
20 from federal, corporate, foundation, or trust funds or grants
21 of State funds that identify the principal investigator by
22 name. The notice must include the employer's determination of
23 whether or not the annuitant is an "affected annuitant" as
24 defined in subsection (b).

25 The employer must also record, document, and certify to the

1 System (i) ~~the number of paid days and paid weeks worked by the~~
2 ~~annuitant in the academic year,~~ (ii) the amount of compensation
3 paid to the annuitant for employment during the academic year,
4 and (ii) ~~(iii)~~ the amount of that compensation, if any, that
5 comes from either federal, corporate, foundation, or trust
6 funds or grants of State funds that identify the principal
7 investigator by name.

8 As used in this Section, "academic year" means the 12-month
9 period beginning September 1. ~~has the meaning ascribed to that~~
10 ~~term in Section 15-126.1; "paid day" means a day on which a~~
11 ~~person performs personal services for an employer and for which~~
12 ~~the person is compensated by the employer; and "paid week"~~
13 ~~means a calendar week in which a person has at least one paid~~
14 ~~day.~~

15 For the purposes of this Section, an annuitant whose
16 employment by an employer extends over more than one academic
17 year shall be deemed to be re-employed by that employer in each
18 of those academic years.

19 The System may specify the time, form, and manner of
20 providing the determinations, notifications, certifications,
21 and documentation required under this Section.

22 (b) A person receiving a retirement annuity from the System
23 becomes an "affected annuitant" on the first day of the
24 academic year following the academic year in which the
25 annuitant first meets ~~both~~ of the following condition
26 conditions:

1 (1) (Blank). ~~While receiving a retirement annuity~~
2 ~~under this Article, the annuitant has been employed on or~~
3 ~~after August 1, 2013 by one or more employers under this~~
4 ~~Article for a total of more than 18 paid weeks (which need~~
5 ~~not have been with the same employer or in the same~~
6 ~~academic year); except that any periods of employment for~~
7 ~~which the annuitant was compensated solely from federal,~~
8 ~~corporate, foundation, or trust funds or grants of State~~
9 ~~funds that identify the principal investigator by name are~~
10 ~~excluded.~~

11 (2) While receiving a retirement annuity under this
12 Article, the annuitant was employed on or after August 1,
13 2014 ~~2013~~ by one or more employers under this Article and
14 received or became entitled to receive during an academic
15 year compensation for that employment in excess of 40% of
16 his or her highest annual earnings prior to retirement;
17 except that compensation paid from federal, corporate,
18 foundation, or trust funds or grants of State funds that
19 identify the principal investigator by name is excluded.

20 A person who becomes an affected annuitant remains an
21 affected annuitant, except for any period during which the
22 person returns to active service and does not receive a
23 retirement annuity from the System.

24 (c) It is the obligation of the employer to determine
25 whether an annuitant is an affected annuitant before employing
26 the annuitant. For that purpose the employer may require the

1 annuitant to disclose and document his or her relevant prior
2 employment and earnings history. Failure of the employer to
3 make this determination correctly and in a timely manner or to
4 include this determination with the notification required
5 under subsection (a) does not excuse the employer from making
6 the contribution required under subsection (e).

7 The System may assist the employer in determining whether a
8 person is an affected annuitant. The System shall inform the
9 employer if it discovers that the employer's determination is
10 inconsistent with the employment and earnings information in
11 the System's records.

12 (d) Upon the request of an annuitant, the System shall
13 certify to the annuitant or the employer the following
14 information as reported by the employers, as that information
15 is indicated in the records of the System: (i) the annuitant's
16 highest annual earnings prior to retirement, (ii) ~~the number of~~
17 ~~paid weeks worked by the annuitant for an employer on or after~~
18 ~~August 1, 2013,~~ (iii) the compensation paid for that employment
19 in each academic year, and (iii) ~~(iv)~~ whether any of that
20 employment or compensation has been certified to the System as
21 being paid from federal, corporate, foundation, or trust funds
22 or grants of State funds that identify the principal
23 investigator by name. The System shall only be required to
24 certify information that is received from the employers.

25 (e) In addition to the requirements of subsection (a), an
26 employer who employs an affected annuitant must pay to the

1 System an employer contribution in the amount and manner
2 provided in this Section, unless the annuitant is compensated
3 by that employer solely from federal, corporate, foundation, or
4 trust funds or grants of State funds that identify the
5 principal investigator by name.

6 The employer contribution required under this Section for
7 employment of an affected annuitant in an academic year shall
8 be equal to 12 times the amount of the gross monthly retirement
9 annuity payable to the annuitant for the month in which the
10 first paid day of that employment in that academic year occurs,
11 after any reduction in that annuity that may be imposed under
12 subsection (b) of Section 15-139.

13 If an affected annuitant is employed by more than one
14 employer in an academic year, the employer contribution
15 required under this Section shall be divided among those
16 employers in proportion to their respective portions of the
17 total compensation paid to the affected annuitant for that
18 employment during that academic year.

19 If the System determines that an employer, without
20 reasonable justification, has failed to make the determination
21 of affected annuitant status correctly and in a timely manner,
22 or has failed to notify the System or to correctly document or
23 certify to the System any of the information required by this
24 Section, and that failure results in a delayed determination by
25 the System that a contribution is payable under this Section,
26 then the amount of that employer's contribution otherwise

1 determined under this Section shall be doubled.

2 The System shall deem a failure to correctly determine the
3 annuitant's status to be justified if the employer establishes
4 to the System's satisfaction that the employer, after due
5 diligence, made an erroneous determination that the annuitant
6 was not an affected annuitant due to reasonable reliance on
7 false or misleading information provided by the annuitant or
8 another employer, or an error in the annuitant's official
9 employment or earnings records.

10 (f) Whenever the System determines that an employer is
11 liable for a contribution under this Section, it shall so
12 notify the employer and certify the amount of the contribution.
13 The employer may pay the required contribution without interest
14 at any time within one year after receipt of the certification.
15 If the employer fails to pay within that year, then interest
16 shall be charged at a rate equal to the System's prescribed
17 rate of interest, compounded annually from the 366th day after
18 receipt of the certification from the System. Payment must be
19 concluded within 2 years after receipt of the certification by
20 the employer. If the employer fails to make complete payment,
21 including applicable interest, within 2 years, then the System
22 may, after giving notice to the employer, certify the
23 delinquent amount to the State Comptroller, and the Comptroller
24 shall thereupon deduct the certified delinquent amount from
25 State funds payable to the employer and pay them instead to the
26 System.

1 (g) If an employer is required to make a contribution to
2 the System as a result of employing an affected annuitant and
3 the annuitant later elects to forgo his or her annuity in that
4 same academic year pursuant to subsection (c) of Section
5 15-139, then the required contribution by the employer shall be
6 waived, and if the contribution has already been paid, it shall
7 be refunded to the employer without interest.

8 (h) Notwithstanding any other provision of this Article,
9 the employer contribution required under this Section shall not
10 be included in the determination of any benefit under this
11 Article or any other Article of this Code, regardless of
12 whether the annuitant returns to active service, and is in
13 addition to any other State or employer contribution required
14 under this Article.

15 (i) Notwithstanding any other provision of this Section to
16 the contrary, if an employer employs an affected annuitant in
17 order to continue critical operations in the event of either an
18 employee's unforeseen illness, accident, or death or a
19 catastrophic incident or disaster, then, for one and only one
20 academic year, the employer is not required to pay the
21 contribution set forth in this Section for that annuitant. The
22 employer shall, however, immediately notify the System upon
23 employing a person subject to this subsection (i). For the
24 purposes of this subsection (i), "critical operations" means
25 teaching services, medical services, student welfare services,
26 and any other services that are critical to the mission of the

1 employer.

2 (j) This Section shall be applied and coordinated with the
3 regulatory obligations contained in the State Universities
4 Civil Service Act. This Section shall not apply to an annuitant
5 if the employer of that annuitant provides documentation to the
6 System that (1) the annuitant is employed in a status
7 appointment position, as that term is defined in 80 Ill. Adm.
8 Code 250.80, and (2) due to obligations contained under the
9 State Universities Civil Service Act, the employer does not
10 have the ability to limit the earnings or duration of
11 employment for the annuitant while employed in the status
12 appointment position.

13 (Source: P.A. 97-968, eff. 8-16-12.)

14 (40 ILCS 5/15-168.2)

15 Sec. 15-168.2. Audit of employers. Beginning August 1, 2014
16 ~~2013~~, the System may audit the employment records and payroll
17 records of all employers. When the System audits an employer,
18 it shall specify the exact information it requires, which may
19 include but need not be limited to the names, titles, and
20 earnings history of every individual receiving compensation
21 from the employer. If an employer is audited by the System,
22 then the employer must provide to the System all necessary
23 documents and records within 60 calendar days after receiving
24 notification from the System. When the System audits an
25 employer, it shall send related correspondence by certified

1 mail.

2 (Source: P.A. 97-968, eff. 8-16-12.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".