



Rep. Tom Cross

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LRB097 17202 EFG 66753 a

1 AMENDMENT TO HOUSE BILL 4867

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4867 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by  
5 changing Sections 15-107 and 16-106 as follows:

6 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

7 Sec. 15-107. Employee.

8 (a) "Employee" means any member of the educational,  
9 administrative, secretarial, clerical, mechanical, labor or  
10 other staff of an employer whose employment is permanent and  
11 continuous or who is employed in a position in which services  
12 are expected to be rendered on a continuous basis for at least  
13 4 months or one academic term, whichever is less, who (A)  
14 receives payment for personal services on a warrant issued  
15 pursuant to a payroll voucher certified by an employer and  
16 drawn by the State Comptroller upon the State Treasurer or by

1 an employer upon trust, federal or other funds, or (B) is on a  
2 leave of absence without pay. Employment which is irregular,  
3 intermittent or temporary shall not be considered continuous  
4 for purposes of this paragraph.

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

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

10 (2) is currently receiving a retirement annuity or a  
11 disability retirement annuity under Section 15-153.2 from  
12 this System;

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

14 (4) is eligible to participate in the Federal Civil  
15 Service Retirement System and is currently making  
16 contributions to that system based upon earnings paid by an  
17 employer;

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

21 (6) is hired after June 30, 1979 as a public service  
22 employment program participant under the Federal  
23 Comprehensive Employment and Training Act and receives  
24 earnings in whole or in part from funds provided under that  
25 Act; ~~or~~

26 (7) is employed on or after July 1, 1991 to perform

1 services that are excluded by subdivision (a)(7)(f) or  
2 (a)(19) of Section 210 of the federal Social Security Act  
3 from the definition of employment given in that Section (42  
4 U.S.C. 410); or-

5 (8) becomes employed after the effective date of this  
6 amendatory Act of the 97th General Assembly by the Illinois  
7 Association of School Administrators, the Illinois  
8 Principals Association, Special Olympics Illinois, the  
9 Illinois Association of School Business Officials, the  
10 Illinois Association for Supervision and Curriculum  
11 Development, the Illinois Manufacturing Extension Center,  
12 or the Association of Illinois Middle Grade Schools, with  
13 respect to that employment, but this does not exclude  
14 participation in the System by a person so employed on that  
15 effective date for the duration of that employment.

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

25 (c) Any person appointed by the Governor under the Civil  
26 Administrative Code of the State is an employee, if he or she

1 is a participant in this system on the effective date of the  
2 appointment.

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

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

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

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

1 periods.

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

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

1 organization and becomes a participant before the effective  
2 date of this amendatory Act of the 97th General Assembly. An  
3 employee under this subsection (i) is responsible for paying to  
4 the System both (A) employee contributions based on the actual  
5 compensation received for service with the teacher  
6 organization and (B) employer contributions equal to the normal  
7 costs (as defined in Section 15-155) resulting from that  
8 service; all or any part of these contributions may be paid on  
9 the employee's behalf or picked up for tax purposes (if  
10 authorized under federal law) by the teacher organization.

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

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

1 and Computer Services, or, if applicable, any successor bureau  
2 and meets the requirements of subsection (a).

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

4 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)

5 Sec. 16-106. Teacher. "Teacher": The following  
6 individuals, provided that, for employment prior to July 1,  
7 1990, they are employed on a full-time basis, or if not  
8 full-time, on a permanent and continuous basis in a position in  
9 which services are expected to be rendered for at least one  
10 school term:

11 (1) Any educational, administrative, professional or  
12 other staff employed in the public common schools included  
13 within this system in a position requiring certification  
14 under the law governing the certification of teachers;

15 (2) Any educational, administrative, professional or  
16 other staff employed in any facility of the Department of  
17 Children and Family Services or the Department of Human  
18 Services, in a position requiring certification under the  
19 law governing the certification of teachers, and any person  
20 who (i) works in such a position for the Department of  
21 Corrections, (ii) was a member of this System on May 31,  
22 1987, and (iii) did not elect to become a member of the  
23 State Employees' Retirement System pursuant to Section  
24 14-108.2 of this Code; except that "teacher" does not  
25 include any person who (A) becomes a security employee of

1 the Department of Human Services, as defined in Section  
2 14-110, after June 28, 2001 (the effective date of Public  
3 Act 92-14), or (B) becomes a member of the State Employees'  
4 Retirement System pursuant to Section 14-108.2c of this  
5 Code;

6 (3) Any regional superintendent of schools, assistant  
7 regional superintendent of schools, State Superintendent  
8 of Education; any person employed by the State Board of  
9 Education as an executive; any executive of the boards  
10 engaged in the service of public common school education in  
11 school districts covered under this system of which the  
12 State Superintendent of Education is an ex-officio member;

13 (4) Any person participating in the System on the  
14 effective date of this amendatory Act of the 97th General  
15 Assembly as an employee of a school board association  
16 operating in compliance with Article 23 of the School Code  
17 who is certificated under the law governing the  
18 certification of teachers, for the duration of that  
19 employment, but not a person who becomes so employed after  
20 that date;

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

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

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



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

9           (7) Any educational, administrative, professional or  
10 other staff employed in an educational program serving 2 or  
11 more school districts in accordance with a joint agreement  
12 authorized by the School Code or by federal legislation and  
13 in a position requiring certification under the laws  
14 governing the certification of teachers;

15           (8) Any officer or employee of a statewide teacher  
16 organization or officer of a national teacher organization  
17 who is certified under the law governing certification of  
18 teachers, provided: (i) the individual had previously  
19 established creditable service under this Article, (ii)  
20 the individual files with the system an irrevocable  
21 election to become a member before the effective date of  
22 this amendatory Act of the 97th General Assembly, (iii) the  
23 individual does not receive credit for such service under  
24 any other Article of this Code, and (iv) the individual  
25 first became an officer or employee of the teacher  
26 organization and becomes a member before the effective date

1 of this amendatory Act of the 97th General Assembly;

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

6 (10) Any person employed, on the effective date of this  
7 amendatory Act of the 94th General Assembly, by the  
8 Macon-Piatt Regional Office of Education in a  
9 birth-through-age-three pilot program receiving funds  
10 under Section 2-389 of the School Code who is required by  
11 the Macon-Piatt Regional Office of Education to hold a  
12 teaching certificate, provided that the Macon-Piatt  
13 Regional Office of Education makes an election, within 6  
14 months after the effective date of this amendatory Act of  
15 the 94th General Assembly, to have the person participate  
16 in the system. Any service established prior to the  
17 effective date of this amendatory Act of the 94th General  
18 Assembly for service as an employee of the Macon-Piatt  
19 Regional Office of Education in a birth-through-age-three  
20 pilot program receiving funds under Section 2-389 of the  
21 School Code shall be considered service as a teacher if  
22 employee and employer contributions have been received by  
23 the system and the system has not refunded those  
24 contributions.

25 An annuitant receiving a retirement annuity under this  
26 Article or under Article 17 of this Code who is employed by a

1 board of education or other employer as permitted under Section  
2 16-118 or 16-150.1 is not a "teacher" for purposes of this  
3 Article. A person who has received a single-sum retirement  
4 benefit under Section 16-136.4 of this Article is not a  
5 "teacher" for purposes of this Article.

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

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.".