



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1108

Introduced 2/5/2019, by Sen. Steven M. Landek

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Pension Code. Moves the investment power for eligible downstate police and downstate firefighter pension funds that have net assets in trust that exceed an amount equal to 3 months of current liabilities to the Board of Trustees of the Illinois Municipal Retirement Fund (IMRF). Provides that within 24 months after the effective date of the amendatory Act, the Department of Insurance shall audit the investment assets of each eligible pension fund to determine a certified investment asset list. Provides that upon receipt of the certified investment asset list, the Board of IMRF shall initiate the transfer of assets from the board of trustees of the eligible pension fund to the Board of IMRF. Makes conforming changes. Amends the State Mandates Act to require implementation without reimbursement.

LRB101 00264 RPS 45268 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 changing
5 Sections 1-113.1, 1-113.2, 1-113.3, 1-113.4, 1-113.4a,
6 1-113.5, 1-113.6, 1-113.7, 3-127, 3-132, 3-135, 4-120, 4-123,
7 and 4-128 and by adding Sections 1-101.6, 1-101.7, 1-113.05,
8 3-135.1, 3-135.2, 4-128.1, 4-128.2, 7-226, and 7-227 as
9 follows:

10 (40 ILCS 5/1-101.6 new)

11 Sec. 1-101.6. Eligible pension fund. "Eligible pension
12 fund" means a pension fund established pursuant to Article 3 or
13 Article 4 of this Code that has net assets in trust that exceed
14 the threshold amount defined in Section 1-101.7 of this Code.
15 The status of "eligible pension fund", once established,
16 continues in effect without regard to subsequent variations in
17 the net assets of the pension fund. "Eligible pension fund"
18 does not include a pension fund established pursuant to Article
19 3 or Article 4 of this Code that has elected before the
20 effective date of this amendatory Act of the 101st General
21 Assembly to come under the authority of the Illinois State
22 Board of Investment for the management of its investments and
23 that continues to be under the authority of the Illinois State

1 Board of Investment for the management of its investments.

2 (40 ILCS 5/1-101.7 new)

3 Sec. 1-101.7. Threshold amount. "Threshold amount", when
4 used in relation to the financial assets of a pension fund
5 established under Article 3 or Article 4 of this Code, means an
6 amount equal to 3 months of current liabilities of the pension
7 fund, including benefit payments owed to annuitants and
8 beneficiaries of the pension fund and reasonable operational
9 expenses.

10 (40 ILCS 5/1-113.05 new)

11 Sec. 1-113.05. Transfer of investment authority of certain
12 pension funds established under Article 3 or 4. Upon receiving
13 a certified investment asset list from the Department of
14 Insurance pursuant to Section 3-135.1 or Section 4-128.1 of
15 this Code, the board of trustees of an eligible pension fund
16 established under Article 3 or 4 of this Code shall cease
17 investment activities and shall transfer all investment assets
18 of the pension fund to the Board of Trustees of the Illinois
19 Municipal Retirement Fund in the manner prescribed by rules
20 adopted by the Board of Trustees of the Illinois Municipal
21 Retirement Fund. Upon completion of that transfer, the
22 investment authority of the board of trustees shall terminate.

23 (40 ILCS 5/1-113.1)

1 Sec. 1-113.1. Investment authority of certain pension
2 funds established under Article 3 or 4.

3 (a) Beginning 24 months after the effective date of this
4 amendatory Act of the 101st General Assembly, or when the
5 transfer of investment authority is made pursuant to Section
6 1-113.05, whichever occurs first, subsection (b) of this
7 Section does not apply to any pension fund that is an eligible
8 pension fund as defined in Section 1-101.6.

9 This Section continues to apply to any pension fund
10 established under Article 3 or 4 that is not an eligible
11 pension fund as defined in Section 1-101.6.

12 (b) The board of trustees of a police pension fund
13 established under Article 3 of this Code or firefighter pension
14 fund established under Article 4 of this Code shall draw
15 pension funds from the treasurer of the municipality and,
16 beginning January 1, 1998, invest any part thereof in the name
17 of the board in the items listed in Sections 1-113.2 through
18 1-113.4 according to the limitations and requirements of this
19 Article. These investments shall be made with the care, skill,
20 prudence, and diligence that a prudent person acting in like
21 capacity and familiar with such matters would use in the
22 conduct of an enterprise of like character with like aims.

23 Interest and any other income from the investments shall be
24 credited to the pension fund.

25 For the purposes of Sections 1-113.2 through 1-113.11, the
26 "net assets" of a pension fund include both the cash and

1 invested assets of the pension fund.

2 (Source: P.A. 90-507, eff. 8-22-97.)

3 (40 ILCS 5/1-113.2)

4 Sec. 1-113.2. List of permitted investments for certain ~~all~~
5 Article 3 or 4 pension funds.

6 (a) Beginning 24 months after the effective date of this
7 amendatory Act of the 101st General Assembly, or when the
8 transfer of investment authority is made pursuant to Section
9 1-113.05, whichever occurs first, subsection (b) of this
10 Section does not apply to any pension fund that is an eligible
11 pension fund as defined in Section 1-101.6.

12 (b) Except as provided in subsection (a), any ~~Any~~ pension
13 fund established under Article 3 or 4 may invest in the
14 following items:

15 (1) Interest bearing direct obligations of the United
16 States of America.

17 (2) Interest bearing obligations to the extent that they
18 are fully guaranteed or insured as to payment of principal and
19 interest by the United States of America.

20 (3) Interest bearing bonds, notes, debentures, or other
21 similar obligations of agencies of the United States of
22 America. For the purposes of this Section, "agencies of the
23 United States of America" includes: (i) the Federal National
24 Mortgage Association and the Student Loan Marketing
25 Association; (ii) federal land banks, federal intermediate

1 credit banks, federal farm credit banks, and any other entity
2 authorized to issue direct debt obligations of the United
3 States of America under the Farm Credit Act of 1971 or
4 amendments to that Act; (iii) federal home loan banks and the
5 Federal Home Loan Mortgage Corporation; and (iv) any agency
6 created by Act of Congress that is authorized to issue direct
7 debt obligations of the United States of America.

8 (4) Interest bearing savings accounts or certificates of
9 deposit, issued by federally chartered banks or savings and
10 loan associations, to the extent that the deposits are insured
11 by agencies or instrumentalities of the federal government.

12 (5) Interest bearing savings accounts or certificates of
13 deposit, issued by State of Illinois chartered banks or savings
14 and loan associations, to the extent that the deposits are
15 insured by agencies or instrumentalities of the federal
16 government.

17 (6) Investments in credit unions, to the extent that the
18 investments are insured by agencies or instrumentalities of the
19 federal government.

20 (7) Interest bearing bonds of the State of Illinois.

21 (8) Pooled interest bearing accounts managed by the
22 Illinois Public Treasurer's Investment Pool in accordance with
23 the Deposit of State Moneys Act, interest bearing funds or
24 pooled accounts of the Illinois Metropolitan Investment Funds,
25 and interest bearing funds or pooled accounts managed,
26 operated, and administered by banks, subsidiaries of banks, or

1 subsidiaries of bank holding companies in accordance with the
2 laws of the State of Illinois.

3 (9) Interest bearing bonds or tax anticipation warrants of
4 any county, township, or municipal corporation of the State of
5 Illinois.

6 (10) Direct obligations of the State of Israel, subject to
7 the conditions and limitations of item (5.1) of Section 1-113.

8 (11) Money market mutual funds managed by investment
9 companies that are registered under the federal Investment
10 Company Act of 1940 and the Illinois Securities Law of 1953 and
11 are diversified, open-ended management investment companies;
12 provided that the portfolio of the money market mutual fund is
13 limited to the following:

14 (i) bonds, notes, certificates of indebtedness,
15 treasury bills, or other securities that are guaranteed by
16 the full faith and credit of the United States of America
17 as to principal and interest;

18 (ii) bonds, notes, debentures, or other similar
19 obligations of the United States of America or its
20 agencies; and

21 (iii) short term obligations of corporations organized
22 in the United States with assets exceeding \$400,000,000,
23 provided that (A) the obligations mature no later than 180
24 days from the date of purchase, (B) at the time of
25 purchase, the obligations are rated by at least 2 standard
26 national rating services at one of their 3 highest

1 classifications, and (C) the obligations held by the mutual
2 fund do not exceed 10% of the corporation's outstanding
3 obligations.

4 (12) General accounts of life insurance companies
5 authorized to transact business in Illinois.

6 (13) Any combination of the following, not to exceed 10% of
7 the pension fund's net assets:

8 (i) separate accounts that are managed by life
9 insurance companies authorized to transact business in
10 Illinois and are comprised of diversified portfolios
11 consisting of common or preferred stocks, bonds, or money
12 market instruments;

13 (ii) separate accounts that are managed by insurance
14 companies authorized to transact business in Illinois, and
15 are comprised of real estate or loans upon real estate
16 secured by first or second mortgages; and

17 (iii) mutual funds that meet the following
18 requirements:

19 (A) the mutual fund is managed by an investment
20 company as defined and registered under the federal
21 Investment Company Act of 1940 and registered under the
22 Illinois Securities Law of 1953;

23 (B) the mutual fund has been in operation for at
24 least 5 years;

25 (C) the mutual fund has total net assets of \$250
26 million or more; and

1 (D) the mutual fund is comprised of diversified
2 portfolios of common or preferred stocks, bonds, or
3 money market instruments.

4 (14) Corporate bonds managed through an investment advisor
5 must meet all of the following requirements:

6 (1) The bonds must be rated as investment grade by one
7 of the 2 largest rating services at the time of purchase.

8 (2) If subsequently downgraded below investment grade,
9 the bonds must be liquidated from the portfolio within 90
10 days after being downgraded by the manager.

11 (Source: P.A. 96-1495, eff. 1-1-11.)

12 (40 ILCS 5/1-113.3)

13 Sec. 1-113.3. List of additional permitted investments for
14 certain pension funds with net assets of \$2,500,000 or more.

15 (a) Beginning 24 months after the effective date of this
16 amendatory Act of the 101st General Assembly, or when the
17 transfer of investment authority is made pursuant to Section
18 1-113.05, whichever occurs first, subsection (a-5) of this
19 Section does not apply to any pension fund that is an eligible
20 pension fund as defined in Section 1-101.6.

21 (a-5) Except as provided in subsection (a), in ~~(a)~~ In
22 addition to the items in Section 3-113.2, a pension fund
23 established under Article 3 or 4 that has net assets of at
24 least \$2,500,000 may invest a portion of its net assets in the
25 following items:

1 (1) Separate accounts that are managed by life
2 insurance companies authorized to transact business in
3 Illinois and are comprised of diversified portfolios
4 consisting of common or preferred stocks, bonds, or money
5 market instruments.

6 (2) Mutual funds that meet the following requirements:

7 (i) the mutual fund is managed by an investment
8 company as defined and registered under the federal
9 Investment Company Act of 1940 and registered under the
10 Illinois Securities Law of 1953;

11 (ii) the mutual fund has been in operation for at
12 least 5 years;

13 (iii) the mutual fund has total net assets of \$250
14 million or more; and

15 (iv) the mutual fund is comprised of diversified
16 portfolios of common or preferred stocks, bonds, or
17 money market instruments.

18 (b) A pension fund's total investment in the items
19 authorized under this Section shall not exceed 35% of the
20 market value of the pension fund's net present assets stated in
21 its most recent annual report on file with the Illinois
22 Department of Insurance.

23 (Source: P.A. 90-507, eff. 8-22-97.)

24 (40 ILCS 5/1-113.4)

25 Sec. 1-113.4. List of additional permitted investments for

1 certain pension funds with net assets of \$5,000,000 or more.

2 (a) Beginning 24 months after the effective date of this
3 amendatory Act of the 101st General Assembly, or when the
4 transfer of investment authority is made pursuant to Section
5 1-113.05, whichever occurs first, subsection (a-5) of this
6 Section does not apply to any pension fund that is an eligible
7 pension fund as defined in Section 1-101.6.

8 (a-5) Except as provided in subsection (a), in ~~(a)~~ In
9 addition to the items in Sections 1-113.2 and 1-113.3, a
10 pension fund established under Article 3 or 4 that has net
11 assets of at least \$5,000,000 and has appointed an investment
12 adviser under Section 1-113.5 may, through that investment
13 adviser, invest a portion of its assets in common and preferred
14 stocks authorized for investments of trust funds under the laws
15 of the State of Illinois. The stocks must meet all of the
16 following requirements:

17 (1) The common stocks are listed on a national
18 securities exchange or board of trade (as defined in the
19 federal Securities Exchange Act of 1934 and set forth in
20 subdivision G of Section 3 of the Illinois Securities Law
21 of 1953) or quoted in the National Association of
22 Securities Dealers Automated Quotation System National
23 Market System (NASDAQ NMS).

24 (2) The securities are of a corporation created or
25 existing under the laws of the United States or any state,
26 district, or territory thereof and the corporation has been

1 in existence for at least 5 years.

2 (3) The corporation has not been in arrears on payment
3 of dividends on its preferred stock during the preceding 5
4 years.

5 (4) The market value of stock in any one corporation
6 does not exceed 5% of the cash and invested assets of the
7 pension fund, and the investments in the stock of any one
8 corporation do not exceed 5% of the total outstanding stock
9 of that corporation.

10 (5) The straight preferred stocks or convertible
11 preferred stocks are issued or guaranteed by a corporation
12 whose common stock qualifies for investment by the board.

13 (6) The issuer of the stocks has been subject to the
14 requirements of Section 12 of the federal Securities
15 Exchange Act of 1934 and has been current with the filing
16 requirements of Sections 13 and 14 of that Act during the
17 preceding 3 years.

18 (b) A pension fund's total investment in the items
19 authorized under this Section and Section 1-113.3 shall not
20 exceed 35% of the market value of the pension fund's net
21 present assets stated in its most recent annual report on file
22 with the Illinois Department of Insurance.

23 (c) A pension fund that invests funds under this Section
24 shall electronically file with the Division any reports of its
25 investment activities that the Division may require, at the
26 times and in the format required by the Division.

1 (Source: P.A. 100-201, eff. 8-18-17.)

2 (40 ILCS 5/1-113.4a)

3 Sec. 1-113.4a. List of additional permitted investments
4 for certain Article 3 and 4 pension funds with net assets of
5 \$10,000,000 or more.

6 (a) Beginning 24 months after the effective date of this
7 amendatory Act of the 101st General Assembly, or when the
8 transfer of investment authority is made pursuant to Section
9 1-113.05, whichever occurs first, subsection (a-5) of this
10 Section does not apply to any pension fund that is an eligible
11 pension fund as defined in Section 1-101.6.

12 (a-5) Except as provided in subsection (a), in ~~(a)~~ In
13 addition to the items in Sections 1-113.2 and 1-113.3, a
14 pension fund established under Article 3 or 4 that has net
15 assets of at least \$10,000,000 and has appointed an investment
16 adviser, as defined under Sections 1-101.4 and 1-113.5, may,
17 through that investment adviser, invest an additional portion
18 of its assets in common and preferred stocks and mutual funds.

19 (b) The stocks must meet all of the following requirements:

20 (1) The common stocks must be listed on a national
21 securities exchange or board of trade (as defined in the
22 Federal Securities Exchange Act of 1934 and set forth in
23 paragraph G of Section 3 of the Illinois Securities Law of
24 1953) or quoted in the National Association of Securities
25 Dealers Automated Quotation System National Market System.

1 (2) The securities must be of a corporation in
2 existence for at least 5 years.

3 (3) The market value of stock in any one corporation
4 may not exceed 5% of the cash and invested assets of the
5 pension fund, and the investments in the stock of any one
6 corporation may not exceed 5% of the total outstanding
7 stock of that corporation.

8 (4) The straight preferred stocks or convertible
9 preferred stocks must be issued or guaranteed by a
10 corporation whose common stock qualifies for investment by
11 the board.

12 (c) The mutual funds must meet the following requirements:

13 (1) The mutual fund must be managed by an investment
14 company registered under the Federal Investment Company
15 Act of 1940 and registered under the Illinois Securities
16 Law of 1953.

17 (2) The mutual fund must have been in operation for at
18 least 5 years.

19 (3) The mutual fund must have total net assets of
20 \$250,000,000 or more.

21 (4) The mutual fund must be comprised of a diversified
22 portfolio of common or preferred stocks, bonds, or money
23 market instruments.

24 (d) A pension fund's total investment in the items
25 authorized under this Section and Section 1-113.3 shall not
26 exceed 50% effective July 1, 2011 and 55% effective July 1,

1 2012 of the market value of the pension fund's net present
2 assets stated in its most recent annual report on file with the
3 Department of Insurance.

4 (e) A pension fund that invests funds under this Section
5 shall electronically file with the Division any reports of its
6 investment activities that the Division may require, at the
7 time and in the format required by the Division.

8 (Source: P.A. 96-1495, eff. 1-1-11.)

9 (40 ILCS 5/1-113.5)

10 Sec. 1-113.5. Investment advisers and investment services
11 for certain ~~all~~ Article 3 or 4 pension funds.

12 (a) Beginning 24 months after the effective date of this
13 amendatory Act of the 101st General Assembly, or when the
14 transfer of investment authority is made pursuant to Section
15 1-113.05, whichever occurs first, subsection (a-1) of this
16 Section does not apply to any pension fund that is an eligible
17 pension fund as defined in Section 1-101.6.

18 (a-1) Except as provided in subsection (a), the ~~(a)~~ The
19 board of trustees of a pension fund established under Article 3
20 or 4 of this Code may appoint investment advisers as defined in
21 Section 1-101.4. The board of any pension fund investing in
22 common or preferred stock under Section 1-113.4 shall appoint
23 an investment adviser before making such investments.

24 The investment adviser or consultant shall be a fiduciary,
25 as defined in Section 1-101.2, with respect to the pension fund

1 and shall be one of the following:

2 (1) an investment adviser registered under the federal
3 Investment Advisers Act of 1940 and the Illinois Securities
4 Law of 1953;

5 (2) a bank or trust company authorized to conduct a
6 trust business in Illinois;

7 (3) a life insurance company authorized to transact
8 business in Illinois; or

9 (4) an investment company as defined and registered
10 under the federal Investment Company Act of 1940 and
11 registered under the Illinois Securities Law of 1953.

12 (a-5) Notwithstanding any other provision of law, a person
13 or entity that provides consulting services (referred to as a
14 "consultant" in this Section) to a pension fund with respect to
15 the selection of fiduciaries may not be awarded a contract to
16 provide those consulting services that is more than 5 years in
17 duration. No contract to provide such consulting services may
18 be renewed or extended. At the end of the term of a contract,
19 however, the contractor is eligible to compete for a new
20 contract. No person shall attempt to avoid or contravene the
21 restrictions of this subsection by any means. All offers from
22 responsive offerors shall be accompanied by disclosure of the
23 names and addresses of the following:

24 (1) The offeror.

25 (2) Any entity that is a parent of, or owns a
26 controlling interest in, the offeror.

1 (3) Any entity that is a subsidiary of, or in which a
2 controlling interest is owned by, the offeror.

3 Beginning on July 1, 2008, a person, other than a trustee
4 or an employee of a pension fund or retirement system, may not
5 act as a consultant under this Section unless that person is at
6 least one of the following: (i) registered as an investment
7 adviser under the federal Investment Advisers Act of 1940 (15
8 U.S.C. 80b-1, et seq.); (ii) registered as an investment
9 adviser under the Illinois Securities Law of 1953; (iii) a
10 bank, as defined in the Investment Advisers Act of 1940; or
11 (iv) an insurance company authorized to transact business in
12 this State.

13 (b) All investment advice and services provided by an
14 investment adviser or a consultant appointed under this Section
15 shall be rendered pursuant to a written contract between the
16 investment adviser and the board, and in accordance with the
17 board's investment policy.

18 The contract shall include all of the following:

19 (1) acknowledgement in writing by the investment
20 adviser that he or she is a fiduciary with respect to the
21 pension fund;

22 (2) the board's investment policy;

23 (3) full disclosure of direct and indirect fees,
24 commissions, penalties, and any other compensation that
25 may be received by the investment adviser, including
26 reimbursement for expenses; and

1 (4) a requirement that the investment adviser submit
2 periodic written reports, on at least a quarterly basis,
3 for the board's review at its regularly scheduled meetings.
4 All returns on investment shall be reported as net returns
5 after payment of all fees, commissions, and any other
6 compensation.

7 (b-5) Each contract described in subsection (b) shall also
8 include (i) full disclosure of direct and indirect fees,
9 commissions, penalties, and other compensation, including
10 reimbursement for expenses, that may be paid by or on behalf of
11 the investment adviser or consultant in connection with the
12 provision of services to the pension fund and (ii) a
13 requirement that the investment adviser or consultant update
14 the disclosure promptly after a modification of those payments
15 or an additional payment.

16 Within 30 days after the effective date of this amendatory
17 Act of the 95th General Assembly, each investment adviser and
18 consultant providing services on the effective date or subject
19 to an existing contract for the provision of services must
20 disclose to the board of trustees all direct and indirect fees,
21 commissions, penalties, and other compensation paid by or on
22 behalf of the investment adviser or consultant in connection
23 with the provision of those services and shall update that
24 disclosure promptly after a modification of those payments or
25 an additional payment.

26 A person required to make a disclosure under subsection (d)

1 is also required to disclose direct and indirect fees,
2 commissions, penalties, or other compensation that shall or may
3 be paid by or on behalf of the person in connection with the
4 rendering of those services. The person shall update the
5 disclosure promptly after a modification of those payments or
6 an additional payment.

7 The disclosures required by this subsection shall be in
8 writing and shall include the date and amount of each payment
9 and the name and address of each recipient of a payment.

10 (c) Within 30 days after appointing an investment adviser
11 or consultant, the board shall submit a copy of the contract to
12 the Division of Insurance of the Department of Financial and
13 Professional Regulation.

14 (d) Investment services provided by a person other than an
15 investment adviser appointed under this Section, including but
16 not limited to services provided by the kinds of persons listed
17 in items (1) through (4) of subsection (a), shall be rendered
18 only after full written disclosure of direct and indirect fees,
19 commissions, penalties, and any other compensation that shall
20 or may be received by the person rendering those services.

21 (e) The board of trustees of each pension fund shall retain
22 records of investment transactions in accordance with the rules
23 of the Department of Financial and Professional Regulation.

24 (f) Upon the initial transfer of assets and investment
25 authority of an eligible pension fund under subsection (b) of
26 Section 3-135 or subsection (b) of Section 4-128 of this Code,

1 and thereafter in perpetuity, the Board of Trustees of the
2 Illinois Municipal Retirement Fund shall provide all
3 investment services for that eligible pension fund. Any fees
4 for these services shall be paid from the respective pension
5 funds.

6 The Board of Trustees of the Illinois Municipal Retirement
7 Fund shall not be held liable by or indemnify any individual
8 annuitant or beneficiary of any eligible pension fund
9 established under Article 3 or Article 4 of this Code for
10 nonpayment of benefits by the eligible pension fund.

11 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

12 (40 ILCS 5/1-113.6)

13 Sec. 1-113.6. Investment policies.

14 (a) Except as provided in subsection (b), every ~~Every~~ board
15 of trustees of a pension fund shall adopt a written investment
16 policy and file a copy of that policy with the Department of
17 Insurance within 30 days after its adoption. Whenever a board
18 changes its investment policy, it shall file a copy of the new
19 policy with the Department within 30 days.

20 (b) Beginning 24 months after the effective date of this
21 amendatory Act of the 101st General Assembly, or upon the
22 transfer of its investment authority under Section 1-113.05,
23 whichever occurs first, the requirement to maintain and file an
24 investment policy under subsection (a) ceases to apply to the
25 board of trustees of an eligible pension fund established under

1 Article 3 or Article 4 of this Code.

2 (Source: P.A. 90-507, eff. 8-22-97.)

3 (40 ILCS 5/1-113.7)

4 Sec. 1-113.7. Registration of investments; custody and
5 safekeeping.

6 This Section does not apply to investments that have been
7 transferred under Section 1-113.05.

8 The board of trustees may register the investments of its
9 pension fund in the name of the pension fund, in the nominee
10 name of a bank or trust company authorized to conduct a trust
11 business in Illinois, or in the nominee name of the Illinois
12 Public Treasurer's Investment Pool.

13 The assets of the pension fund and ownership of its
14 investments shall be protected through third-party custodial
15 safekeeping. The board of trustees may appoint as custodian of
16 the investments of its pension fund the treasurer of the
17 municipality, a bank or trust company authorized to conduct a
18 trust business in Illinois, or the Illinois Public Treasurer's
19 Investment Pool.

20 A dealer may not maintain possession of or control over
21 securities of a pension fund subject to the provisions of this
22 Section unless it is registered as a broker-dealer with the
23 U.S. Securities and Exchange Commission and is a member in good
24 standing of the National Association of Securities Dealers, and
25 (1) with respect to securities that are not issued only in

1 book-entry form, (A) all such securities of each fund are
2 either held in safekeeping in a place reasonably free from risk
3 of destruction or held in custody by a securities depository
4 that is a "clearing agency" registered with the U.S. Securities
5 and Exchange Commission, (B) the dealer is a member of the
6 Securities Investor Protection Corporation, (C) the dealer
7 sends to each fund, no less frequently than each calendar
8 quarter, an itemized statement showing the moneys and
9 securities in the custody or possession of the dealer at the
10 end of such period, and (D) an independent certified public
11 accountant conducts an audit, no less frequently than each
12 calendar year, that reviews the dealer's internal accounting
13 controls and procedures for safeguarding securities; and (2)
14 with respect to securities that are issued only in book-entry
15 form, (A) all such securities of each fund are held either in a
16 securities depository that is a "clearing agency" registered
17 with the U.S. Securities and Exchange Commission or in a bank
18 that is a member of the Federal Reserve System, (B) the dealer
19 records the ownership interest of the funds in such securities
20 on the dealer's books and records, (C) the dealer is a member
21 of the Securities Investor Protection Corporation, (D) the
22 dealer sends to each fund, no less frequently than each
23 calendar quarter, an itemized statement showing the moneys and
24 securities in the custody or possession of the dealer at the
25 end of such period, and (E) the dealer's financial statement
26 (which shall contain among other things a statement of the

1 dealer's net capital and its required net capital computed in
2 accordance with Rule 15c3-1 under the Securities Exchange Act
3 of 1934) is audited annually by an independent certified public
4 accountant, and the dealer's most recent audited financial
5 statement is furnished to the fund. No broker-dealer serving as
6 a custodian for any public pension fund as provided by this Act
7 shall be authorized to serve as an investment advisor for that
8 same public pension fund as described in Section 1-101.4 of
9 this Code, to the extent that the investment advisor acquires
10 or disposes of any asset of that same public pension fund.
11 Notwithstanding the foregoing, in no event may a broker or
12 dealer that is a natural person maintain possession of or
13 control over securities or other assets of a pension fund
14 subject to the provisions of this Section. In maintaining
15 securities of a pension fund subject to the provisions of this
16 Section, each dealer must maintain those securities in
17 conformity with the provisions of Rule 15c3-3(b) of the
18 Securities Exchange Act of 1934 (Physical Possession or Control
19 of Securities). The Director of the Department of Insurance may
20 adopt such rules and regulations as shall be necessary and
21 appropriate in his or her judgment to effectuate the purposes
22 of this Section.

23 A bank or trust company authorized to conduct a trust
24 business in Illinois shall register, deposit, or hold
25 investments for safekeeping, all in accordance with the
26 obligations and subject to the limitations of the Securities in

1 Fiduciary Accounts Act.

2 (Source: P.A. 92-651, eff. 7-11-02.)

3 (40 ILCS 5/3-127) (from Ch. 108 1/2, par. 3-127)

4 Sec. 3-127. Reserves.

5 (a) The board shall establish and maintain a reserve to
6 insure the payment of all obligations incurred under this
7 Article excluding retirement annuities established under
8 Section 3-109.3. The reserve to be accumulated shall be equal
9 to the estimated total actuarial requirements of the fund.

10 (b) In the case of an eligible pension fund that has
11 transferred its investment authority to the Board of Trustees
12 of the Illinois Municipal Retirement Fund under Section
13 1-113.05 of this Code, the assets invested by the Board of
14 Trustees of the Illinois Municipal Retirement Fund on behalf of
15 the pension fund, and the dividends and other investment
16 earnings attributable thereto, shall be considered as part of
17 the reserve for the purposes of this Section.

18 The Board of Trustees of the Illinois Municipal Retirement
19 Fund shall report to the board of each such fund, at least
20 annually and upon the reasonable request of an eligible pension
21 fund, the financial information on the invested assets and
22 earnings attributable to that pension fund so that the board
23 may make the determinations required under this Article.

24 (c) If a pension fund has a reserve of less than the
25 accrued liabilities of the fund, the board of the pension fund,

1 in making its annual report to the city council or board of
2 trustees of the municipality, shall designate the amount,
3 calculated as a level percentage of payroll, needed annually to
4 insure the accumulation of the reserve to the level of the
5 fund's accrued liabilities over a period of 40 years from July
6 1, 1993 for pension funds then in operation, or from the date
7 of establishment in the case of a fund created thereafter, so
8 that the necessary reserves will be attained over such a
9 period.

10 (Source: P.A. 91-939, eff. 2-1-01.)

11 (40 ILCS 5/3-132) (from Ch. 108 1/2, par. 3-132)

12 Sec. 3-132. To control and manage the Pension Fund.

13 (a) In accordance with the applicable provisions of
14 Articles 1 and 1A and this Article, the board of trustees of
15 the pension fund shall have the authority to control and
16 manage, exclusively, the following:

17 (1) the pension fund, and

18 ~~(2) investment expenditures and income, including~~
19 ~~interest dividends, capital gains and other distributions~~
20 ~~on the investments, and~~

21 (2) ~~(3)~~ all money donated, paid, assessed, or provided
22 by law for the pensioning of disabled and retired police
23 officers, their surviving spouses, minor children, and
24 dependent parents.

25 All such money received or collected shall be credited by

1 the treasurer of the municipality to the Illinois Municipal
2 Retirement Fund's account of the pension fund and held by the
3 Illinois Municipal Retirement Fund for purposes of investment
4 pursuant to Article 7 of this Code.

5 (b) Pursuant to rules adopted under Article 7 of this Code,
6 the board of trustees of an eligible pension fund shall make
7 periodic written application to the Board of Trustees of the
8 Illinois Municipal Retirement Fund for receipt and deposit of
9 reserves into the pension fund. Reserves in the amount of 3
10 months' current liabilities, including annuity and benefit
11 payments and operational expenses owed by the fund, shall be
12 held by the treasurer of the municipality subject to the order
13 and control of the board. The treasurer of the municipality
14 shall maintain a record of all money received, transferred, and
15 held for the account of the board.

16 (c) In case of any dispute that may arise between the board
17 of trustees of the eligible pension fund and the Illinois
18 Municipal Retirement Fund pursuant to subsection (b) of this
19 Section, the board of trustees of the eligible pension fund
20 shall appeal the dispute to the Director of the Illinois
21 Department of Insurance. If the Director finds that there
22 exists a good faith dispute between the parties, the Director
23 may hold a hearing in accordance with the rules of the Illinois
24 Department of Insurance.

25 (Source: P.A. 90-507, eff. 8-22-97.)

1 (40 ILCS 5/3-135) (from Ch. 108 1/2, par. 3-135)

2 Sec. 3-135. To invest, manage, and transfer funds.

3 (a) Except as provided in subsection (b), Beginning January
4 1, 1998, the board shall invest funds in accordance with
5 Sections 1-113.1 through 1-113.10 of this Code.

6 Any pension fund that does not meet the definition of
7 eligible pension fund under Section 1-101.6 of this Code shall
8 retain the authority to control and manage investment
9 expenditures and income, including interest, dividends,
10 capital gains, and other distributions on the investments.

11 (b) The board of an eligible pension fund that receives a
12 certified investment asset list under Section 3-135.1 shall
13 cease investment activities upon receiving the certified
14 investment asset list and shall transfer all investment assets,
15 minus assets needed to comply with subsection (b) of Section
16 3-132, to the Board of Trustees of the Illinois Municipal
17 Retirement Fund in the manner prescribed by rules adopted by
18 the Board of Trustees of the Illinois Municipal Retirement Fund
19 under Article 7. Upon completion of the transfer described in
20 this subsection, the investment authority of the board shall
21 terminate.

22 (Source: P.A. 90-507, eff. 8-22-97.)

23 (40 ILCS 5/3-135.1 new)

24 Sec. 3-135.1. Certified investment asset list.

25 (a) Within 24 months after the effective date of this

1 amendatory Act of the 101st General Assembly, the Department of
2 Insurance shall audit the investment assets of each eligible
3 pension fund established under this Article to determine a
4 certified investment asset list. The audit shall be performed
5 by a certified public accountant. The board of each pension
6 fund shall defray the expense of the audit.

7 (b) Upon completion of the audit, the Department shall
8 provide the certified investment asset list to the eligible
9 pension fund and the Board of Trustees of the Illinois
10 Municipal Retirement Fund. The Department may adopt rules
11 governing the creation and distribution of the certified
12 investment asset list.

13 (40 ILCS 5/3-135.2 new)

14 Sec. 3-135.2. To transfer investment funds. At each
15 quarterly meeting of the Board, the Board of trustees of any
16 eligible pension fund shall transfer any available funds for
17 investment to the Board of Trustees of the Illinois Municipal
18 Retirement Fund in accordance with provisions of Article 7 of
19 this Code. Each transfer shall be made within 30 days of the
20 end of the fiscal year quarter and written notice of the
21 transfer shall be given to the Board of Trustees of the
22 Illinois Municipal Retirement Fund.

23 (40 ILCS 5/4-120) (from Ch. 108 1/2, par. 4-120)

24 Sec. 4-120. Reserves.

1 (a) The board shall establish and maintain a reserve to
2 insure the payment of all obligations incurred under this
3 Article. The reserve to be accumulated shall be equal to the
4 estimated total actuarial requirements of the Fund.

5 (b) In the case of an eligible pension fund that has
6 transferred its investment authority to the Board of Trustees
7 of the Illinois Municipal Retirement Fund under Section
8 1-113.05 of this Code, the assets invested by the Board of
9 Trustees of the Illinois Municipal Retirement Fund on behalf of
10 the pension fund, and the dividends and other investment
11 earnings attributable thereto, shall be considered as part of
12 the reserve for the purposes of this Section.

13 The Board of Trustees of the Illinois Municipal Retirement
14 Fund shall report to the board of each such fund, at least
15 annually and upon the reasonable request of an eligible pension
16 fund, the financial information on the invested assets and
17 earnings attributable to that pension fund so that the board
18 may make the determinations required under this Article.

19 (Source: P.A. 83-1440.)

20 (40 ILCS 5/4-123) (from Ch. 108 1/2, par. 4-123)

21 Sec. 4-123. To control and manage the Pension Fund.

22 (a) In accordance with the applicable provisions of
23 Articles 1 and 1A and this Article the board of trustees of the
24 pension fund shall have the authority~~7~~ to control and manage,
25 exclusively, the following:

1 (1) the pension fund, and
2 ~~(2) investment expenditures and income, including~~
3 ~~interest dividends, capital gains, and other distributions~~
4 ~~on the investments, and~~

5 (2) ~~(3)~~ all money donated, paid, assessed, or provided
6 by law for the pensioning of disabled and retired
7 firefighters, their surviving spouses, minor children, and
8 dependent parents. All such money received or collected
9 shall be credited by the treasurer of the municipality to
10 the Illinois Municipal Retirement Fund's account of the
11 pension fund and held by the Fund for purposes of
12 investment pursuant to Article 7 of this Code.

13 (b) Pursuant to rules adopted under Article 7 of this Code,
14 the board of trustees of an eligible pension fund shall make
15 periodic written application to the Board of Trustees of the
16 Illinois Municipal Retirement Fund for receipt and deposit of
17 reserves into the pension fund. Reserves in the amount of 3
18 months' current liabilities, including annuity and benefit
19 payments and operational expenses owed by the fund, shall be
20 held by the treasurer of the municipality subject to the order
21 and control of the board. The treasurer of the municipality
22 shall maintain a record of all money received, transferred, and
23 held for the account of the board.

24 (c) In case of any dispute that may arise between the board
25 of trustees of any eligible pension fund and the Illinois
26 Municipal Retirement Fund pursuant to subsection (b) of this

1 Section, the board of trustees of the pension fund shall appeal
2 the dispute to the Director of the Illinois Department of
3 Insurance. If the Director finds good faith dispute between the
4 parties, the Director may hold a hearing in accordance with the
5 rules of the Illinois Department of Insurance.

6 (Source: P.A. 90-507, eff. 8-22-97.)

7 (40 ILCS 5/4-128) (from Ch. 108 1/2, par. 4-128)

8 Sec. 4-128. To invest and transfer funds.

9 (a) Except as provided in subsection (b), Beginning January
10 1, 1998, the board shall invest funds in accordance with
11 Sections 1-113.1 through 1-113.10 of this Code.

12 Any pension fund that does not meet the definition of
13 eligible pension fund under Section 1-101.6 of this Code shall
14 retain the authority to control and manage investment
15 expenditures and income, including interest, dividends,
16 capital gains, and other distributions on the investments.

17 (b) The board of an eligible pension fund that receives a
18 certified investment asset list under Section 4-128.1 shall
19 cease investment activities upon receiving the certified
20 investment asset list and shall transfer all investment assets,
21 minus assets needed to comply with subsection (b) of Section
22 4-123, to the Board of Trustees of the Illinois Municipal
23 Retirement Fund in the manner prescribed by rules adopted by
24 the Board of Trustees of the Illinois Municipal Retirement Fund
25 under Article 7. Upon completion of the transfer described in

1 this subsection, the investment authority of the board shall
2 terminate.

3 (Source: P.A. 90-507, eff. 8-22-97.)

4 (40 ILCS 5/4-128.1 new)

5 Sec. 4-128.1. Certified investment asset list.

6 (a) Within 24 months after the effective date of this
7 amendatory Act of the 101st General Assembly, the Department of
8 Insurance shall audit the investment assets of each eligible
9 pension fund established under this Article to determine a
10 certified investment asset list. The audit shall be performed
11 by a certified public accountant. The board of the pension fund
12 shall defray the expense of the audit.

13 (b) Upon completion of the audit, the Department shall
14 provide the certified investment asset list to the eligible
15 pension fund and the Board of Trustees of the Illinois
16 Municipal Retirement Fund. The Department may adopt rules
17 governing the creation and distribution of the certified
18 investment asset list.

19 (40 ILCS 5/4-128.2 new)

20 Sec. 4-128.2. To transfer investment funds. At each
21 quarterly meeting of the Board, the Board of trustees of any
22 eligible pension fund shall transfer any available funds for
23 investment to the Board of Trustees of the Illinois Municipal
24 Retirement Fund in accordance with provisions of Article 7 of

1 this Code. Each transfer shall be made within 30 days of the
2 end of the fiscal year quarter and written notice of the
3 transfer shall be given to the Board of Trustees of the
4 Illinois Municipal Retirement Fund.

5 (40 ILCS 5/7-226 new)

6 Sec. 7-226. Transfer from Article 3 or 4 fund.

7 (a) Upon receipt of a certified investment asset list
8 provided under Section 3-135.1 or 4-128.1 of this Code for an
9 eligible pension fund, the Board of the Illinois Municipal
10 Retirement Fund shall, as soon as practicable, initiate the
11 transfer of assets from the board of trustees of the eligible
12 fund, and the board of trustees of the eligible fund shall
13 transfer to the Board of Trustees of the Illinois Municipal
14 Retirement Fund for management and investment all of its
15 securities including securities for which commitments have
16 been made, and all funds, assets, or money representing
17 permanent or temporary investments, and cash reserves
18 maintained for the purpose of obtaining income thereon.

19 (b) Upon the transfer of securities and assets from a board
20 of trustees under this Section, the custody and control of the
21 Board of Trustees of the Illinois Municipal Retirement Fund
22 over the present and future assets of the pension fund shall
23 take effect. The transfer shall be receipted for in detail by
24 the Board of the Illinois Municipal Retirement Fund and the
25 receipt shall be provided to the board of trustees of the

1 pension fund within 30 days of the effective date of the
2 transfer.

3 (c) Each pension fund established under Article 3 and 4 of
4 this Code that is under the investment authority of the Board
5 of Trustees of the Illinois Municipal Retirement Fund shall
6 report to the Board of Trustees of the Illinois Municipal
7 Retirement Fund, at the end of each quarter of the pension
8 fund's fiscal year, the amount of funds available for
9 investment. These amounts shall be transferred within 30 days
10 of the end of the quarter to the Board of Trustees of the
11 Illinois Municipal Retirement Fund in a manner prescribed by
12 the Board. Notice to the Board of Trustees of the Illinois
13 Municipal Retirement Fund of each such transfer shall be given
14 by the pension fund as the transfer occurs.

15 (40 ILCS 5/7-227 new)

16 Sec. 7-227. Audit of transition. Within 6 months of the
17 completion of the transfer of investment assets from an
18 eligible pension fund established under Article 3 or 4 of this
19 Code to the control of the Board, the books, records, accounts,
20 and securities of the board shall be audited by a certified
21 public accountant designated by the Illinois Auditor General.
22 The audit shall include, but is not limited to, the following:
23 (i) a full description of the investments acquired, showing
24 average costs; (ii) a full description of the securities sold
25 or exchanged, showing average proceeds or other conditions of

1 an exchange; (iii) gains or losses realized during the period;
2 (iv) income from investments; (v) administrative expenses of
3 the board; and (vi) the proportion of administrative expenses
4 allocable to each pension fund. The audit report shall be
5 published on the Board's website and filed with the Illinois
6 Department of Insurance.

7 Section 90. The State Mandates Act is amended by adding
8 Section 8.43 as follows:

9 (30 ILCS 805/8.43 new)

10 Sec. 8.43. Exempt mandate. Notwithstanding Sections 6 and 8
11 of this Act, no reimbursement by the State is required for the
12 implementation of any mandate created by this amendatory Act of
13 the 101st General Assembly.

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1 30 ILCS 805/8.43 new