



Sen. Bill Cunningham

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09900SB2156sam002

LRB099 13062 RPS 38722 a

1 AMENDMENT TO SENATE BILL 2156

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2156 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by  
5 changing Sections 15-106, 15-107, 15-110, 15-111, 15-168, and  
6 15-168.2 and by adding Section 15-111.5 as follows:

7 (40 ILCS 5/15-106) (from Ch. 108 1/2, par. 15-106)

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

10 Sec. 15-106. Employer. "Employer": The University of  
11 Illinois, Southern Illinois University, Chicago State  
12 University, Eastern Illinois University, Governors State  
13 University, Illinois State University, Northeastern Illinois  
14 University, Northern Illinois University, Western Illinois  
15 University, the State Board of Higher Education, the Illinois  
16 Mathematics and Science Academy, the University Civil Service

1 Merit Board, the Board of Trustees of the State Universities  
2 Retirement System, the Illinois Community College Board,  
3 community college boards, any association of community college  
4 boards organized under Section 3-55 of the Public Community  
5 College Act, the Board of Examiners established under the  
6 Illinois Public Accounting Act, and, only during the period for  
7 which employer contributions required under Section 15-155 are  
8 paid, the following organizations: the alumni associations,  
9 the foundations and the athletic associations which are  
10 affiliated with the universities and colleges included in this  
11 Section as employers. An individual that begins employment on  
12 or after the effective date of this amendatory Act of the 99th  
13 General Assembly with any association of community college  
14 boards organized under Section 3-55 of the Public Community  
15 College Act, the Association of Illinois Middle-Grade Schools,  
16 the Illinois Association of School Administrators, the  
17 Illinois Association for Supervision and Curriculum  
18 Development, the Illinois Principals Association, the Illinois  
19 Association of School Business Officials, the Illinois Special  
20 Olympics, or an entity not defined as an employer in this  
21 Section shall not be deemed an employee for the purposes of  
22 this Article with respect to that employment and shall not be  
23 eligible to participate in the System with respect to that  
24 employment; provided, however, that those individuals who are  
25 both employed by such an entity and are participating in the  
26 System with respect to that employment on the effective date of

1 this amendatory Act of the 99th General Assembly shall be  
2 allowed to continue as participants in the System for the  
3 duration of that employment.

4 A department as defined in Section 14-103.04 is an employer  
5 for any person appointed by the Governor under the Civil  
6 Administrative Code of Illinois who is a participating employee  
7 as defined in Section 15-109. The Department of Central  
8 Management Services is an employer with respect to persons  
9 employed by the State Board of Higher Education in positions  
10 with the Illinois Century Network as of June 30, 2004 who  
11 remain continuously employed after that date by the Department  
12 of Central Management Services in positions with the Illinois  
13 Century Network, the Bureau of Communication and Computer  
14 Services, or, if applicable, any successor bureau.

15 The cities of Champaign and Urbana shall be considered  
16 employers, but only during the period for which contributions  
17 are required to be made under subsection (b-1) of Section  
18 15-155 and only with respect to individuals described in  
19 subsection (h) of Section 15-107.

20 (Source: P.A. 95-369, eff. 8-23-07; 95-728, eff. 7-1-08 - See  
21 Sec. 999.)

22 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

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

25 Sec. 15-107. Employee.

1           (a) "Employee" means any member of the educational,  
2 administrative, secretarial, clerical, mechanical, labor or  
3 other staff of an employer whose employment is permanent and  
4 continuous or who is employed in a position in which services  
5 are expected to be rendered on a continuous basis for at least  
6 4 months or one academic term, whichever is less, who (A)  
7 receives payment for personal services on a warrant issued  
8 pursuant to a payroll voucher certified by an employer and  
9 drawn by the State Comptroller upon the State Treasurer or by  
10 an employer upon trust, federal or other funds, or (B) is on a  
11 leave of absence without pay. Employment which is irregular,  
12 intermittent or temporary shall not be considered continuous  
13 for purposes of this paragraph.

14           However, a person is not an "employee" if he or she:

15           (1) is a student enrolled in and regularly attending  
16 classes in a college or university which is an employer,  
17 and is employed on a temporary basis at less than full  
18 time;

19           (2) is currently receiving a retirement annuity or a  
20 disability retirement annuity under Section 15-153.2 from  
21 this System;

22           (3) is on a military leave of absence;

23           (4) is eligible to participate in the Federal Civil  
24 Service Retirement System and is currently making  
25 contributions to that system based upon earnings paid by an  
26 employer;

1           (5) is on leave of absence without pay for more than 60  
2           days immediately following termination of disability  
3           benefits under this Article;

4           (6) is hired after June 30, 1979 as a public service  
5           employment program participant under the Federal  
6           Comprehensive Employment and Training Act and receives  
7           earnings in whole or in part from funds provided under that  
8           Act; or

9           (7) is employed on or after July 1, 1991 to perform  
10          services that are excluded by subdivision (a)(7)(f) or  
11          (a)(19) of Section 210 of the federal Social Security Act  
12          from the definition of employment given in that Section (42  
13          U.S.C. 410).

14          (b) Any employer may, by filing a written notice with the  
15          board, exclude from the definition of "employee" all persons  
16          employed pursuant to a federally funded contract entered into  
17          after July 1, 1982 with a federal military department in a  
18          program providing training in military courses to federal  
19          military personnel on a military site owned by the United  
20          States Government, if this exclusion is not prohibited by the  
21          federally funded contract or federal laws or rules governing  
22          the administration of the contract.

23          (c) Any person appointed by the Governor under the Civil  
24          Administrative Code of the State is an employee, if he or she  
25          is a participant in this system on the effective date of the  
26          appointment.

1           (d) A participant on lay-off status under civil service  
2 rules is considered an employee for not more than 120 days from  
3 the date of the lay-off.

4           (e) A participant is considered an employee during (1) the  
5 first 60 days of disability leave, (2) the period, not to  
6 exceed one year, in which his or her eligibility for disability  
7 benefits is being considered by the board or reviewed by the  
8 courts, and (3) the period he or she receives disability  
9 benefits under the provisions of Section 15-152, workers'  
10 compensation or occupational disease benefits, or disability  
11 income under an insurance contract financed wholly or partially  
12 by the employer.

13           (f) Absences without pay, other than formal leaves of  
14 absence, of less than 30 calendar days, are not considered as  
15 an interruption of a person's status as an employee. If such  
16 absences during any period of 12 months exceed 30 work days,  
17 the employee status of the person is considered as interrupted  
18 as of the 31st work day.

19           (g) A staff member whose employment contract requires  
20 services during an academic term is to be considered an  
21 employee during the summer and other vacation periods, unless  
22 he or she declines an employment contract for the succeeding  
23 academic term or his or her employment status is otherwise  
24 terminated, and he or she receives no earnings during these  
25 periods.

26           (h) An individual who was a participating employee employed

1 in the fire department of the University of Illinois's  
2 Champaign-Urbana campus immediately prior to the elimination  
3 of that fire department and who immediately after the  
4 elimination of that fire department became employed by the fire  
5 department of the City of Urbana or the City of Champaign shall  
6 continue to be considered as an employee for purposes of this  
7 Article for so long as the individual remains employed as a  
8 firefighter by the City of Urbana or the City of Champaign. The  
9 individual shall cease to be considered an employee under this  
10 subsection (h) upon the first termination of the individual's  
11 employment as a firefighter by the City of Urbana or the City  
12 of Champaign.

13 (i) An individual who is employed on a full-time basis as  
14 an officer or employee of a statewide teacher organization that  
15 serves System participants or an officer of a national teacher  
16 organization that serves System participants may participate  
17 in the System and shall be deemed an employee, provided that  
18 (1) the individual has previously earned creditable service  
19 under this Article, (2) the individual files with the System an  
20 irrevocable election to become a participant before the  
21 effective date of this amendatory Act of the 97th General  
22 Assembly, (3) the individual does not receive credit for that  
23 employment under any other Article of this Code, and (4) the  
24 individual first became a full-time employee of the teacher  
25 organization and becomes a participant before the effective  
26 date of this amendatory Act of the 97th General Assembly. An

1 employee under this subsection (i) is responsible for paying to  
2 the System both (A) employee contributions based on the actual  
3 compensation received for service with the teacher  
4 organization and (B) employer contributions equal to the normal  
5 costs (as defined in Section 15-155) resulting from that  
6 service; all or any part of these contributions may be paid on  
7 the employee's behalf or picked up for tax purposes (if  
8 authorized under federal law) by the teacher organization.

9 A person who is an employee as defined in this subsection  
10 (i) may establish service credit for similar employment prior  
11 to becoming an employee under this subsection by paying to the  
12 System for that employment the contributions specified in this  
13 subsection, plus interest at the effective rate from the date  
14 of service to the date of payment. However, credit shall not be  
15 granted under this subsection for any such prior employment for  
16 which the applicant received credit under any other provision  
17 of this Code, or during which the applicant was on a leave of  
18 absence under Section 15-113.2.

19 (j) A person employed by the State Board of Higher  
20 Education in a position with the Illinois Century Network as of  
21 June 30, 2004 shall be considered to be an employee for so long  
22 as he or she remains continuously employed after that date by  
23 the Department of Central Management Services in a position  
24 with the Illinois Century Network, the Bureau of Communication  
25 and Computer Services, or, if applicable, any successor bureau  
26 and meets the requirements of subsection (a).



1       (k) In the case of doubt as to whether any person is an  
2       employee within the meaning of this Section or any rule adopted  
3       by the Board, the decision of the Board shall be final.

4       (Source: P.A. 97-651, eff. 1-5-12.)

5           (40 ILCS 5/15-110) (from Ch. 108 1/2, par. 15-110)

6           Sec. 15-110. Basic compensation. "Basic compensation":  
7       Subject to Section 15-111.5, the ~~The~~ gross basic rate of salary  
8       or wages payable by an employer, including:

9           (1) the value of maintenance, board, living quarters,  
10          personal laundry, or other allowances furnished in lieu of  
11          salary which are considered gross income under the federal  
12          ~~Federal~~ Internal Revenue Code of 1986, as amended;

13          (2) the employee contributions required under Section  
14          15-157; ~~and~~

15          (3) the amount paid by any employer to a custodial  
16          account for investment in regulated investment company  
17          stocks for the benefit of the employee pursuant to the  
18          University Employees Custodial Accounts Act; "An Act in  
19          ~~relation to payments to custodial accounts for the benefit~~  
20          ~~of employees of public institutions of higher education",~~  
21          ~~approved September 9, 1983, and~~

22          (4) the amount of the premium payable by any employer  
23          to an insurance company or companies on an annuity  
24          contract, pursuant to the employee's election to accept a  
25          reduction in earnings or forego an increase in earnings

1 under Section 30c of the State Finance Act ~~"An Act in~~  
2 ~~relation to State Finance,"~~ approved June 10, 1919, as  
3 ~~amended~~, or a tax-sheltered annuity plan approved by any  
4 employer; and

5 (5) the amount of any elective deferral to a deferred  
6 compensation plan established under Article 24 of this Code  
7 pursuant to Section 457(b) of the federal Internal Revenue  
8 Code of 1986, as amended.

9 Basic compensation does not include (1) salary or wages for  
10 overtime or other extra service; (2) prospective salary or  
11 wages under a summer teaching contract not yet entered upon;  
12 and (3) overseas differential allowances, quarters allowances,  
13 post allowances, educational allowances and transportation  
14 allowances paid by an employer under a contract with the  
15 federal government or its agencies for services rendered in  
16 other countries. If an employee elects to receive in lieu of  
17 cash salary or wages, fringe benefits which are not taxable  
18 under the federal ~~Federal~~ Internal Revenue Code of 1986, as  
19 amended, the amount of the cash salary or wages which is waived  
20 shall be included in determining basic compensation.

21 (Source: P.A. 84-1308.)

22 (40 ILCS 5/15-111) (from Ch. 108 1/2, par. 15-111)

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

25 Sec. 15-111. Earnings.

1           (a) "Earnings": Subject to Section 15-111.5, an ~~An~~ amount  
2 paid for personal services equal to the sum of the basic  
3 compensation plus extra compensation for summer teaching,  
4 overtime or other extra service. For periods for which an  
5 employee receives service credit under subsection (c) of  
6 Section 15-113.1 or Section 15-113.2, earnings are equal to the  
7 basic compensation on which contributions are paid by the  
8 employee during such periods. Compensation for employment  
9 which is irregular, intermittent and temporary shall not be  
10 considered earnings, unless the participant is also receiving  
11 earnings from the employer as an employee under Section 15-107.

12           With respect to transition pay paid by the University of  
13 Illinois to a person who was a participating employee employed  
14 in the fire department of the University of Illinois's  
15 Champaign-Urbana campus immediately prior to the elimination  
16 of that fire department:

17           (1) "Earnings" includes transition pay paid to the  
18 employee on or after the effective date of this amendatory  
19 Act of the 91st General Assembly.

20           (2) "Earnings" includes transition pay paid to the  
21 employee before the effective date of this amendatory Act  
22 of the 91st General Assembly only if (i) employee  
23 contributions under Section 15-157 have been withheld from  
24 that transition pay or (ii) the employee pays to the System  
25 before January 1, 2001 an amount representing employee  
26 contributions under Section 15-157 on that transition pay.

1 Employee contributions under item (ii) may be paid in a  
2 lump sum, by withholding from additional transition pay  
3 accruing before January 1, 2001, or in any other manner  
4 approved by the System. Upon payment of the employee  
5 contributions on transition pay, the corresponding  
6 employer contributions become an obligation of the State.

7 (b) For a Tier 2 member, the annual earnings shall not  
8 exceed \$106,800; however, that amount shall annually  
9 thereafter be increased by the lesser of (i) 3% of that amount,  
10 including all previous adjustments, or (ii) one half the annual  
11 unadjusted percentage increase (but not less than zero) in the  
12 consumer price index-u for the 12 months ending with the  
13 September preceding each November 1, including all previous  
14 adjustments.

15 For the purposes of this Section, "consumer price index u"  
16 means the index published by the Bureau of Labor Statistics of  
17 the United States Department of Labor that measures the average  
18 change in prices of goods and services purchased by all urban  
19 consumers, United States city average, all items, 1982-84 =  
20 100. The new amount resulting from each annual adjustment shall  
21 be determined by the Public Pension Division of the Department  
22 of Insurance and made available to the boards of the retirement  
23 systems and pension funds by November 1 of each year.

24 (c) With each submission of payroll information in the  
25 manner prescribed by the System, the employer shall certify  
26 that the payroll information is correct and complies with all

1 applicable State and federal laws.

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

3 (40 ILCS 5/15-111.5 new)

4 Sec. 15-111.5. Basic compensation and earnings  
5 restrictions. For an employee who first becomes a participant  
6 on or after the effective date of this amendatory Act of the  
7 99th General Assembly, basic compensation under Section 15-110  
8 and earnings under Section 15-111 shall not include housing  
9 allowances, vehicle allowances, or club memberships or dues.

10 (40 ILCS 5/15-168) (from Ch. 108 1/2, par. 15-168)

11 Sec. 15-168. To require information.

12 (a) To require such information as shall be necessary for  
13 the proper operation of the system from any participant or  
14 beneficiary or annuitant ~~benefit recipient~~ or from any current  
15 or former employer of a participant or annuitant. Such  
16 information may include, but is not limited to, employment  
17 contracts ~~current or former participant.~~

18 (b) When the System submits a request for information under  
19 subsection (a) of this Section, the employer shall respond  
20 within 90 calendar days of the System's request. Beginning on  
21 the 91st calendar day after the System's request, the System  
22 may assess a penalty of \$500 per calendar day until receipt of  
23 the information by the System, with a maximum penalty of  
24 \$50,000. All payments must be received within one calendar year

1 after receipt of the information by the System or one calendar  
2 year of reaching the maximum penalty of \$50,000, whichever  
3 occurs earlier. If the employer fails to make complete payment  
4 within the applicable timeframe, then the System may, after  
5 giving notice to the employer, certify the delinquent amount to  
6 the State Comptroller, and the Comptroller shall thereupon  
7 deduct the certified delinquent amount from State funds payable  
8 to the employer and pay them instead to the System.

9 (c) If a participant, beneficiary, or annuitant fails to  
10 provide any information that is necessary for the calculation,  
11 payment, or finalization of any benefit under this Article  
12 within 90 calendar days of the date of the System's request  
13 under subsection (a) of this Section, then the System may  
14 immediately cease processing the benefit and may not pay any  
15 additional benefit payment to the participant, beneficiary, or  
16 annuitant until the requested information is provided.

17 (Source: P.A. 98-92, eff. 7-16-13; 99-450, eff. 8-24-15.)

18 (40 ILCS 5/15-168.2)

19 Sec. 15-168.2. Audit of employers.

20 (a) Beginning August 1, 2013, the System may audit the  
21 employment records and payroll records of all employers. When  
22 the System audits an employer, it shall specify the exact  
23 information it requires, which may include but need not be  
24 limited to the names, titles, and earnings history of every  
25 individual receiving compensation from the employer. If an

1 employer is audited by the System, then the employer must  
2 provide to the System all necessary documents and records  
3 within 60 calendar days after receiving notification from the  
4 System. When the System audits an employer, it shall send  
5 related correspondence by certified mail.

6 (b) When the System submits a request for information under  
7 subsection (a) of this Section, the employer shall respond  
8 within 60 calendar days of the System's request. Beginning on  
9 the 61st calendar day after the System's request, the System  
10 may assess a penalty of \$500 per calendar day until receipt of  
11 the information by the System, with a maximum penalty of  
12 \$50,000. All payments must be received by the System within one  
13 calendar year after receipt of the information by the System or  
14 one calendar year after reaching the maximum penalty of  
15 \$50,000, whichever occurs earlier. If the employer fails to  
16 make complete payment within the applicable timeframe, then the  
17 System may, after giving notice to the employer, certify the  
18 delinquent amount to the State Comptroller, and the Comptroller  
19 shall thereupon deduct the certified delinquent amount from  
20 State funds payable to the employer and pay them instead to the  
21 System.

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