

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by
5 changing Sections 17-105.1, 17-106, and 17-132 and by adding
6 Section 17-134.2 as follows:

7 (40 ILCS 5/17-105.1)

8 Sec. 17-105.1. Employer. "Employer": The Board of
9 Education, ~~and~~ a charter school as defined under the
10 provisions of Section 27A-5 of the School Code, and a contract
11 school operating pursuant to an agreement with the Board of
12 Education.

13 (Source: P.A. 90-566, eff. 1-2-98.)

14 (40 ILCS 5/17-106) (from Ch. 108 1/2, par. 17-106)

15 Sec. 17-106. Contributor, member or teacher.
16 "Contributor", "member" or "teacher": All members of the
17 teaching force of the city, including principals, assistant
18 principals, the general superintendent of schools, deputy
19 superintendents of schools, associate superintendents of
20 schools, assistant and district superintendents of schools,
21 members of the Board of Examiners, all other persons whose
22 employment requires a teaching certificate issued under the

1 laws governing the certification of teachers, any educational
2 staff employed in a contract school operating pursuant to an
3 agreement with the Board of Education who is employed in a
4 position requiring certification or licensure under the School
5 Code (excluding all managerial, supervisory, and confidential
6 employees) and is required to or elects to participate
7 pursuant to Section 17-134.2, any educational, administrative,
8 professional, or other staff employed in a charter school
9 operating in compliance with the Charter Schools Law who is
10 certified under the law governing the certification of
11 teachers, and employees of the Board, but excluding persons
12 contributing concurrently to any other public employee pension
13 system in Illinois for the same employment or receiving
14 retirement pensions under another Article of this Code for
15 that same employment, persons employed on an hourly basis
16 (provided that an Employer may not reclassify a non-hourly
17 employee as an hourly employee for the purpose of evading or
18 avoiding its obligations under this Article), and persons
19 receiving pensions from the Fund who are employed temporarily
20 by an Employer and not on an annual basis.

21 All teachers or staff regardless of their position shall
22 presumptively be participants in the Fund, unless the Employer
23 establishes to the satisfaction of the Board that an
24 individual certified teacher or staff member is not working as
25 a teacher or administrator directly or indirectly with the
26 Charter School. Any certified teacher or staff employed by a

1 corporate or non-profit entity engaged in the administration
2 of a charter school shall presumptively be a participant in
3 the Fund, unless the organization establishes to the
4 satisfaction of the Board that an individual certified teacher
5 or staff member is not working as a teacher or administrator
6 directly or indirectly with the Charter School.

7 In the case of a person who has been making contributions
8 and otherwise participating in this Fund prior to the
9 effective date of this amendatory Act of the 91st General
10 Assembly, and whose right to participate in the Fund is
11 established or confirmed by this amendatory Act, such prior
12 participation in the Fund, including all contributions
13 previously made and service credits previously earned by the
14 person, are hereby validated.

15 The changes made to this Section and Section 17-149 by
16 this amendatory Act of the 92nd General Assembly apply without
17 regard to whether the person was in service on or after the
18 effective date of this amendatory Act, notwithstanding
19 Sections 1-103.1 and 17-157.

20 (Source: P.A. 98-427, eff. 8-16-13.)

21 (40 ILCS 5/17-132) (from Ch. 108 1/2, par. 17-132)

22 Sec. 17-132. Payments and certification of salary
23 deductions.

24 (a) An Employer shall cause the Fund to receive all
25 members' payroll records and pension contributions within 30

1 calendar days after each predesignated payday. For purposes of
2 this Section, the predesignated payday shall be determined in
3 accordance with each Employer's payroll schedule for
4 contributions to the Fund.

5 (b) An Employer that fails to timely certify and submit
6 payroll records to the Fund is subject to a statutory penalty
7 in the amount of \$100 per day for each day that a required
8 certification and submission is late.

9 Amounts not received by the 30th calendar day after the
10 predesignated payday shall be deemed delinquent and subject to
11 a penalty consisting of interest, which shall accrue on a
12 monthly basis at the Fund's then effective actuarial rate of
13 return, and liquidated damages in the amount of \$100 per day,
14 not to exceed 20% of the principal contributions due, which
15 shall be mandatory except for good cause shown and in the
16 discretion of the Board.

17 An Employer in possession of member contributions deducted
18 from payroll checks is holding Fund assets, and thus becomes a
19 fiduciary over those assets.

20 (c) The payroll records shall report (1) all pensionable
21 salary earned in that pay period, exclusive of salaries for
22 overtime, extracurricular activities, or any employment on an
23 optional basis, such as in summer school; (2) adjustments to
24 pensionable salary, exclusive of salaries for overtime,
25 extracurricular activities, or any employment on an optional
26 basis, such as in summer school, made in a pay period for any

1 prior pay periods; (3) pension contributions attributable to
2 pensionable salary earned in the reported pay period or the
3 adjusted pay period as required by subsection (b) of Section
4 17-131; and (4) any salary paid by an Employer if that salary
5 is compensation for validated service and is exclusive of
6 salary for overtime, extracurricular activities, or any
7 employment on an optional basis, such as in summer school.
8 Payroll records required by item (4) of this paragraph shall
9 identify the number of days of service rendered by the member
10 and whether each day of service represents a partial or whole
11 day of service.

12 (d) The appropriate officers of the Employer shall certify
13 and submit the payroll records no later than 30 calendar days
14 after each predesignated payday. The certification shall
15 constitute a confirmation of the accuracy of such deductions
16 according to the provisions of this Article.

17 Each Charter School and contract school shall designate an
18 administrator as a "Pension Officer". The Pension Officer
19 shall be responsible for certifying all payroll information,
20 including contributions due and certified sick days payable
21 pursuant to Section 17-134, and assuring resolution of
22 reported payroll and contribution deficiencies.

23 (e) The Board has the authority to conduct payroll audits
24 of a charter school or contract school to determine the
25 existence of any delinquencies in contributions to the Fund,
26 and such charter school or contract school shall be required

1 to provide such books and records and contribution information
2 as the Board or its authorized representative may require. The
3 Board is also authorized to collect delinquent contributions
4 from charter schools and contract schools and develop
5 procedures for the collection of such delinquencies.
6 Collection procedures may include legal proceedings in the
7 courts of the State of Illinois. Expenses, including
8 reasonable attorneys' fees, incurred in the collection of
9 delinquent contributions may be assessed by the Board against
10 the charter school or contract school.

11 (f) The Fund shall provide a conditional grace period for
12 contract schools that show evidence of timely and good faith
13 efforts to submit payroll records and make pension
14 contributions due between January 1, 2022 and April 1, 2022.
15 If payroll records and pension contributions due during that
16 time period are not submitted by April 1, 2022, the statutory
17 penalties, liquidated damages, and interest shall be
18 calculated from the original due date to the submission date
19 of the pension contributions or payroll records, as
20 applicable.

21 Evidence of timely and good faith efforts shall include,
22 but are not limited to, the following:

23 (1) evidence of the contract school's continuing
24 efforts to submit payroll records and make pension
25 contributions, both before and after the date the payroll
26 records and pension contributions were due;

1 (2) documented evidence submitted by the contract
2 school of the contract school's continuing efforts to
3 submit payroll records and make pension contributions;

4 (3) evidence in the possession of the Fund of the
5 contract school's continuing efforts to submit payroll
6 records and make pension contributions; and

7 (4) contact by the contract school with the Fund to
8 seek assistance and notify the Fund of difficulties with
9 submitting the payroll records and making the pension
10 contributions within a period of time determined by the
11 Board after the date the pension contributions and payroll
12 records were due.

13 The Fund may adopt rules to implement the changes made by
14 this amendatory Act of the 102nd General Assembly.

15 (Source: P.A. 101-261, eff. 8-9-19.)

16 (40 ILCS 5/17-134.2 new)

17 Sec. 17-134.2. Employee of a contract school. Any
18 educational staff of a contract school operating pursuant to
19 an agreement with the Board of Education who is employed in a
20 position requiring certification or licensure under the School
21 Code on or after the effective date of this amendatory Act of
22 the 102nd General Assembly (excluding all managerial,
23 supervisory, and confidential employees) shall participate as
24 a member beginning on January 1, 2022, unless the person began
25 employment with the contract school before the effective date

1 of this amendatory Act of the 102nd General Assembly.

2 Any educational staff employed in a contract school
3 operating pursuant to an agreement with the Board of Education
4 who began employment in a position requiring certification or
5 licensure under the School Code before the effective date of
6 this amendatory Act of the 102nd General Assembly (excluding
7 all managerial, supervisory, and confidential employees) may
8 irrevocably elect, in a manner prescribed by the Board, to
9 participate as a member for service accrued after January 1,
10 2022 with the contract school, another contract school, a
11 charter school, or the Board of Education. In no event shall a
12 person accrue service for employment with a contract school
13 that occurred before January 1, 2022.

14 Section 90. The State Mandates Act is amended by adding
15 Section 8.45 as follows:

16 (30 ILCS 805/8.45 new)

17 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and
18 8 of this Act, no reimbursement by the State is required for
19 the implementation of any mandate created by this amendatory
20 Act of the 102nd General Assembly.

21 Section 99. Effective date. This Act takes effect July 1,
22 2021.