



Rep. Elaine Nekritz

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1 AMENDMENT TO SENATE BILL 777

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 777 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by  
5 changing Sections 15-112, 15-154, 15-157, 16-132, 16-155, and  
6 16-169.1 and by adding Sections 2-139.1, 14-135.11, 15-126.2,  
7 and 16-181.4 as follows:

8 (40 ILCS 5/2-139.1 new)

9 Sec. 2-139.1. To request information. To request from any  
10 member, annuitant, beneficiary, or employer such information  
11 as is necessary for the proper administration of the System.

12 (40 ILCS 5/14-135.11 new)

13 Sec. 14-135.11. To request information. To request from any  
14 member, annuitant, beneficiary, or employer such information  
15 as is necessary for the proper administration of the System.

1 (40 ILCS 5/15-112) (from Ch. 108 1/2, par. 15-112)

2 (Text of Section WITHOUT the changes made by P.A. 98-599,  
3 which has been held unconstitutional)

4 Sec. 15-112. Final rate of earnings. "Final rate of  
5 earnings":

6 (a) This subsection (a) applies only to a Tier 1 member.

7 For an employee who is paid on an hourly basis or who  
8 receives an annual salary in installments during 12 months of  
9 each academic year, the average annual earnings during the 48  
10 consecutive calendar month period ending with the last day of  
11 final termination of employment or the 4 consecutive academic  
12 years of service in which the employee's earnings were the  
13 highest, whichever is greater. For any other employee, the  
14 average annual earnings during the 4 consecutive academic years  
15 of service in which his or her earnings were the highest. For  
16 an employee with less than 48 months or 4 consecutive academic  
17 years of service, the average earnings during his or her entire  
18 period of service. The earnings of an employee with more than  
19 36 months of service under item (a) of Section 15-113.1 prior  
20 to the date of becoming a participant are, for such period,  
21 considered equal to the average earnings during the last 36  
22 months of such service.

23 (b) This subsection (b) applies to a Tier 2 member.

24 For an employee who is paid on an hourly basis or who  
25 receives an annual salary in installments during 12 months of

1 each academic year, the average annual earnings obtained by  
2 dividing by 8 the total earnings of the employee during the 96  
3 consecutive months in which the total earnings were the highest  
4 within the last 120 months prior to termination.

5 For any other employee, the average annual earnings during  
6 the 8 consecutive academic years within the 10 years prior to  
7 termination in which the employee's earnings were the highest.  
8 For an employee with less than 96 consecutive months or 8  
9 consecutive academic years of service, whichever is necessary,  
10 the average earnings during his or her entire period of  
11 service.

12 (c) For an employee on leave of absence with pay, or on  
13 leave of absence without pay who makes contributions during  
14 such leave, earnings are assumed to be equal to the basic  
15 compensation on the date the leave began.

16 (d) For an employee on disability leave, earnings are  
17 assumed to be equal to the basic compensation on the date  
18 disability occurs or the average earnings during the 24 months  
19 immediately preceding the month in which disability occurs,  
20 whichever is greater.

21 (e) For a Tier 1 member who retires on or after the  
22 effective date of this amendatory Act of 1997 with at least 20  
23 years of service as a firefighter or police officer under this  
24 Article, the final rate of earnings shall be the annual rate of  
25 earnings received by the participant on his or her last day as  
26 a firefighter or police officer under this Article, if that is

1 greater than the final rate of earnings as calculated under the  
2 other provisions of this Section.

3 (f) If a Tier 1 member is an employee for at least 6 months  
4 during the academic year in which his or her employment is  
5 terminated, the annual final rate of earnings shall be 25% of  
6 the sum of (1) the annual basic compensation for that year, and  
7 (2) the amount earned during the 36 months immediately  
8 preceding that year, if this is greater than the final rate of  
9 earnings as calculated under the other provisions of this  
10 Section.

11 (g) In the determination of the final rate of earnings for  
12 an employee, that part of an employee's earnings for any  
13 academic year beginning after June 30, 1997, which exceeds the  
14 employee's earnings with that employer for the preceding year  
15 by more than 20 percent shall be excluded; in the event that an  
16 employee has more than one employer this limitation shall be  
17 calculated separately for the earnings with each employer. In  
18 making such calculation, only the basic compensation of  
19 employees shall be considered, without regard to vacation or  
20 overtime or to contracts for summer employment.

21 (h) The following are not considered as earnings in  
22 determining final rate of earnings: (1) severance or separation  
23 pay, (2) retirement pay, (3) payment for unused sick leave, and  
24 (4) payments from an employer for the period used in  
25 determining final rate of earnings for any purpose other than  
26 (i) services rendered, (ii) leave of absence or vacation

1 granted during that period, and (iii) vacation of up to 56 work  
2 days allowed upon termination of employment; except that, if  
3 the benefit has been collectively bargained between the  
4 employer and the recognized collective bargaining agent  
5 pursuant to the Illinois Educational Labor Relations Act,  
6 payment received during a period of up to 2 academic years for  
7 unused sick leave may be considered as earnings in accordance  
8 with the applicable collective bargaining agreement, subject  
9 to the 20% increase limitation of this Section. Any unused sick  
10 leave considered as earnings under this Section shall not be  
11 taken into account in calculating service credit under Section  
12 15-113.4.

13 (i) Intermittent periods of service shall be considered as  
14 consecutive in determining final rate of earnings.

15 (Source: P.A. 98-92, eff. 7-16-13.)

16 (40 ILCS 5/15-126.2 new)

17 Sec. 15-126.2. Plan year. "Plan year": The 12-month period  
18 beginning on July 1 in any year, and ending on June 30 of the  
19 succeeding year.

20 (40 ILCS 5/15-154) (from Ch. 108 1/2, par. 15-154)

21 Sec. 15-154. Refunds.

22 (a) A participant whose status as an employee is  
23 terminated, regardless of cause, or who has been on lay off  
24 status for more than 120 days, and who is not on leave of

1 absence, is entitled to a refund of contributions upon  
2 application; except that not more than one such refund  
3 application may be made during any academic year.

4 Except as set forth in subsections (a-1) and (a-2), the  
5 refund shall be the sum of the accumulated normal, additional,  
6 and survivors insurance contributions, plus the entire  
7 contribution made by the participant under Section 15-113.3,  
8 less the amount of interest credited on these contributions  
9 each year in excess of 4 1/2% of the amount on which interest  
10 was calculated.

11 (a-1) A person who elects, in accordance with the  
12 requirements of Section 15-134.5, to participate in the  
13 portable benefit package and who becomes a participating  
14 employee under that retirement program upon the conclusion of  
15 the one-year waiting period applicable to the portable benefit  
16 package election shall have his or her refund calculated in  
17 accordance with the provisions of subsection (a-2).

18 (a-2) The refund payable to a participant described in  
19 subsection (a-1) shall be the sum of the participant's  
20 accumulated normal and additional contributions, as defined in  
21 Sections 15-116 and 15-117, plus the entire contribution made  
22 by the participant under Section 15-113.3. If the participant  
23 terminates with 5 or more years of service for employment as  
24 defined in Section 15-113.1, he or she shall also be entitled  
25 to a distribution of employer contributions in an amount equal  
26 to the sum of the accumulated normal and additional

1 contributions, as defined in Sections 15-116 and 15-117.

2 (b) Upon acceptance of a refund, the participant forfeits  
3 all accrued rights and credits in the System, and if  
4 subsequently reemployed, the participant shall be considered a  
5 new employee subject to all the qualifying conditions for  
6 participation and eligibility for benefits applicable to new  
7 employees. If such person again becomes a participating  
8 employee and continues as such for 2 years, or is employed by  
9 an employer and participates for at least 2 years in the  
10 Federal Civil Service Retirement System, all such rights,  
11 credits, and previous status as a participant shall be restored  
12 upon repayment of the amount of the refund, together with  
13 compound interest thereon from the date the refund was issued  
14 ~~received~~ to the date of repayment at the rate of 6% per annum  
15 through August 31, 1982, and at the effective rates after that  
16 date. When a participant in the portable benefit package who  
17 received a refund which included a distribution of employer  
18 contributions repays a refund pursuant to this Section,  
19 one-half of the amount repaid shall be deemed the member's  
20 reinstated accumulated normal and additional contributions and  
21 the other half shall be allocated as an employer contribution  
22 to the System, except that any amount repaid for previously  
23 purchased military service credit under Section 15-113.3 shall  
24 be accounted for as such.

25 (c) If a participant covered under the traditional benefit  
26 package has made survivors insurance contributions, but has no

1 survivors insurance beneficiary upon retirement, he or she  
2 shall be entitled to elect a refund of the accumulated  
3 survivors insurance contributions, or to elect an additional  
4 annuity the value of which is equal to the accumulated  
5 survivors insurance contributions. This election must be made  
6 prior to the date the person's retirement annuity is approved  
7 by the System.

8 (d) A participant, upon application, is entitled to a  
9 refund of his or her accumulated additional contributions  
10 attributable to the additional contributions described in the  
11 last sentence of subsection (c) of Section 15-157. Upon the  
12 acceptance of such a refund of accumulated additional  
13 contributions, the participant forfeits all rights and credits  
14 which may have accrued because of such contributions.

15 (e) A participant who terminates his or her employee status  
16 and elects to waive service credit under Section 15-154.2, is  
17 entitled to a refund of the accumulated normal, additional and  
18 survivors insurance contributions, if any, which were credited  
19 the participant for this service, or to an additional annuity  
20 the value of which is equal to the accumulated normal,  
21 additional and survivors insurance contributions, if any;  
22 except that not more than one such refund application may be  
23 made during any academic year. Upon acceptance of this refund,  
24 the participant forfeits all rights and credits accrued because  
25 of this service.

26 (f) If a police officer or firefighter receives a



1 retirement annuity under Rule 1 or 3 of Section 15-136, he or  
2 she shall be entitled at retirement to a refund of the  
3 difference between his or her accumulated normal contributions  
4 and the normal contributions which would have accumulated had  
5 such person filed a waiver of the retirement formula provided  
6 by Rule 4 of Section 15-136.

7 (g) If, at the time of retirement, a participant would be  
8 entitled to a retirement annuity under Rule 1, 2, 3, 4, or 5 of  
9 Section 15-136, or under Section 15-136.4, that exceeds the  
10 maximum specified in clause (1) of subsection (c) of Section  
11 15-136, he or she shall be entitled to a refund of the employee  
12 contributions, if any, paid under Section 15-157 after the date  
13 upon which continuance of such contributions would have  
14 otherwise caused the retirement annuity to exceed this maximum,  
15 plus compound interest at the effective rates.

16 (Source: P.A. 92-16, eff. 6-28-01; 92-424, eff. 8-17-01;  
17 93-347, eff. 7-24-03.)

18 (40 ILCS 5/15-157) (from Ch. 108 1/2, par. 15-157)

19 (Text of Section WITHOUT the changes made by P.A. 98-599,  
20 which has been held unconstitutional)

21 Sec. 15-157. Employee Contributions.

22 (a) Each participating employee shall make contributions  
23 towards the retirement benefits payable under the retirement  
24 program applicable to the employee from each payment of  
25 earnings applicable to employment under this system on and

1 after the date of becoming a participant as follows: Prior to  
2 September 1, 1949, 3 1/2% of earnings; from September 1, 1949  
3 to August 31, 1955, 5%; from September 1, 1955 to August 31,  
4 1969, 6%; from September 1, 1969, 6 1/2%. These contributions  
5 are to be considered as normal contributions for purposes of  
6 this Article.

7 Each participant who is a police officer or firefighter  
8 shall make normal contributions of 8% of each payment of  
9 earnings applicable to employment as a police officer or  
10 firefighter under this system on or after September 1, 1981,  
11 unless he or she files with the board within 60 days after the  
12 effective date of this amendatory Act of 1991 or 60 days after  
13 the board receives notice that he or she is employed as a  
14 police officer or firefighter, whichever is later, a written  
15 notice waiving the retirement formula provided by Rule 4 of  
16 Section 15-136. This waiver shall be irrevocable. If a  
17 participant had met the conditions set forth in Section  
18 15-132.1 prior to the effective date of this amendatory Act of  
19 1991 but failed to make the additional normal contributions  
20 required by this paragraph, he or she may elect to pay the  
21 additional contributions plus compound interest at the  
22 effective rate. If such payment is received by the board, the  
23 service shall be considered as police officer service in  
24 calculating the retirement annuity under Rule 4 of Section  
25 15-136. While performing service described in clause (i) or  
26 (ii) of Rule 4 of Section 15-136, a participating employee

1 shall be deemed to be employed as a firefighter for the purpose  
2 of determining the rate of employee contributions under this  
3 Section.

4 (b) Starting September 1, 1969, each participating  
5 employee shall make additional contributions of 1/2 of 1% of  
6 earnings to finance a portion of the cost of the annual  
7 increases in retirement annuity provided under Section 15-136,  
8 except that with respect to participants in the self-managed  
9 plan this additional contribution shall be used to finance the  
10 benefits obtained under that retirement program.

11 (c) In addition to the amounts described in subsections (a)  
12 and (b) of this Section, each participating employee shall make  
13 contributions of 1% of earnings applicable under this system on  
14 and after August 1, 1959. The contributions made under this  
15 subsection (c) shall be considered as survivor's insurance  
16 contributions for purposes of this Article if the employee is  
17 covered under the traditional benefit package, and such  
18 contributions shall be considered as additional contributions  
19 for purposes of this Article if the employee is participating  
20 in the self-managed plan or has elected to participate in the  
21 portable benefit package and has completed the applicable  
22 one-year waiting period. Contributions in excess of \$80 during  
23 any fiscal year beginning before August 31, 1969 and in excess  
24 of \$120 during any fiscal year thereafter until September 1,  
25 1971 shall be considered as additional contributions for  
26 purposes of this Article.

1 (d) If the board by board rule so permits and subject to  
2 such conditions and limitations as may be specified in its  
3 rules, a participant may make other additional contributions of  
4 such percentage of earnings or amounts as the participant shall  
5 elect in a written notice thereof received by the board.

6 (e) That fraction of a participant's total accumulated  
7 normal contributions, the numerator of which is equal to the  
8 number of years of service in excess of that which is required  
9 to qualify for the maximum retirement annuity, and the  
10 denominator of which is equal to the total service of the  
11 participant, shall be considered as accumulated additional  
12 contributions. The determination of the applicable maximum  
13 annuity and the adjustment in contributions required by this  
14 provision shall be made as of the date of the participant's  
15 retirement.

16 (f) Notwithstanding the foregoing, a participating  
17 employee shall not be required to make contributions under this  
18 Section after the date upon which continuance of such  
19 contributions would otherwise cause his or her retirement  
20 annuity to exceed the maximum retirement annuity as specified  
21 in clause (1) of subsection (c) of Section 15-136.

22 (g) A participant ~~participating employee~~ may make  
23 contributions for the purchase of service credit under this  
24 Article; however, only a participating employee may make  
25 optional contributions under subsection (b) of Section  
26 15-157.1 of this Article.

1           (h) A Tier 2 member shall not make contributions on  
2 earnings that exceed the limitation as prescribed under  
3 subsection (b) of Section 15-111 of this Article .

4           (Source: P.A. 98-92, eff. 7-16-13.)

5           (40 ILCS 5/16-132) (from Ch. 108 1/2, par. 16-132)

6           (Text of Section WITHOUT the changes made by P.A. 98-599,  
7 which has been held unconstitutional)

8           Sec. 16-132. Retirement annuity eligibility. A member who  
9 has at least 20 years of creditable service is entitled to a  
10 retirement annuity upon or after attainment of age 55. A member  
11 who has at least 10 but less than 20 years of creditable  
12 service is entitled to a retirement annuity upon or after  
13 attainment of age 60. A member who has at least 5 but less than  
14 10 years of creditable service is entitled to a retirement  
15 annuity upon or after attainment of age 62. A member who (i)  
16 has earned during the period immediately preceding the last day  
17 of service at least one year of contributing creditable service  
18 as an employee of a department as defined in Section 14-103.04,  
19 (ii) has earned at least 5 years of contributing creditable  
20 service as an employee of a department as defined in Section  
21 14-103.04, and (iii) retires on or after January 1, 2001 is  
22 entitled to a retirement annuity upon or after attainment of an  
23 age which, when added to the number of years of his or her  
24 total creditable service, equals at least 85. Portions of years  
25 shall be counted as decimal equivalents.

1           A member who is eligible to receive a retirement annuity of  
2 at least 74.6% of final average salary and will attain age 55  
3 on or before December 31 during the year which commences on  
4 July 1 shall be deemed to attain age 55 on the preceding June  
5 1.

6           A member meeting the above eligibility conditions is  
7 entitled to a retirement annuity upon written application to  
8 the board setting forth the date the member wishes the  
9 retirement annuity to commence. However, the effective date of  
10 the retirement annuity shall be (i) no earlier than the day  
11 following the last day of creditable service, regardless of the  
12 date of official termination of employment, and (ii) in the  
13 case of a member who is not eligible to retire on the effective  
14 date of this amendatory Act of the 99th General Assembly, no  
15 more than 2 years before the date of receipt by the System of  
16 the application for retirement.

17           For the purpose of Section 1-103.1, the change to this  
18 Section made by this amendatory Act of the 99th General  
19 Assembly is limited to annuities granted on or after the  
20 effective date of this amendatory Act, without regard to  
21 whether the member is in service on or after that effective  
22 date.

23           To be eligible for a retirement annuity, a member shall not  
24 be employed as a teacher in the schools included under this  
25 System or under Article 17, except (i) as provided in Section  
26 16-118 or 16-150.1, (ii) if the member is disabled (in which

1 event, eligibility for salary must cease), or (iii) if the  
2 System is required by federal law to commence payment due to  
3 the member's age; the changes to this sentence made by this  
4 amendatory Act of the 93rd General Assembly apply without  
5 regard to whether the member terminated employment before or  
6 after its effective date.

7 (Source: P.A. 93-320, eff. 7-23-03.)

8 (40 ILCS 5/16-155) (from Ch. 108 1/2, par. 16-155)

9 Sec. 16-155. Report to system and payment of deductions.

10 (a) The governing body of each school district shall make  
11 two deposits each month. The deposit for member contributions  
12 for salary paid between the first and the fifteenth of the  
13 month is due by the 25th of the month. The deposit of member  
14 contributions for salary paid between the sixteenth and last  
15 day of the month is due by the 10th of the following month. All  
16 required contributions for salary earned during a school term  
17 are due by July 10 next following the close of such school  
18 term.

19 The governing body of each State institution coming under  
20 this retirement system, the State Comptroller or other State  
21 officer certifying payroll vouchers including payments of  
22 salary or wages to teachers, and any other employer of  
23 teachers, shall, monthly, forward to the secretary of the  
24 retirement system the member contributions required under this  
25 Article.

1           Each employer specified above shall, prior to August 15 of  
2 each year, forward to the System a detailed statement, verified  
3 in all cases of school districts by the secretary or clerk of  
4 the district, of the amounts so contributed since the period  
5 covered by the last previous annual statement, together with  
6 required contributions not yet forwarded, such payments being  
7 payable to the System.

8           The board may prescribe rules governing the form, content,  
9 investigation, control, and supervision of such statements and  
10 may establish additional interim employer reporting  
11 requirements as the Board deems necessary. If no teacher in a  
12 school district comes under the provisions of this Article, the  
13 governing body of the district shall so state under the oath of  
14 its secretary to this system, and shall at the same time  
15 forward a copy of the statement to the regional superintendent  
16 of schools.

17           (b) If the governing body of an employer that is not a  
18 State agency fails to forward such required contributions  
19 within the time permitted in subsection (a) above, the System  
20 shall notify the employer of an additional amount due, equal to  
21 the greater of the following: (1) an amount representing the  
22 interest lost by the system due to late forwarding of  
23 contributions, calculated for the number of days which the  
24 employer is late in forwarding contributions at a rate of  
25 interest prescribed by the board, based on its investment  
26 experience; or (2) \$50.



1 (c) If the system, on August 15, is not in receipt of the  
2 detailed statements required under this Section of any school  
3 district or other employing unit, such school district or other  
4 employing unit shall pay to the system an amount equal to \$250  
5 for each day that elapses from August 15, until the day such  
6 statement is filed with the system.

7 (Source: P.A. 90-448, eff. 8-16-97.)

8 (40 ILCS 5/16-169.1)

9 Sec. 16-169.1. Testimony and the production of records. The  
10 secretary of the Board shall have the power to issue subpoenas  
11 to compel the attendance of witnesses and the production of  
12 documents and records, including law enforcement records  
13 maintained by law enforcement agencies, in conjunction with the  
14 determination of employer payments required under subsection  
15 (f) of Section 16-158, a disability claim, an administrative  
16 review proceeding, an attempt to obtain information to assist  
17 in the collection of sums due to the System, or a felony  
18 forfeiture investigation. The fees of witnesses for attendance  
19 and travel shall be the same as the fees of witnesses before  
20 the circuit courts of this State and shall be paid by the party  
21 seeking the subpoena. The Board may apply to any circuit court  
22 in the State for an order requiring compliance with a subpoena  
23 issued under this Section. Subpoenas issued under this Section  
24 shall be subject to applicable provisions of the Code of Civil  
25 Procedure.

1 (Source: P.A. 94-1057, eff. 7-31-06.)

2 (40 ILCS 5/16-181.4 new)

3 Sec. 16-181.4. To request information. To request such  
4 information from any member, annuitant, beneficiary, or  
5 employer as is necessary for the proper administration of the  
6 System.

7 (40 ILCS 5/16-149.6 rep.)

8 Section 10. The Illinois Pension Code is amended by  
9 repealing Section 16-149.6.

10 Section 97. Severability. The provisions of this Act are  
11 severable under Section 1.31 of the Statute on Statutes.

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law."