

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 Section 15-139.5 as follows:

6 (40 ILCS 5/15-139.5)

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

9 (a) An employer who employs or re-employs a person
10 receiving a retirement annuity from the System in an academic
11 year beginning on or after August 1, 2013 must notify the
12 System of that employment within 60 days after employing the
13 annuitant. The notice must include a summary of the contract of
14 employment or specify the rate of compensation and the
15 anticipated length of employment of that annuitant. The notice
16 must specify whether the annuitant will be compensated from
17 federal, corporate, foundation, or trust funds or grants of
18 State funds that identify the principal investigator by name.
19 The notice must include the employer's determination of whether
20 or not the annuitant is an "affected annuitant" as defined in
21 subsection (b).

22 The employer must also record, document, and certify to the
23 System (i) the amount of compensation paid to the annuitant for

1 employment during the academic year, and (ii) the amount of
2 that compensation, if any, that comes from either federal,
3 corporate, foundation, or trust funds or grants of State funds
4 that identify the principal investigator by name.

5 As used in this Section, "academic year" means the 12-month
6 period beginning September 1.

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

11 The System may specify the time, form, and manner of
12 providing the determinations, notifications, certifications,
13 and documentation required under this Section.

14 (b) A person receiving a retirement annuity from the System
15 becomes an "affected annuitant" on the first day of the
16 academic year following the academic year in which the
17 annuitant first meets the following conditions ~~condition~~:

18 (1) (Blank).

19 (2) While receiving a retirement annuity under this
20 Article, the annuitant was employed on or after August 1,
21 2013 by one or more employers under this Article and
22 received or became entitled to receive during an academic
23 year compensation for that employment in excess of 40% of
24 his or her highest annual earnings prior to retirement;
25 except that compensation paid from federal, corporate,
26 foundation, or trust funds or grants of State funds that

1 identify the principal investigator by name is excluded.

2 (3) The annuitant received an annualized retirement
3 annuity under this Article of at least \$10,000.

4 A person who becomes an affected annuitant remains an
5 affected annuitant, except for any period during which the
6 person returns to active service and does not receive a
7 retirement annuity from the System.

8 (c) It is the obligation of the employer to determine
9 whether an annuitant is an affected annuitant before employing
10 the annuitant. For that purpose the employer may require the
11 annuitant to disclose and document his or her relevant prior
12 employment and earnings history. Failure of the employer to
13 make this determination correctly and in a timely manner or to
14 include this determination with the notification required
15 under subsection (a) does not excuse the employer from making
16 the contribution required under subsection (e).

17 The System may assist the employer in determining whether a
18 person is an affected annuitant. The System shall inform the
19 employer if it discovers that the employer's determination is
20 inconsistent with the employment and earnings information in
21 the System's records.

22 (d) Upon the request of an annuitant, the System shall
23 certify to the annuitant or the employer the following
24 information as reported by the employers, as that information
25 is indicated in the records of the System: (i) the annuitant's
26 highest annual earnings prior to retirement, (ii) the

1 compensation paid for that employment in each academic year,
2 and (iii) whether any of that employment or compensation has
3 been certified to the System as being paid from federal,
4 corporate, foundation, or trust funds or grants of State funds
5 that identify the principal investigator by name. The System
6 shall only be required to certify information that is received
7 from the employers.

8 (e) In addition to the requirements of subsection (a), an
9 employer who employs an affected annuitant must pay to the
10 System an employer contribution in the amount and manner
11 provided in this Section, unless the annuitant is compensated
12 by that employer solely from federal, corporate, foundation, or
13 trust funds or grants of State funds that identify the
14 principal investigator by name.

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

22 If an affected annuitant is employed by more than one
23 employer in an academic year, the employer contribution
24 required under this Section shall be divided among those
25 employers in proportion to their respective portions of the
26 total compensation paid to the affected annuitant for that

1 employment during that academic year.

2 If the System determines that an employer, without
3 reasonable justification, has failed to make the determination
4 of affected annuitant status correctly and in a timely manner,
5 or has failed to notify the System or to correctly document or
6 certify to the System any of the information required by this
7 Section, and that failure results in a delayed determination by
8 the System that a contribution is payable under this Section,
9 then the amount of that employer's contribution otherwise
10 determined under this Section shall be doubled.

11 The System shall deem a failure to correctly determine the
12 annuitant's status to be justified if the employer establishes
13 to the System's satisfaction that the employer, after due
14 diligence, made an erroneous determination that the annuitant
15 was not an affected annuitant due to reasonable reliance on
16 false or misleading information provided by the annuitant or
17 another employer, or an error in the annuitant's official
18 employment or earnings records.

19 (f) Whenever the System determines that an employer is
20 liable for a contribution under this Section, it shall so
21 notify the employer and certify the amount of the contribution.
22 The employer may pay the required contribution without interest
23 at any time within one year after receipt of the certification.
24 If the employer fails to pay within that year, then interest
25 shall be charged at a rate equal to the System's prescribed
26 rate of interest, compounded annually from the 366th day after

1 receipt of the certification from the System. Payment must be
2 concluded within 2 years after receipt of the certification by
3 the employer. If the employer fails to make complete payment,
4 including applicable interest, within 2 years, then the System
5 may, after giving notice to the employer, certify the
6 delinquent amount to the State Comptroller, and the Comptroller
7 shall thereupon deduct the certified delinquent amount from
8 State funds payable to the employer and pay them instead to the
9 System.

10 (g) If an employer is required to make a contribution to
11 the System as a result of employing an affected annuitant and
12 the annuitant later elects to forgo his or her annuity in that
13 same academic year pursuant to subsection (c) of Section
14 15-139, then the required contribution by the employer shall be
15 waived, and if the contribution has already been paid, it shall
16 be refunded to the employer without interest.

17 (h) Notwithstanding any other provision of this Article,
18 the employer contribution required under this Section shall not
19 be included in the determination of any benefit under this
20 Article or any other Article of this Code, regardless of
21 whether the annuitant returns to active service, and is in
22 addition to any other State or employer contribution required
23 under this Article.

24 (i) Notwithstanding any other provision of this Section to
25 the contrary, if an employer employs an affected annuitant in
26 order to continue critical operations in the event of either an

1 employee's unforeseen illness, accident, or death or a
2 catastrophic incident or disaster, then, for one and only one
3 academic year, the employer is not required to pay the
4 contribution set forth in this Section for that annuitant. The
5 employer shall, however, immediately notify the System upon
6 employing a person subject to this subsection (i). For the
7 purposes of this subsection (i), "critical operations" means
8 teaching services, medical services, student welfare services,
9 and any other services that are critical to the mission of the
10 employer.

11 (j) This Section shall be applied and coordinated with the
12 regulatory obligations contained in the State Universities
13 Civil Service Act. This Section shall not apply to an annuitant
14 if the employer of that annuitant provides documentation to the
15 System that (1) the annuitant is employed in a status
16 appointment position, as that term is defined in 80 Ill. Adm.
17 Code 250.80, and (2) due to obligations contained under the
18 State Universities Civil Service Act, the employer does not
19 have the ability to limit the earnings or duration of
20 employment for the annuitant while employed in the status
21 appointment position.

22 (Source: P.A. 97-968, eff. 8-16-12; 98-596, eff. 11-19-13.)