



Sen. John J. Cullerton

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1 AMENDMENT TO HOUSE BILL 3865

2 AMENDMENT NO. _____. Amend House Bill 3865, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment No.
4 3, as follows:

5 on page 13, in line 19, immediately after "14-135.08," by
6 inserting "15-106"; and

7 on page 50, in line 1, by replacing "Section Section" with
8 "Section"; and

9 by replacing line 1 on page 70 through line 20 on page 74 with
10 the following:

11 "(40 ILCS 5/7-109) (from Ch. 108 1/2, par. 7-109)

12 Sec. 7-109. Employee.

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

14 (a) 1. Receives earnings as payment for the performance

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

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

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

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

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

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

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

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

17 2. Articles 15 and 16 of this Code.

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

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

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

23 (c) After August 26, 2011 (the effective date of Public
24 Act 97-609) ~~this amendatory Act of the 97th General~~
25 ~~Assembly~~, are contributors to or eligible to contribute to
26 a Taft-Hartley pension plan established on or before June

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

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

24 (3) All persons, including, without limitation, public
25 defenders and probation officers, who receive earnings from
26 general or special funds of a county for performance of

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

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

19 on page 79, immediately below line 7, by inserting the
20 following:

21 "(40 ILCS 5/15-106) (from Ch. 108 1/2, par. 15-106)
22 Sec. 15-106. Employer. "Employer": The University of
23 Illinois, Southern Illinois University, Chicago State
24 University, Eastern Illinois University, Governors State

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

26 Notwithstanding any provision of law to the contrary, an

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

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

1 Services, or, if applicable, any successor bureau.

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

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

9 on page 138, in line 13, by replacing "arising" with
10 "associated with the total cost of benefits accrued"; and

11 on page 167, in line 21, by changing "equitable" to "equitable,
12 but excluding the changes, the impact of changes, and the
13 implementation of the changes set forth in this amendatory Act
14 of the 97th General Assembly"; and

15 on page 178, in line 2, by replacing "35 through 100," with
16 "40, 95, 100,"; and

17 on page 178, by replacing lines 10 and 11, with the following:

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