

AN ACT concerning public employee benefits.

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

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

(40 ILCS 5/17-105.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(40 ILCS 5/17-134.2 new)

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

of this amendatory Act of the 102nd General Assembly.

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

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

(30 ILCS 805/8.45 new)

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

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