

# HB2760



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB2760**

by Rep. Joe Sosnowski

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-158.2

Amends the State Universities Article of the Illinois Pension Code. In a Section relating to the self-managed plan, provides that pursuant to federal law, all employees with applicable retirement plans will be provided options to: (i) establish, (ii) contribute to, and (iii) transfer any guaranteed or vested portion of their traditional accounts, on any day, into qualified in-plan Roth accounts, without distribution. Effective immediately.

LRB100 05865 RPS 15890 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

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 Section 15-158.2 as follows:

6 (40 ILCS 5/15-158.2)

7 Sec. 15-158.2. Self-managed plan.

8 (a) Purpose. The General Assembly finds that it is  
9 important for colleges and universities to be able to attract  
10 and retain the most qualified employees and that in order to  
11 attract and retain these employees, colleges and universities  
12 should have the flexibility to provide a defined contribution  
13 plan as an alternative for eligible employees who elect not to  
14 participate in a defined benefit retirement program provided  
15 under this Article. Accordingly, the State Universities  
16 Retirement System is hereby authorized to establish and  
17 administer a self-managed plan, which shall offer  
18 participating employees the opportunity to accumulate assets  
19 for retirement through a combination of employee and employer  
20 contributions that may be invested in mutual funds, collective  
21 investment funds, or other investment products and used to  
22 purchase annuity contracts, either fixed or variable or a  
23 combination thereof. The plan must be qualified under the

1 Internal Revenue Code of 1986.

2 (b) Adoption by employers. Each employer subject to this  
3 Article may elect to adopt the self-managed plan established  
4 under this Section; this election is irrevocable. An employer's  
5 election to adopt the self-managed plan makes available to the  
6 eligible employees of that employer the elections described in  
7 Section 15-134.5.

8 The State Universities Retirement System shall be the plan  
9 sponsor for the self-managed plan and shall prepare a plan  
10 document and prescribe such rules and procedures as are  
11 considered necessary or desirable for the administration of the  
12 self-managed plan. Consistent with its fiduciary duty to the  
13 participants and beneficiaries of the self-managed plan, the  
14 Board of Trustees of the System may delegate aspects of plan  
15 administration as it sees fit to companies authorized to do  
16 business in this State, to the employers, or to a combination  
17 of both.

18 (c) Selection of service providers and funding vehicles.  
19 The System, in consultation with the employers, shall solicit  
20 proposals to provide administrative services and funding  
21 vehicles for the self-managed plan from insurance and annuity  
22 companies and mutual fund companies, banks, trust companies, or  
23 other financial institutions authorized to do business in this  
24 State. In reviewing the proposals received and approving and  
25 contracting with no fewer than 2 and no more than 7 companies,  
26 the Board of Trustees of the System shall consider, among other

1 things, the following criteria:

2 (1) the nature and extent of the benefits that would be  
3 provided to the participants;

4 (2) the reasonableness of the benefits in relation to  
5 the premium charged;

6 (3) the suitability of the benefits to the needs and  
7 interests of the participating employees and the employer;

8 (4) the ability of the company to provide benefits  
9 under the contract and the financial stability of the  
10 company; and

11 (5) the efficacy of the contract in the recruitment and  
12 retention of employees.

13 The System, in consultation with the employers, shall  
14 periodically review each approved company. A company may  
15 continue to provide administrative services and funding  
16 vehicles for the self-managed plan only so long as it continues  
17 to be an approved company under contract with the Board.

18 (d) Employee Direction. Employees who are participating in  
19 the program must be allowed to direct the transfer of their  
20 account balances among the various investment options offered,  
21 subject to applicable contractual provisions. The participant  
22 shall not be deemed a fiduciary by reason of providing such  
23 investment direction. A person who is a fiduciary shall not be  
24 liable for any loss resulting from such investment direction  
25 and shall not be deemed to have breached any fiduciary duty by  
26 acting in accordance with that direction. The System shall

1 provide advance notice to the participant of the participant's  
2 obligation to direct the investment of employee and employer  
3 contributions into one or more investment funds selected by the  
4 System at the time he or she makes his or her initial  
5 retirement plan selection. If a participant fails to direct the  
6 investment of employee and employer contributions into the  
7 various investment options offered to the participant when  
8 making his or her initial retirement election choice, that  
9 failure shall require the System to invest the employee and  
10 employer contributions in a default investment fund on behalf  
11 of the participant, and the investment shall be deemed to have  
12 been made at the participant's investment direction. The  
13 participant has the right to transfer account balances out of  
14 the default investment fund during time periods designated by  
15 the System. Neither the System nor the employer guarantees any  
16 of the investments in the employee's account balances.

17 (e) Participation. An employee eligible to participate in  
18 the self-managed plan must make a written election in  
19 accordance with the provisions of Section 15-134.5 and the  
20 procedures established by the System. Participation in the  
21 self-managed plan by an electing employee shall begin on the  
22 first day of the first pay period following the later of the  
23 date the employee's election is filed with the System or the  
24 effective date as of which the employee's employer begins to  
25 offer participation in the self-managed plan. Employers may not  
26 make the self-managed plan available earlier than January 1,

1 1998. An employee's participation in any other retirement  
2 program administered by the System under this Article shall  
3 terminate on the date that participation in the self-managed  
4 plan begins.

5 An employee who has elected to participate in the  
6 self-managed plan under this Section must continue  
7 participation while employed in an eligible position, and may  
8 not participate in any other retirement program administered by  
9 the System under this Article while employed by that employer  
10 or any other employer that has adopted the self-managed plan,  
11 unless the self-managed plan is terminated in accordance with  
12 subsection (i).

13 Notwithstanding any other provision of this Article, a Tier  
14 2 member shall have the option to enroll in the self-managed  
15 plan.

16 Participation in the self-managed plan under this Section  
17 shall constitute membership in the State Universities  
18 Retirement System.

19 A participant under this Section shall be entitled to the  
20 benefits of Article 20 of this Code.

21 (f) Establishment of Initial Account Balance. If at the  
22 time an employee elects to participate in the self-managed plan  
23 he or she has rights and credits in the System due to previous  
24 participation in the traditional benefit package, the System  
25 shall establish for the employee an opening account balance in  
26 the self-managed plan, equal to the amount of contribution

1 refund that the employee would be eligible to receive under  
2 Section 15-154 if the employee terminated employment on that  
3 date and elected a refund of contributions, except that this  
4 hypothetical refund shall include interest at the effective  
5 rate for the respective years. The System shall transfer assets  
6 from the defined benefit retirement program to the self-managed  
7 plan, as a tax free transfer in accordance with Internal  
8 Revenue Service guidelines, for purposes of funding the  
9 employee's opening account balance.

10 (g) No Duplication of Service Credit. Notwithstanding any  
11 other provision of this Article, an employee may not purchase  
12 or receive service or service credit applicable to any other  
13 retirement program administered by the System under this  
14 Article for any period during which the employee was a  
15 participant in the self-managed plan established under this  
16 Section.

17 (h) Contributions. The self-managed plan shall be funded by  
18 contributions from employees participating in the self-managed  
19 plan and employer contributions as provided in this Section.

20 The contribution rate for employees participating in the  
21 self-managed plan under this Section shall be equal to the  
22 employee contribution rate for other participants in the  
23 System, as provided in Section 15-157. This required  
24 contribution shall be made as an "employer pick-up" under  
25 Section 414(h) of the Internal Revenue Code of 1986 or any  
26 successor Section thereof. Any employee participating in the

1 System's traditional benefit package prior to his or her  
2 election to participate in the self-managed plan shall continue  
3 to have the employer pick up the contributions required under  
4 Section 15-157. However, the amounts picked up after the  
5 election of the self-managed plan shall be remitted to and  
6 treated as assets of the self-managed plan. In no event shall  
7 an employee have an option of receiving these amounts in cash.  
8 Employees may make additional contributions to the  
9 self-managed plan in accordance with procedures prescribed by  
10 the System, to the extent permitted under rules prescribed by  
11 the System.

12 The program shall provide for employer contributions to be  
13 credited to each self-managed plan participant at a rate of  
14 7.6% of the participating employee's salary, less the amount  
15 used by the System to provide disability benefits for the  
16 employee. The amounts so credited shall be paid into the  
17 participant's self-managed plan accounts in a manner to be  
18 prescribed by the System.

19 An amount of employer contribution, not exceeding 1% of the  
20 participating employee's salary, shall be used for the purpose  
21 of providing the disability benefits of the System to the  
22 employee. Prior to the beginning of each plan year under the  
23 self-managed plan, the Board of Trustees shall determine, as a  
24 percentage of salary, the amount of employer contributions to  
25 be allocated during that plan year for providing disability  
26 benefits for employees in the self-managed plan.



1           The State of Illinois shall make contributions by  
2           appropriations to the System of the employer contributions  
3           required for employees who participate in the self-managed plan  
4           under this Section. The amount required shall be certified by  
5           the Board of Trustees of the System and paid by the State in  
6           accordance with Section 15-165. The System shall not be  
7           obligated to remit the required employer contributions to any  
8           of the insurance and annuity companies, mutual fund companies,  
9           banks, trust companies, financial institutions, or other  
10          sponsors of any of the funding vehicles offered under the  
11          self-managed plan until it has received the required employer  
12          contributions from the State. In the event of a deficiency in  
13          the amount of State contributions, the System shall implement  
14          those procedures described in subsection (c) of Section 15-165  
15          to obtain the required funding from the General Revenue Fund.

16          (i) Termination. The self-managed plan authorized under  
17          this Section may be terminated by the System, subject to the  
18          terms of any relevant contracts, and the System shall have no  
19          obligation to reestablish the self-managed plan under this  
20          Section. This Section does not create a right to continued  
21          participation in any self-managed plan set up by the System  
22          under this Section. If the self-managed plan is terminated, the  
23          participants shall have the right to participate in one of the  
24          other retirement programs offered by the System and receive  
25          service credit in such other retirement program for any years  
26          of employment following the termination.

1           (j) Vesting; Withdrawal; Return to Service. A participant  
2 in the self-managed plan becomes vested in the employer  
3 contributions credited to his or her accounts in the  
4 self-managed plan on the earliest to occur of the following:  
5 (1) completion of 5 years of service with an employer described  
6 in Section 15-106; (2) the death of the participating employee  
7 while employed by an employer described in Section 15-106, if  
8 the participant has completed at least 1 1/2 years of service;  
9 or (3) the participant's election to retire and apply the  
10 reciprocal provisions of Article 20 of this Code.

11           A participant in the self-managed plan who receives a  
12 distribution of his or her vested amounts from the self-managed  
13 plan while not yet eligible for retirement under this Article  
14 (and Article 20, if applicable) shall forfeit all service  
15 credit and accrued rights in the System; if subsequently  
16 re-employed, the participant shall be considered a new  
17 employee. If a former participant again becomes a participating  
18 employee (or becomes employed by a participating system under  
19 Article 20 of this Code) and continues as such for at least 2  
20 years, all such rights, service credits, and previous status as  
21 a participant shall be restored upon repayment of the amount of  
22 the distribution, without interest.

23           (k) Benefit amounts. If an employee who is vested in  
24 employer contributions terminates employment, the employee  
25 shall be entitled to a benefit which is based on the account  
26 values attributable to both employer and employee

1 contributions and any investment return thereon.

2 If an employee who is not vested in employer contributions  
3 terminates employment, the employee shall be entitled to a  
4 benefit based solely on the account values attributable to the  
5 employee's contributions and any investment return thereon,  
6 and the employer contributions and any investment return  
7 thereon shall be forfeited. Any employer contributions which  
8 are forfeited shall be held in escrow by the company investing  
9 those contributions and shall be used as directed by the System  
10 for future allocations of employer contributions or for the  
11 restoration of amounts previously forfeited by former  
12 participants who again become participating employees.

13 (1) Roth account. Pursuant to Section 902 of the federal  
14 American Taxpayer Relief Act of 2012, all employees with  
15 applicable retirement plans will be provided options to: (1)  
16 establish, (2) contribute to, and (3) transfer any guaranteed  
17 or vested portion of their traditional accounts, on any day,  
18 into qualified in-plan Roth accounts, without distribution.

19 (Source: P.A. 98-92, eff. 7-16-13; 99-897, eff. 1-1-17.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.