



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, 15-168, 16-132,
6 16-155, and 16-169.1 and by adding Sections 2-139.1, 14-135.11,
7 15-126.2, 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 5/15-168) (from Ch. 108 1/2, par. 15-168)

6 Sec. 15-168. To require information. To require such
7 information as shall be necessary for the proper operation of
8 the system from any participant or benefit recipient
9 ~~beneficiary~~ or from any employer of a current or former
10 participant.

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

12 (40 ILCS 5/16-132) (from Ch. 108 1/2, par. 16-132)

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

15 Sec. 16-132. Retirement annuity eligibility. A member who
16 has at least 20 years of creditable service is entitled to a
17 retirement annuity upon or after attainment of age 55. A member
18 who has at least 10 but less than 20 years of creditable
19 service is entitled to a retirement annuity upon or after
20 attainment of age 60. A member who has at least 5 but less than
21 10 years of creditable service is entitled to a retirement
22 annuity upon or after attainment of age 62. A member who (i)
23 has earned during the period immediately preceding the last day
24 of service at least one year of contributing creditable service

1 as an employee of a department as defined in Section 14-103.04,
2 (ii) has earned at least 5 years of contributing creditable
3 service as an employee of a department as defined in Section
4 14-103.04, and (iii) retires on or after January 1, 2001 is
5 entitled to a retirement annuity upon or after attainment of an
6 age which, when added to the number of years of his or her
7 total creditable service, equals at least 85. Portions of years
8 shall be counted as decimal equivalents.

9 A member who is eligible to receive a retirement annuity of
10 at least 74.6% of final average salary and will attain age 55
11 on or before December 31 during the year which commences on
12 July 1 shall be deemed to attain age 55 on the preceding June
13 1.

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

25 For the purpose of Section 1-103.1, the change to this
26 Section made by this amendatory Act of the 99th General

1 Assembly is limited to annuities granted on or after the
2 effective date of this amendatory Act, without regard to
3 whether the member is in service on or after that effective
4 date.

5 To be eligible for a retirement annuity, a member shall not
6 be employed as a teacher in the schools included under this
7 System or under Article 17, except (i) as provided in Section
8 16-118 or 16-150.1, (ii) if the member is disabled (in which
9 event, eligibility for salary must cease), or (iii) if the
10 System is required by federal law to commence payment due to
11 the member's age; the changes to this sentence made by this
12 amendatory Act of the 93rd General Assembly apply without
13 regard to whether the member terminated employment before or
14 after its effective date.

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

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

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

18 (a) The governing body of each school district shall make
19 two deposits each month. The deposit for member contributions
20 for salary paid between the first and the fifteenth of the
21 month is due by the 25th of the month. The deposit of member
22 contributions for salary paid between the sixteenth and last
23 day of the month is due by the 10th of the following month. All
24 required contributions for salary earned during a school term
25 are due by July 10 next following the close of such school

1 term.

2 The governing body of each State institution coming under
3 this retirement system, the State Comptroller or other State
4 officer certifying payroll vouchers including payments of
5 salary or wages to teachers, and any other employer of
6 teachers, shall, monthly, forward to the secretary of the
7 retirement system the member contributions required under this
8 Article.

9 Each employer specified above shall, prior to August 15 of
10 each year, forward to the System a detailed statement, verified
11 in all cases of school districts by the secretary or clerk of
12 the district, of the amounts so contributed since the period
13 covered by the last previous annual statement, together with
14 required contributions not yet forwarded, such payments being
15 payable to the System.

16 The board may prescribe rules governing the form, content,
17 investigation, control, and supervision of such statements and
18 may establish additional interim employer reporting
19 requirements as the Board deems necessary. If no teacher in a
20 school district comes under the provisions of this Article, the
21 governing body of the district shall so state under the oath of
22 its secretary to this system, and shall at the same time
23 forward a copy of the statement to the regional superintendent
24 of schools.

25 (b) If the governing body of an employer that is not a
26 State agency fails to forward such required contributions

1 within the time permitted in subsection (a) above, the System
2 shall notify the employer of an additional amount due, equal to
3 the greater of the following: (1) an amount representing the
4 interest lost by the system due to late forwarding of
5 contributions, calculated for the number of days which the
6 employer is late in forwarding contributions at a rate of
7 interest prescribed by the board, based on its investment
8 experience; or (2) \$50.

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

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

16 (40 ILCS 5/16-169.1)

17 Sec. 16-169.1. Testimony and the production of records. The
18 secretary of the Board shall have the power to issue subpoenas
19 to compel the attendance of witnesses and the production of
20 documents and records, including law enforcement records
21 maintained by law enforcement agencies, in conjunction with the
22 determination of employer payments required under subsection
23 (f) of Section 16-158, a disability claim, an administrative
24 review proceeding, an attempt to obtain information to assist
25 in the collection of sums due to the System, or a felony

1 forfeiture investigation. The fees of witnesses for attendance
2 and travel shall be the same as the fees of witnesses before
3 the circuit courts of this State and shall be paid by the party
4 seeking the subpoena. The Board may apply to any circuit court
5 in the State for an order requiring compliance with a subpoena
6 issued under this Section. Subpoenas issued under this Section
7 shall be subject to applicable provisions of the Code of Civil
8 Procedure.

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

10 (40 ILCS 5/16-181.4 new)

11 Sec. 16-181.4. To request information. To request such
12 information from any member, annuitant, beneficiary, or
13 employer as is necessary for the proper administration of the
14 System.

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

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."