



Sen. John J. Cullerton

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1 AMENDMENT TO HOUSE BILL 1447

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1447, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment No.  
4 2, as follows:

5 on page 13, in line 16, immediately after "14-152.1," by  
6 inserting "15-106, 15-107, 15-113.2, 15-163, 15-165, 16-106,  
7 16-107"; and

8 on page 29, in line 6, by replacing "Section Section" with  
9 "Section"; and

10 by replacing line 5 on page 49 through line 25 on page 53 with  
11 the following:

12 "(40 ILCS 5/7-109) (from Ch. 108 1/2, par. 7-109)

13 Sec. 7-109. Employee.

14 (1) "Employee" means any person who:

1 (a) 1. Receives earnings as payment for the performance  
2 of personal services or official duties out of the  
3 general fund of a municipality, or out of any special  
4 fund or funds controlled by a municipality, or by an  
5 instrumentality thereof, or a participating  
6 instrumentality, including, in counties, the fees or  
7 earnings of any county fee office; and

8 2. Under the usual common law rules applicable in  
9 determining the employer-employee relationship, has  
10 the status of an employee with a municipality, or any  
11 instrumentality thereof, or a participating  
12 instrumentality, including aldermen, county  
13 supervisors and other persons (excepting those  
14 employed as independent contractors) who are paid  
15 compensation, fees, allowances or other emolument for  
16 official duties, and, in counties, the several county  
17 fee offices.

18 (b) Serves as a township treasurer appointed under the  
19 School Code, as heretofore or hereafter amended, and who  
20 receives for such services regular compensation as  
21 distinguished from per diem compensation, and any regular  
22 employee in the office of any township treasurer whether or  
23 not his earnings are paid from the income of the permanent  
24 township fund or from funds subject to distribution to the  
25 several school districts and parts of school districts as  
26 provided in the School Code, or from both such sources; or

1 is the chief executive officer, chief educational officer,  
2 chief fiscal officer, or other employee of a Financial  
3 Oversight Panel established pursuant to Article 1H of the  
4 School Code, other than a superintendent or certified  
5 school business official, except that such person shall not  
6 be treated as an employee under this Section if that person  
7 has negotiated with the Financial Oversight Panel, in  
8 conjunction with the school district, a contractual  
9 agreement for exclusion from this Section.

10 (c) Holds an elective office in a municipality,  
11 instrumentality thereof or participating instrumentality.

12 (2) "Employee" does not include persons who:

13 (a) Are eligible for inclusion under any of the  
14 following laws:

15 1. "An Act in relation to an Illinois State  
16 Teachers' Pension and Retirement Fund", approved May  
17 27, 1915, as amended;

18 2. Articles 15 and 16 of this Code.

19 However, such persons shall be included as employees to  
20 the extent of earnings that are not eligible for inclusion  
21 under the foregoing laws for services not of an  
22 instructional nature of any kind.

23 However, any member of the armed forces who is employed  
24 as a teacher of subjects in the Reserve Officers Training  
25 Corps of any school and who is not certified under the law  
26 governing the certification of teachers shall be included

1 as an employee.

2 (b) Are designated by the governing body of a  
3 municipality in which a pension fund is required by law to  
4 be established for policemen or firemen, respectively, as  
5 performing police or fire protection duties, except that  
6 when such persons are the heads of the police or fire  
7 department and are not eligible to be included within any  
8 such pension fund, they shall be included within this  
9 Article; provided, that such persons shall not be excluded  
10 to the extent of concurrent service and earnings not  
11 designated as being for police or fire protection duties.  
12 However, (i) any head of a police department who was a  
13 participant under this Article immediately before October  
14 1, 1977 and did not elect, under Section 3-109 of this Act,  
15 to participate in a police pension fund shall be an  
16 "employee", and (ii) any chief of police who elects to  
17 participate in this Fund under Section 3-109.1 of this  
18 Code, regardless of whether such person continues to be  
19 employed as chief of police or is employed in some other  
20 rank or capacity within the police department, shall be an  
21 employee under this Article for so long as such person is  
22 employed to perform police duties by a participating  
23 municipality and has not lawfully rescinded that election.

24 (c) After August 26, 2011 (the effective date of Public  
25 Act 97-609) ~~this amendatory Act of the 97th General~~  
26 ~~Assembly~~, are contributors to or eligible to contribute to

1 a Taft-Hartley pension plan established on or before June  
2 1, 2011 and are employees of a theatre, arena, or  
3 convention center that is located in a municipality located  
4 in a county with a population greater than 5,000,000, and  
5 to which the participating municipality is required to  
6 contribute as the person's employer based on earnings from  
7 the municipality. Nothing in this paragraph shall affect  
8 service credit or creditable service for any period of  
9 service prior to August 26, 2011 ~~the effective date of this~~  
10 ~~amendatory Act of the 97th General Assembly~~, and this  
11 paragraph shall not apply to individuals who are  
12 participating in the Fund prior to August 26, 2011 ~~the~~  
13 ~~effective date of this amendatory Act of the 97th General~~  
14 ~~Assembly.~~

15 (d) Become an employee of any of the following  
16 participating instrumentalities on or after the effective  
17 date of this amendatory Act of the 97th General Assembly:  
18 the Illinois Municipal League; the Illinois Association of  
19 Park Districts; the Illinois Supervisors, County  
20 Commissioners and Superintendents of Highways Association;  
21 an association, or not-for-profit corporation, membership  
22 in which is authorized under Section 85-15 of the Township  
23 Code; the United Counties Council; or the Will County  
24 Governmental League.

25 (3) All persons, including, without limitation, public  
26 defenders and probation officers, who receive earnings from

1 general or special funds of a county for performance of  
2 personal services or official duties within the territorial  
3 limits of the county, are employees of the county (unless  
4 excluded by subsection (2) of this Section) notwithstanding  
5 that they may be appointed by and are subject to the direction  
6 of a person or persons other than a county board or a county  
7 officer. It is hereby established that an employer-employee  
8 relationship under the usual common law rules exists between  
9 such employees and the county paying their salaries by reason  
10 of the fact that the county boards fix their rates of  
11 compensation, appropriate funds for payment of their earnings  
12 and otherwise exercise control over them. This finding and this  
13 amendatory Act shall apply to all such employees from the date  
14 of appointment whether such date is prior to or after the  
15 effective date of this amendatory Act and is intended to  
16 clarify existing law pertaining to their status as  
17 participating employees in the Fund.

18 (Source: P.A. 97-429, eff. 8-16-11; 97-609, eff. 8-26-11;  
19 revised 9-28-11.)"; and

20 on page 91, immediately below line 14, by inserting the  
21 following:

22 "(40 ILCS 5/15-106) (from Ch. 108 1/2, par. 15-106)  
23 Sec. 15-106. Employer. "Employer": The University of  
24 Illinois, Southern Illinois University, Chicago State

1 University, Eastern Illinois University, Governors State  
2 University, Illinois State University, Northeastern Illinois  
3 University, Northern Illinois University, Western Illinois  
4 University, the State Board of Higher Education, the Illinois  
5 Mathematics and Science Academy, the University Civil Service  
6 Merit Board, the Board of Trustees of the State Universities  
7 Retirement System, the Illinois Community College Board,  
8 community college boards, any association of community college  
9 boards organized under Section 3-55 of the Public Community  
10 College Act, the Board of Examiners established under the  
11 Illinois Public Accounting Act, and, only during the period for  
12 which employer contributions required under Section 15-155 are  
13 paid, the following organizations: the alumni associations,  
14 the foundations and the athletic associations which are  
15 affiliated with the universities and colleges included in this  
16 Section as employers. An individual that begins employment  
17 after the effective date of this amendatory Act of the 97th  
18 General Assembly with an entity not defined as an employer in  
19 this Section shall not be deemed an employee for the purposes  
20 of this Article with respect to that employment and shall not  
21 be eligible to participate in the System with respect to that  
22 employment; provided, however, that those individuals who are  
23 both employed and already participants in the System on the  
24 effective date of this amendatory Act of the 97th General  
25 Assembly shall be allowed to continue as participants in the  
26 System for the duration of that employment.

1        Notwithstanding any provision of law to the contrary, an  
2        individual who begins employment with any of the following  
3        employers on or after the effective date of this amendatory Act  
4        of the 97th General Assembly shall not be deemed an employee  
5        and shall not be eligible to participate in the System with  
6        respect to that employment: any association of community  
7        college boards organized under Section 3-55 of the Public  
8        Community College Act, the Association of Illinois  
9        Middle-Grade Schools, the Illinois Association of School  
10       Administrators, the Illinois Association for Supervision and  
11       Curriculum Development, the Illinois Principals Association,  
12       the Illinois Association of School Business Officials, or the  
13       Illinois Special Olympics; provided, however, that those  
14       individuals who are both employed and already participants in  
15       the System on the effective date of this amendatory Act of the  
16       97th General Assembly shall be allowed to continue as  
17       participants in the System for the duration of that employment.

18       A department as defined in Section 14-103.04 is an employer  
19       for any person appointed by the Governor under the Civil  
20       Administrative Code of Illinois who is a participating employee  
21       as defined in Section 15-109. The Department of Central  
22       Management Services is an employer with respect to persons  
23       employed by the State Board of Higher Education in positions  
24       with the Illinois Century Network as of June 30, 2004 who  
25       remain continuously employed after that date by the Department  
26       of Central Management Services in positions with the Illinois

1 Century Network, the Bureau of Communication and Computer  
2 Services, or, if applicable, any successor bureau.

3 The cities of Champaign and Urbana shall be considered  
4 employers, but only during the period for which contributions  
5 are required to be made under subsection (b-1) of Section  
6 15-155 and only with respect to individuals described in  
7 subsection (h) of Section 15-107.

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

10 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

11 Sec. 15-107. Employee.

12 (a) "Employee" means any member of the educational,  
13 administrative, secretarial, clerical, mechanical, labor or  
14 other staff of an employer whose employment is permanent and  
15 continuous or who is employed in a position in which services  
16 are expected to be rendered on a continuous basis for at least  
17 4 months or one academic term, whichever is less, who (A)  
18 receives payment for personal services on a warrant issued  
19 pursuant to a payroll voucher certified by an employer and  
20 drawn by the State Comptroller upon the State Treasurer or by  
21 an employer upon trust, federal or other funds, or (B) is on a  
22 leave of absence without pay. Employment which is irregular,  
23 intermittent or temporary shall not be considered continuous  
24 for purposes of this paragraph.

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

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

5           (2) is currently receiving a retirement annuity or a  
6 disability retirement annuity under Section 15-153.2 from  
7 this System;

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

9           (4) is eligible to participate in the Federal Civil  
10 Service Retirement System and is currently making  
11 contributions to that system based upon earnings paid by an  
12 employer;

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

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

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

26           (b) Any employer may, by filing a written notice with the

1 board, exclude from the definition of "employee" all persons  
2 employed pursuant to a federally funded contract entered into  
3 after July 1, 1982 with a federal military department in a  
4 program providing training in military courses to federal  
5 military personnel on a military site owned by the United  
6 States Government, if this exclusion is not prohibited by the  
7 federally funded contract or federal laws or rules governing  
8 the administration of the contract.

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

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

16 (e) A participant is considered an employee during (1) the  
17 first 60 days of disability leave, (2) the period, not to  
18 exceed one year, in which his or her eligibility for disability  
19 benefits is being considered by the board or reviewed by the  
20 courts, and (3) the period he or she receives disability  
21 benefits under the provisions of Section 15-152, workers'  
22 compensation or occupational disease benefits, or disability  
23 income under an insurance contract financed wholly or partially  
24 by the employer.

25 (f) Absences without pay, other than formal leaves of  
26 absence, of less than 30 calendar days, are not considered as

1 an interruption of a person's status as an employee. If such  
2 absences during any period of 12 months exceed 30 work days,  
3 the employee status of the person is considered as interrupted  
4 as of the 31st work day.

5 (g) A staff member whose employment contract requires  
6 services during an academic term is to be considered an  
7 employee during the summer and other vacation periods, unless  
8 he or she declines an employment contract for the succeeding  
9 academic term or his or her employment status is otherwise  
10 terminated, and he or she receives no earnings during these  
11 periods.

12 (h) An individual who was a participating employee employed  
13 in the fire department of the University of Illinois's  
14 Champaign-Urbana campus immediately prior to the elimination  
15 of that fire department and who immediately after the  
16 elimination of that fire department became employed by the fire  
17 department of the City of Urbana or the City of Champaign shall  
18 continue to be considered as an employee for purposes of this  
19 Article for so long as the individual remains employed as a  
20 firefighter by the City of Urbana or the City of Champaign. The  
21 individual shall cease to be considered an employee under this  
22 subsection (h) upon the first termination of the individual's  
23 employment as a firefighter by the City of Urbana or the City  
24 of Champaign.

25 (i) An individual who is employed on a full-time basis as  
26 an officer or employee of a statewide teacher organization that

1 serves System participants or an officer of a national teacher  
2 organization that serves System participants may participate  
3 in the System and shall be deemed an employee, provided that  
4 (1) the individual has previously earned creditable service  
5 under this Article, (2) the individual files with the System an  
6 irrevocable election to become a participant before the  
7 effective date of this amendatory Act of the 97th General  
8 Assembly, (3) the individual does not receive credit for that  
9 employment under any other Article of this Code, and (4) the  
10 individual first became a full-time employee of the teacher  
11 organization and becomes a participant before the effective  
12 date of this amendatory Act of the 97th General Assembly. An  
13 employee under this subsection (i) is responsible for paying to  
14 the System both (A) employee contributions based on the actual  
15 compensation received for service with the teacher  
16 organization and (B) employer contributions equal to the normal  
17 costs (as defined in Section 15-155) resulting from that  
18 service; all or any part of these contributions may be paid on  
19 the employee's behalf or picked up for tax purposes (if  
20 authorized under federal law) by the teacher organization.

21 A person who is an employee as defined in this subsection  
22 (i) may establish service credit for similar employment prior  
23 to becoming an employee under this subsection by paying to the  
24 System for that employment the contributions specified in this  
25 subsection, plus interest at the effective rate from the date  
26 of service to the date of payment. However, credit shall not be

1 granted under this subsection for any such prior employment for  
2 which the applicant received credit under any other provision  
3 of this Code, or during which the applicant was on a leave of  
4 absence under Section 15-113.2.

5 (j) A person employed by the State Board of Higher  
6 Education in a position with the Illinois Century Network as of  
7 June 30, 2004 shall be considered to be an employee for so long  
8 as he or she remains continuously employed after that date by  
9 the Department of Central Management Services in a position  
10 with the Illinois Century Network, the Bureau of Communication  
11 and Computer Services, or, if applicable, any successor bureau  
12 and meets the requirements of subsection (a).

13 (k) In the case of doubt as to whether any person is an  
14 employee within the meaning of this Section, the decision of  
15 the Board shall be final.

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

17 (40 ILCS 5/15-113.2) (from Ch. 108 1/2, par. 15-113.2)

18 Sec. 15-113.2. Service for leaves of absence. "Service for  
19 leaves of absence" includes those periods of leaves of absence  
20 at less than 50% pay, except military leave and periods of  
21 disability leave in excess of 60 days, for which the employee  
22 pays the contributions required under Section 15-157 in  
23 accordance with rules prescribed by the board based upon the  
24 employee's basic compensation on the date the leave begins, or  
25 in the case of leave for service with a teacher organization,

1 based upon the actual compensation received by the employee for  
2 such service after January 26, 1988, if the employee so elects  
3 within 30 days of that date or the date the leave for service  
4 with a teacher organization begins, whichever is later;  
5 provided that the employee (1) returns to employment covered by  
6 this system at the expiration of the leave, or within 30 days  
7 after the termination of a disability which occurs during the  
8 leave and continues this employment at a percentage of time  
9 equal to or greater than the percentage of time immediately  
10 preceding the leave of absence for at least 8 consecutive  
11 months or a period equal to the period of the leave, whichever  
12 is less, or (2) is precluded from meeting the foregoing  
13 conditions because of disability or death. If service credit is  
14 denied because the employee fails to meet these conditions, the  
15 contributions covering the leave of absence shall be refunded  
16 without interest. The return to employment condition does not  
17 apply if the leave of absence is for service with a teacher  
18 organization.

19 Service credit provided under this Section shall not exceed  
20 3 years in any period of 10 years, unless the employee is on  
21 special leave granted by the employer for service with a  
22 teacher organization. Commencing with the fourth year in any  
23 period of 10 years, a participant on such special leave is also  
24 required to pay employer contributions equal to the normal cost  
25 as defined in Section 15-155, based upon the employee's basic  
26 compensation on the date the leave begins, or based upon the

1 actual compensation received by the employee for service with a  
2 teacher organization if the employee has so elected.

3 Notwithstanding any other provision of this Article, a  
4 participant shall not be eligible to make contributions or  
5 receive service credit for a leave of absence for service with  
6 a teacher organization if that leave of absence for service  
7 with a teacher organization begins on or after the effective  
8 date of this amendatory Act of the 97th General Assembly.

9 (Source: P.A. 90-65, eff. 7-7-97; 90-511, eff. 8-22-97.)

10 (40 ILCS 5/15-163) (from Ch. 108 1/2, par. 15-163)

11 Sec. 15-163. To consider applications and authorize  
12 payments.

13 To consider and pass on all certifications of employment  
14 and applications for annuities and benefits; to authorize the  
15 granting of annuities and benefits; and to limit or suspend any  
16 payment or payments, all in accordance with this Article.

17 (Source: Laws 1963, p. 161.)

18 (40 ILCS 5/15-165) (from Ch. 108 1/2, par. 15-165)

19 Sec. 15-165. To certify amounts and submit vouchers.

20 (a) The Board shall certify to the Governor on or before  
21 November 15 of each year until November 15, 2011 the  
22 appropriation required from State funds for the purposes of  
23 this System for the following fiscal year. The certification  
24 under this subsection (a) shall include a copy of the actuarial

1 recommendations upon which it is based and shall specifically  
2 identify the System's projected State normal cost for that  
3 fiscal year and the projected State cost for the self-managed  
4 plan for that fiscal year.

5 On or before May 1, 2004, the Board shall recalculate and  
6 recertify to the Governor the amount of the required State  
7 contribution to the System for State fiscal year 2005, taking  
8 into account the amounts appropriated to and received by the  
9 System under subsection (d) of Section 7.2 of the General  
10 Obligation Bond Act.

11 On or before July 1, 2005, the Board shall recalculate and  
12 recertify to the Governor the amount of the required State  
13 contribution to the System for State fiscal year 2006, taking  
14 into account the changes in required State contributions made  
15 by this amendatory Act of the 94th General Assembly.

16 On or before April 1, 2011, the Board shall recalculate and  
17 recertify to the Governor the amount of the required State  
18 contribution to the System for State fiscal year 2011, applying  
19 the changes made by Public Act 96-889 to the System's assets  
20 and liabilities as of June 30, 2009 as though Public Act 96-889  
21 was approved on that date.

22 (a-5) On or before November 1 of each year, beginning  
23 November 1, 2012, the Board shall submit to the State Actuary,  
24 the Governor, and the General Assembly a proposed certification  
25 of the amount of the required State contribution to the System  
26 for the next fiscal year, along with all of the actuarial

1 assumptions, calculations, and data upon which that proposed  
2 certification is based. On or before January 1 of each year,  
3 beginning January 1, 2013, the State Actuary shall issue a  
4 preliminary report concerning the proposed certification and  
5 identifying, if necessary, recommended changes in actuarial  
6 assumptions that the Board must consider before finalizing its  
7 certification of the required State contributions. On or before  
8 January 15, 2013 and each January 15 thereafter, the Board  
9 shall certify to the Governor and the General Assembly the  
10 amount of the required State contribution for the next fiscal  
11 year. The Board's certification must note, in a written  
12 response to the State Actuary, any deviations from the State  
13 Actuary's recommended changes, the reason or reasons for not  
14 following the State Actuary's recommended changes, and the  
15 fiscal impact of not following the State Actuary's recommended  
16 changes on the required State contribution.

17 (b) The Board shall certify to the State Comptroller or  
18 employer, as the case may be, from time to time, by its  
19 president and secretary, with its seal attached, the amounts  
20 payable to the System from the various funds.

21 (c) Beginning in State fiscal year 1996, on or as soon as  
22 possible after the 15th day of each month the Board shall  
23 submit vouchers for payment of State contributions to the  
24 System, in a total monthly amount of one-twelfth of the  
25 required annual State contribution certified under subsection  
26 (a). From the effective date of this amendatory Act of the 93rd

1 General Assembly through June 30, 2004, the Board shall not  
2 submit vouchers for the remainder of fiscal year 2004 in excess  
3 of the fiscal year 2004 certified contribution amount  
4 determined under this Section after taking into consideration  
5 the transfer to the System under subsection (b) of Section  
6 6z-61 of the State Finance Act. These vouchers shall be paid by  
7 the State Comptroller and Treasurer by warrants drawn on the  
8 funds appropriated to the System for that fiscal year.

9 If in any month the amount remaining unexpended from all  
10 other appropriations to the System for the applicable fiscal  
11 year (including the appropriations to the System under Section  
12 8.12 of the State Finance Act and Section 1 of the State  
13 Pension Funds Continuing Appropriation Act) is less than the  
14 amount lawfully vouchered under this Section, the difference  
15 shall be paid from the General Revenue Fund under the  
16 continuing appropriation authority provided in Section 1.1 of  
17 the State Pension Funds Continuing Appropriation Act.

18 (d) So long as the payments received are the full amount  
19 lawfully vouchered under this Section, payments received by the  
20 System under this Section shall be applied first toward the  
21 employer contribution to the self-managed plan established  
22 under Section 15-158.2. Payments shall be applied second toward  
23 the employer's portion of the normal costs of the System, as  
24 defined in subsection (f) of Section 15-155. The balance shall  
25 be applied toward the unfunded actuarial liabilities of the  
26 System.

1 (e) In the event that the System does not receive, as a  
2 result of legislative enactment or otherwise, payments  
3 sufficient to fully fund the employer contribution to the  
4 self-managed plan established under Section 15-158.2 and to  
5 fully fund that portion of the employer's portion of the normal  
6 costs of the System, as calculated in accordance with Section  
7 15-155(a-1), then any payments received shall be applied  
8 proportionately to the optional retirement program established  
9 under Section 15-158.2 and to the employer's portion of the  
10 normal costs of the System, as calculated in accordance with  
11 Section 15-155(a-1).

12 (Source: P.A. 96-1497, eff. 1-14-11; 96-1511, eff. 1-27-11.)

13 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)

14 Sec. 16-106. Teacher. "Teacher": The following  
15 individuals, provided that, for employment prior to July 1,  
16 1990, they are employed on a full-time basis, or if not  
17 full-time, on a permanent and continuous basis in a position in  
18 which services are expected to be rendered for at least one  
19 school term:

20 (1) Any educational, administrative, professional or  
21 other staff employed in the public common schools included  
22 within this system in a position requiring certification  
23 under the law governing the certification of teachers;

24 (2) Any educational, administrative, professional or  
25 other staff employed in any facility of the Department of

1 Children and Family Services or the Department of Human  
2 Services, in a position requiring certification under the  
3 law governing the certification of teachers, and any person  
4 who (i) works in such a position for the Department of  
5 Corrections, (ii) was a member of this System on May 31,  
6 1987, and (iii) did not elect to become a member of the  
7 State Employees' Retirement System pursuant to Section  
8 14-108.2 of this Code; except that "teacher" does not  
9 include any person who (A) becomes a security employee of  
10 the Department of Human Services, as defined in Section  
11 14-110, after June 28, 2001 (the effective date of Public  
12 Act 92-14), or (B) becomes a member of the State Employees'  
13 Retirement System pursuant to Section 14-108.2c of this  
14 Code;

15 (3) Any regional superintendent of schools, assistant  
16 regional superintendent of schools, State Superintendent  
17 of Education; any person employed by the State Board of  
18 Education as an executive; any executive of the boards  
19 engaged in the service of public common school education in  
20 school districts covered under this system of which the  
21 State Superintendent of Education is an ex-officio member;

22 (4) Any employee of a school board association  
23 operating in compliance with Article 23 of the School Code  
24 who is certificated under the law governing the  
25 certification of teachers, provided that he or she becomes  
26 such an employee before the effective date of this

1       amendatory Act of the 97th General Assembly;

2           (5) Any person employed by the retirement system who:

3               (i) was an employee of and a participant in the  
4           system on August 17, 2001 (the effective date of Public  
5           Act 92-416), or

6               (ii) becomes an employee of the system on or after  
7           August 17, 2001;

8           (6) Any educational, administrative, professional or  
9           other staff employed by and under the supervision and  
10          control of a regional superintendent of schools, provided  
11          such employment position requires the person to be  
12          certificated under the law governing the certification of  
13          teachers and is in an educational program serving 2 or more  
14          districts in accordance with a joint agreement authorized  
15          by the School Code or by federal legislation;

16          (7) Any educational, administrative, professional or  
17          other staff employed in an educational program serving 2 or  
18          more school districts in accordance with a joint agreement  
19          authorized by the School Code or by federal legislation and  
20          in a position requiring certification under the laws  
21          governing the certification of teachers;

22          (8) Any officer or employee of a statewide teacher  
23          organization or officer of a national teacher organization  
24          who is certified under the law governing certification of  
25          teachers, provided: (i) the individual had previously  
26          established creditable service under this Article, (ii)

1 the individual files with the system an irrevocable  
2 election to become a member before the effective date of  
3 this amendatory Act of the 97th General Assembly, (iii) the  
4 individual does not receive credit for such service under  
5 any other Article of this Code, and (iv) the individual  
6 first became an officer or employee of the teacher  
7 organization and becomes a member before the effective date  
8 of this amendatory Act of the 97th General Assembly;

9 (9) Any educational, administrative, professional, or  
10 other staff employed in a charter school operating in  
11 compliance with the Charter Schools Law who is certificated  
12 under the law governing the certification of teachers.

13 (10) Any person employed, on the effective date of this  
14 amendatory Act of the 94th General Assembly, by the  
15 Macon-Piatt Regional Office of Education in a  
16 birth-through-age-three pilot program receiving funds  
17 under Section 2-389 of the School Code who is required by  
18 the Macon-Piatt Regional Office of Education to hold a  
19 teaching certificate, provided that the Macon-Piatt  
20 Regional Office of Education makes an election, within 6  
21 months after the effective date of this amendatory Act of  
22 the 94th General Assembly, to have the person participate  
23 in the system. Any service established prior to the  
24 effective date of this amendatory Act of the 94th General  
25 Assembly for service as an employee of the Macon-Piatt  
26 Regional Office of Education in a birth-through-age-three

1 pilot program receiving funds under Section 2-389 of the  
2 School Code shall be considered service as a teacher if  
3 employee and employer contributions have been received by  
4 the system and the system has not refunded those  
5 contributions.

6 An annuitant receiving a retirement annuity under this  
7 Article or under Article 17 of this Code who is employed by a  
8 board of education or other employer as permitted under Section  
9 16-118 or 16-150.1 is not a "teacher" for purposes of this  
10 Article. A person who has received a single-sum retirement  
11 benefit under Section 16-136.4 of this Article is not a  
12 "teacher" for purposes of this Article.

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

14 (40 ILCS 5/16-127) (from Ch. 108 1/2, par. 16-127)

15 Sec. 16-127. Computation of creditable service.

16 (a) Each member shall receive regular credit for all  
17 service as a teacher from the date membership begins, for which  
18 satisfactory evidence is supplied and all contributions have  
19 been paid.

20 (b) The following periods of service shall earn optional  
21 credit and each member shall receive credit for all such  
22 service for which satisfactory evidence is supplied and all  
23 contributions have been paid as of the date specified:

24 (1) Prior service as a teacher.

25 (2) Service in a capacity essentially similar or

1 equivalent to that of a teacher, in the public common  
2 schools in school districts in this State not included  
3 within the provisions of this System, or of any other  
4 State, territory, dependency or possession of the United  
5 States, or in schools operated by or under the auspices of  
6 the United States, or under the auspices of any agency or  
7 department of any other State, and service during any  
8 period of professional speech correction or special  
9 education experience for a public agency within this State  
10 or any other State, territory, dependency or possession of  
11 the United States, and service prior to February 1, 1951 as  
12 a recreation worker for the Illinois Department of Public  
13 Safety, for a period not exceeding the lesser of 2/5 of the  
14 total creditable service of the member or 10 years. The  
15 maximum service of 10 years which is allowable under this  
16 paragraph shall be reduced by the service credit which is  
17 validated by other retirement systems under paragraph (i)  
18 of Section 15-113 and paragraph 1 of Section 17-133. Credit  
19 granted under this paragraph may not be used in  
20 determination of a retirement annuity or disability  
21 benefits unless the member has at least 5 years of  
22 creditable service earned subsequent to this employment  
23 with one or more of the following systems: Teachers'  
24 Retirement System of the State of Illinois, State  
25 Universities Retirement System, and the Public School  
26 Teachers' Pension and Retirement Fund of Chicago. Whenever

1 such service credit exceeds the maximum allowed for all  
2 purposes of this Article, the first service rendered in  
3 point of time shall be considered. The changes to this  
4 subdivision (b)(2) made by Public Act 86-272 shall apply  
5 not only to persons who on or after its effective date  
6 (August 23, 1989) are in service as a teacher under the  
7 System, but also to persons whose status as such a teacher  
8 terminated prior to such effective date, whether or not  
9 such person is an annuitant on that date.

10 (3) Any periods immediately following teaching  
11 service, under this System or under Article 17, (or  
12 immediately following service prior to February 1, 1951 as  
13 a recreation worker for the Illinois Department of Public  
14 Safety) spent in active service with the military forces of  
15 the United States; periods spent in educational programs  
16 that prepare for return to teaching sponsored by the  
17 federal government following such active military service;  
18 if a teacher returns to teaching service within one  
19 calendar year after discharge or after the completion of  
20 the educational program, a further period, not exceeding  
21 one calendar year, between time spent in military service  
22 or in such educational programs and the return to  
23 employment as a teacher under this System; and a period of  
24 up to 2 years of active military service not immediately  
25 following employment as a teacher.

26 The changes to this Section and Section 16-128 relating

1 to military service made by P.A. 87-794 shall apply not  
2 only to persons who on or after its effective date are in  
3 service as a teacher under the System, but also to persons  
4 whose status as a teacher terminated prior to that date,  
5 whether or not the person is an annuitant on that date. In  
6 the case of an annuitant who applies for credit allowable  
7 under this Section for a period of military service that  
8 did not immediately follow employment, and who has made the  
9 required contributions for such credit, the annuity shall  
10 be recalculated to include the additional service credit,  
11 with the increase taking effect on the date the System  
12 received written notification of the annuitant's intent to  
13 purchase the credit, if payment of all the required  
14 contributions is made within 60 days of such notice, or  
15 else on the first annuity payment date following the date  
16 of payment of the required contributions. In calculating  
17 the automatic annual increase for an annuity that has been  
18 recalculated under this Section, the increase attributable  
19 to the additional service allowable under P.A. 87-794 shall  
20 be included in the calculation of automatic annual  
21 increases accruing after the effective date of the  
22 recalculation.

23 Credit for military service shall be determined as  
24 follows: if entry occurs during the months of July, August,  
25 or September and the member was a teacher at the end of the  
26 immediately preceding school term, credit shall be granted

1 from July 1 of the year in which he or she entered service;  
2 if entry occurs during the school term and the teacher was  
3 in teaching service at the beginning of the school term,  
4 credit shall be granted from July 1 of such year. In all  
5 other cases where credit for military service is allowed,  
6 credit shall be granted from the date of entry into the  
7 service.

8 The total period of military service for which credit  
9 is granted shall not exceed 5 years for any member unless  
10 the service: (A) is validated before July 1, 1964, and (B)  
11 does not extend beyond July 1, 1963. Credit for military  
12 service shall be granted under this Section only if not  
13 more than 5 years of the military service for which credit  
14 is granted under this Section is used by the member to  
15 qualify for a military retirement allotment from any branch  
16 of the armed forces of the United States. The changes to  
17 this subdivision (b) (3) made by Public Act 86-272 shall  
18 apply not only to persons who on or after its effective  
19 date (August 23, 1989) are in service as a teacher under  
20 the System, but also to persons whose status as such a  
21 teacher terminated prior to such effective date, whether or  
22 not such person is an annuitant on that date.

23 (4) Any periods served as a member of the General  
24 Assembly.

25 (5) (i) Any periods for which a teacher, as defined in  
26 Section 16-106, is granted a leave of absence, provided he

1 or she returns to teaching service creditable under this  
2 System or the State Universities Retirement System  
3 following the leave; (ii) periods during which a teacher is  
4 involuntarily laid off from teaching, provided he or she  
5 returns to teaching following the lay-off; (iii) periods  
6 prior to July 1, 1983 during which a teacher ceased covered  
7 employment due to pregnancy, provided that the teacher  
8 returned to teaching service creditable under this System  
9 or the State Universities Retirement System following the  
10 pregnancy and submits evidence satisfactory to the Board  
11 documenting that the employment ceased due to pregnancy;  
12 and (iv) periods prior to July 1, 1983 during which a  
13 teacher ceased covered employment for the purpose of  
14 adopting an infant under 3 years of age or caring for a  
15 newly adopted infant under 3 years of age, provided that  
16 the teacher returned to teaching service creditable under  
17 this System or the State Universities Retirement System  
18 following the adoption and submits evidence satisfactory  
19 to the Board documenting that the employment ceased for the  
20 purpose of adopting an infant under 3 years of age or  
21 caring for a newly adopted infant under 3 years of age.  
22 However, total credit under this paragraph (5) may not  
23 exceed 3 years.

24 Any qualified member or annuitant may apply for credit  
25 under item (iii) or (iv) of this paragraph (5) without  
26 regard to whether service was terminated before the

1 effective date of this amendatory Act of 1997. In the case  
2 of an annuitant who establishes credit under item (iii) or  
3 (iv), the annuity shall be recalculated to include the  
4 additional service credit. The increase in annuity shall  
5 take effect on the date the System receives written  
6 notification of the annuitant's intent to purchase the  
7 credit, if the required evidence is submitted and the  
8 required contribution paid within 60 days of that  
9 notification, otherwise on the first annuity payment date  
10 following the System's receipt of the required evidence and  
11 contribution. The increase in an annuity recalculated  
12 under this provision shall be included in the calculation  
13 of automatic annual increases in the annuity accruing after  
14 the effective date of the recalculation.

15 Optional credit may be purchased under this subsection  
16 (b) (5) for periods during which a teacher has been granted  
17 a leave of absence pursuant to Section 24-13 of the School  
18 Code. A teacher whose service under this Article terminated  
19 prior to the effective date of P.A. 86-1488 shall be  
20 eligible to purchase such optional credit. If a teacher who  
21 purchases this optional credit is already receiving a  
22 retirement annuity under this Article, the annuity shall be  
23 recalculated as if the annuitant had applied for the leave  
24 of absence credit at the time of retirement. The difference  
25 between the entitled annuity and the actual annuity shall  
26 be credited to the purchase of the optional credit. The

1 remainder of the purchase cost of the optional credit shall  
2 be paid on or before April 1, 1992.

3 The change in this paragraph made by Public Act 86-273  
4 shall be applicable to teachers who retire after June 1,  
5 1989, as well as to teachers who are in service on that  
6 date.

7 (6) Any days of unused and uncompensated accumulated  
8 sick leave earned by a teacher who first became a  
9 participant in the System before the effective date of this  
10 amendatory Act of the 97th General Assembly. The service  
11 credit granted under this paragraph shall be the ratio of  
12 the number of unused and uncompensated accumulated sick  
13 leave days to 170 days, subject to a maximum of 2 years of  
14 service credit. Prior to the member's retirement, each  
15 former employer shall certify to the System the number of  
16 unused and uncompensated accumulated sick leave days  
17 credited to the member at the time of termination of  
18 service. The period of unused sick leave shall not be  
19 considered in determining the effective date of  
20 retirement. A member is not required to make contributions  
21 in order to obtain service credit for unused sick leave.

22 Credit for sick leave shall, at retirement, be granted  
23 by the System for any retiring regional or assistant  
24 regional superintendent of schools who first became a  
25 participant in this System before the effective date of  
26 this amendatory Act of the 97th General Assembly at the

1 rate of 6 days per year of creditable service or portion  
2 thereof established while serving as such superintendent  
3 or assistant superintendent.

4 Service credit is not available for unused sick leave  
5 accumulated by a teacher who first becomes a participant in  
6 this System on or after the effective date of this amendatory  
7 Act of the 97th General Assembly.

8 (7) Periods prior to February 1, 1987 served as an  
9 employee of the Illinois Mathematics and Science Academy  
10 for which credit has not been terminated under Section  
11 15-113.9 of this Code.

12 (8) Service as a substitute teacher for work performed  
13 prior to July 1, 1990.

14 (9) Service as a part-time teacher for work performed  
15 prior to July 1, 1990.

16 (10) Up to 2 years of employment with Southern Illinois  
17 University - Carbondale from September 1, 1959 to August  
18 31, 1961, or with Governors State University from September  
19 1, 1972 to August 31, 1974, for which the teacher has no  
20 credit under Article 15. To receive credit under this item  
21 (10), a teacher must apply in writing to the Board and pay  
22 the required contributions before May 1, 1993 and have at  
23 least 12 years of service credit under this Article.

24 (b-1) A member may establish optional credit for up to 2  
25 years of service as a teacher or administrator employed by a  
26 private school recognized by the Illinois State Board of

1 Education, provided that the teacher (i) was certified under  
2 the law governing the certification of teachers at the time the  
3 service was rendered, (ii) applies in writing on or after  
4 August 1, 2009 and on or before August 1, 2012, (iii) supplies  
5 satisfactory evidence of the employment, (iv) completes at  
6 least 10 years of contributing service as a teacher as defined  
7 in Section 16-106, and (v) pays the contribution required in  
8 subsection (d-5) of Section 16-128. The member may apply for  
9 credit under this subsection and pay the required contribution  
10 before completing the 10 years of contributing service required  
11 under item (iv), but the credit may not be used until the item  
12 (iv) contributing service requirement has been met.

13 (c) The service credits specified in this Section shall be  
14 granted only if: (1) such service credits are not used for  
15 credit in any other statutory tax-supported public employee  
16 retirement system other than the federal Social Security  
17 program; and (2) the member makes the required contributions as  
18 specified in Section 16-128. Except as provided in subsection  
19 (b-1) of this Section, the service credit shall be effective as  
20 of the date the required contributions are completed.

21 Any service credits granted under this Section shall  
22 terminate upon cessation of membership for any cause.

23 Credit may not be granted under this Section covering any  
24 period for which an age retirement or disability retirement  
25 allowance has been paid.

26 (Source: P.A. 96-546, eff. 8-17-09.)"; and

1 on page 113, in line 13, by changing "equitable" to "equitable,  
2 but excluding the changes, the impact of changes, and the  
3 implementation of the changes set forth in this amendatory Act  
4 of the 97th General Assembly; and

5 on page 123, in line 18, by replacing "35 through 100," with  
6 "40, 95, 100,"; and

7 on page 124, by replacing lines 2 and 3, with the following:

8 "Sections 10, 35, and 45 through 90 of this Act, as well as  
9 the other provisions of Section 30 of this Act, are mutually  
10 dependent and inseverable. If any".