



Sen. Daniel Biss

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LRB098 19792 RPM 55984 a

1 AMENDMENT TO SENATE BILL 2887

2 AMENDMENT NO. _____. Amend Senate Bill 2887 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing 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

1 federal, corporate, foundation, or trust funds or grants of
2 State funds that identify the principal investigator by name.
3 The notice must include the employer's determination of whether
4 or not the annuitant is an "affected annuitant" as defined in
5 subsection (b).

6 The employer must also record, document, and certify to the
7 System (i) the amount of compensation paid to the annuitant for
8 employment during the academic year, and (ii) the amount of
9 that compensation, if any, that comes from either federal,
10 corporate, foundation, or trust funds or grants of State funds
11 that identify the principal investigator by name.

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

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

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

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

25 (1) (Blank).

26 (2) While receiving a retirement annuity under this

1 Article, the annuitant was employed on or after August 1,
2 2013 by one or more employers under this Article and
3 received or became entitled to receive during an academic
4 year compensation for that employment in excess of 40% of
5 his or her highest annual earnings prior to retirement;
6 except that compensation paid from federal, corporate,
7 foundation, or trust funds or grants of State funds that
8 identify the principal investigator by name is excluded.

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

11 A person who becomes an affected annuitant remains an
12 affected annuitant, except for any period during which the
13 person returns to active service and does not receive a
14 retirement annuity from the System.

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

24 The System may assist the employer in determining whether a
25 person is an affected annuitant. The System shall inform the
26 employer if it discovers that the employer's determination is

1 inconsistent with the employment and earnings information in
2 the System's records.

3 (d) Upon the request of an annuitant, the System shall
4 certify to the annuitant or the employer the following
5 information as reported by the employers, as that information
6 is indicated in the records of the System: (i) the annuitant's
7 highest annual earnings prior to retirement, (ii) the
8 compensation paid for that employment in each academic year,
9 and (iii) whether any of that employment or compensation has
10 been certified to the System as being paid from federal,
11 corporate, foundation, or trust funds or grants of State funds
12 that identify the principal investigator by name. The System
13 shall only be required to certify information that is received
14 from the employers.

15 (e) In addition to the requirements of subsection (a), an
16 employer who employs an affected annuitant must pay to the
17 System an employer contribution in the amount and manner
18 provided in this Section, unless the annuitant is compensated
19 by that employer solely from federal, corporate, foundation, or
20 trust funds or grants of State funds that identify the
21 principal investigator by name.

22 The employer contribution required under this Section for
23 employment of an affected annuitant in an academic year shall
24 be equal to 12 times the amount of the gross monthly retirement
25 annuity payable to the annuitant for the month in which the
26 first paid day of that employment in that academic year occurs,

1 after any reduction in that annuity that may be imposed under
2 subsection (b) of Section 15-139.

3 If an affected annuitant is employed by more than one
4 employer in an academic year, the employer contribution
5 required under this Section shall be divided among those
6 employers in proportion to their respective portions of the
7 total compensation paid to the affected annuitant for that
8 employment during that academic year.

9 If the System determines that an employer, without
10 reasonable justification, has failed to make the determination
11 of affected annuitant status correctly and in a timely manner,
12 or has failed to notify the System or to correctly document or
13 certify to the System any of the information required by this
14 Section, and that failure results in a delayed determination by
15 the System that a contribution is payable under this Section,
16 then the amount of that employer's contribution otherwise
17 determined under this Section shall be doubled.

18 The System shall deem a failure to correctly determine the
19 annuitant's status to be justified if the employer establishes
20 to the System's satisfaction that the employer, after due
21 diligence, made an erroneous determination that the annuitant
22 was not an affected annuitant due to reasonable reliance on
23 false or misleading information provided by the annuitant or
24 another employer, or an error in the annuitant's official
25 employment or earnings records.

26 (f) Whenever the System determines that an employer is

1 liable for a contribution under this Section, it shall so
2 notify the employer and certify the amount of the contribution.
3 The employer may pay the required contribution without interest
4 at any time within one year after receipt of the certification.
5 If the employer fails to pay within that year, then interest
6 shall be charged at a rate equal to the System's prescribed
7 rate of interest, compounded annually from the 366th day after
8 receipt of the certification from the System. Payment must be
9 concluded within 2 years after receipt of the certification by
10 the employer. If the employer fails to make complete payment,
11 including applicable interest, within 2 years, then the System
12 may, after giving notice to the employer, certify the
13 delinquent amount to the State Comptroller, and the Comptroller
14 shall thereupon deduct the certified delinquent amount from
15 State funds payable to the employer and pay them instead to the
16 System.

17 (g) If an employer is required to make a contribution to
18 the System as a result of employing an affected annuitant and
19 the annuitant later elects to forgo his or her annuity in that
20 same academic year pursuant to subsection (c) of Section
21 15-139, then the required contribution by the employer shall be
22 waived, and if the contribution has already been paid, it shall
23 be refunded to the employer without interest.

24 (h) Notwithstanding any other provision of this Article,
25 the employer contribution required under this Section shall not
26 be included in the determination of any benefit under this

1 Article or any other Article of this Code, regardless of
2 whether the annuitant returns to active service, and is in
3 addition to any other State or employer contribution required
4 under this Article.

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

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

1 employment for the annuitant while employed in the status
2 appointment position.

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