

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 15-202, 16-204, and 24-102 as follows:

6 (40 ILCS 5/15-202)

7 Sec. 15-202. Optional deferred compensation plan defined
8 contribution benefit.

9 (a) As soon as practicable after August 10, 2018 (the
10 effective date of Public Act 100-769) ~~this amendatory Act of~~
11 ~~the 100th General Assembly,~~ the System shall offer a deferred
12 compensation plan that is eligible under Section 457(b) of the
13 Internal Revenue Code of 1986, as amended, ~~defined~~
14 ~~contribution benefit~~ to participating employees ~~active members~~
15 of the System employed by employers described in Section
16 15-106 of this Code that qualify as eligible employers under
17 Section 457(e)(1)(A) of the Internal Revenue Code of 1986, as
18 amended. Such eligible employers shall adopt the plan with an
19 effective date no later than September 1, 2021. Participating
20 employees may voluntarily elect to make elective deferrals to
21 the eligible deferred compensation plan. Eligible employers
22 may make optional employer contributions to the plan on behalf
23 of participating employees, which contributions may be

1 maintained, increased, reduced, or eliminated at the
2 discretion of the employer from plan year to plan year. The
3 defined contribution benefit shall be an optional benefit to
4 any member who chooses to participate. The plan defined
5 contribution benefit shall collect voluntary ~~optional~~ employee
6 and optional employer contributions into an account for each
7 participant and shall offer investment options to the
8 participant. The plan ~~benefit~~ under this Section shall be
9 operated in full compliance with any applicable State and
10 federal laws, and the System shall utilize generally accepted
11 practices in creating and maintaining the plan ~~benefit~~ for the
12 best interest of the participants. The System may use funds
13 from the employee and employer contributions to defray any and
14 all costs of creating and maintaining the plan ~~benefit~~. The
15 System shall produce an annual report on the participation in
16 the plan ~~benefit~~ and shall make the report public.

17 (b) The System shall automatically enroll in the eligible
18 deferred compensation plan any employee of an eligible
19 employer who first becomes a participating employee of the
20 System on or after July 1, 2023 under an eligible automatic
21 contribution arrangement that is subject to Section 414(w) of
22 the Internal Revenue Code of 1986, as amended, and the United
23 States Department of Treasury regulations promulgated
24 thereunder. An employee who is automatically enrolled under
25 this subsection (b) shall have 3% of his or her compensation,
26 as defined by the plan, for each pay period deferred on a

1 pre-tax basis into his or her account, subject to any
2 contribution limits applicable to the plan. The Board may
3 increase the default percentage of compensation deferred under
4 this subsection (b).

5 An employee shall have 30 days from the date on which the
6 System provides the notice required under Section 414(w) of
7 the Internal Revenue Code of 1986, as amended, to elect to not
8 participate in the eligible deferred compensation plan or to
9 elect to increase or reduce the initial amount of elective
10 deferrals made to the plan. In the absence of such affirmative
11 election, the employee shall be automatically enrolled in the
12 plan on the first day of the calendar month, or as soon as
13 administratively practicable thereafter, following the 30th
14 day from the date on which the System provides the required
15 notice. An employee who has been automatically enrolled in the
16 plan under this subsection (b) may elect, within 90 days of
17 enrollment, to withdraw from the plan and receive a refund of
18 amounts deferred, adjusted by applicable earnings and fees. An
19 employee making such an election shall forfeit all employer
20 matching contributions, if any, made with respect to such
21 refunded elective deferrals and such forfeited amounts shall
22 be used to defray plan expenses. Any refunded elective
23 deferrals shall be included in the employee's gross income for
24 the taxable year in which the refund is issued.

25 (c) The System may provide for one or more automatic
26 contribution arrangements, which shall comply with all

1 applicable Internal Revenue Service rules and regulations, in
2 conjunction with or in lieu of the eligible automatic
3 contribution arrangement under subsection (b), for
4 participating employees of eligible employers whose annual
5 earnings are limited by application of subsection (b) of
6 Section 15-111 of this Code. The amount of elective deferrals
7 made for the employee each pay period under an automatic
8 contribution arrangement shall equal the default percentage
9 specified by resolution of the Board multiplied by the
10 employee's compensation as defined by the plan, subject to any
11 contribution limits applicable to the plan, and shall be made
12 on a pre-tax basis. An employee subject to this subsection (c)
13 shall have 30 days from the date on which the System provides
14 written notice to the employee to elect to not participate in
15 the eligible deferred compensation plan or to elect to
16 increase or reduce the amount of initial elective deferrals
17 made to the plan. In the absence of such affirmative election,
18 the employee shall be automatically enrolled in the plan
19 beginning the first day of the calendar month, or as soon as
20 administratively practicable thereafter, following the 30th
21 day from the date on which the System provides the required
22 notice.

23 (d) The System may provide that the default percentage for
24 any employee automatically enrolled in the eligible deferred
25 compensation plan under subsection (b) or (c) be increased by
26 a specified percentage each plan year after the plan year in

1 which the employee is automatically enrolled in the plan. The
2 amount of automatic annual increases in any plan year shall
3 not exceed 1% of compensation as defined by the plan.

4 (e) The changes made to this Section by this amendatory
5 Act of the 102nd General Assembly are corrections of existing
6 law and are intended to be retroactive to the effective date of
7 Public Act 100-769, notwithstanding Section 1-103.1 of this
8 Code.

9 (Source: P.A. 100-769, eff. 8-10-18.)

10 (40 ILCS 5/16-204)

11 Sec. 16-204. Optional defined contribution benefit. As
12 soon as practicable after the effective date of this
13 amendatory Act of the 100th General Assembly, the System shall
14 offer a defined contribution benefit to active members of the
15 System. The defined contribution benefit shall be an optional
16 benefit to any member who chooses to participate. The defined
17 contribution benefit shall collect optional employee and
18 optional employer contributions into an account and shall
19 offer investment options to the participant. The benefit under
20 this Section shall be operated in full compliance with any
21 applicable State and federal laws, and the System shall
22 utilize generally accepted practices in creating and
23 maintaining the benefit for the best interest of the
24 participants. The System may use funds from the employee and
25 employer contributions to defray any and all costs of creating

1 and maintaining the benefit. In addition, the System may use
2 funds provided under Section 16-158 of this Code to defray any
3 and all costs of creating and maintaining the benefit and then
4 shall reimburse those costs from funds received from the
5 employee and employer contributions under this Section. All
6 employers must comply with the reporting and administrative
7 functions established by the System and are required to
8 implement the benefits established under this Section. The
9 System shall produce an annual report on the participation in
10 the benefit and shall make the report public.

11 As soon as is practicable on or after January 1, 2022, the
12 System shall automatically enroll any employee who first
13 becomes an active member or participant in the System. A
14 member automatically enrolled under this Section shall have 3%
15 of his or her pre-tax gross compensation for each compensation
16 period deferred into his or her deferred compensation account,
17 unless the member otherwise instructs the System on forms
18 approved by the System. A member may elect, in a manner
19 provided for by the System, to not participate in the defined
20 contribution benefit or to increase or reduce the amount of
21 pre-tax gross compensation contributed, consistent with State
22 or federal law. A member shall be automatically enrolled in
23 the benefit beginning the first day of the pay period
24 following the member's 30th day of employment. A member who
25 has been automatically enrolled in the benefit may elect,
26 within 90 days of enrollment, to withdraw from the benefit and

1 receive a refund of amounts deferred, plus or minus any
2 applicable earnings, investment fees, and administrative fees.
3 Any refunded amount shall be included in the member's gross
4 income for the taxable year in which the refund is issued.

5 On or after January 1, 2023, the System may elect to
6 increase the automatic annual contributions under this
7 Section. The increase in the rate of contribution, however,
8 shall not exceed 2% of a member's pre-tax gross compensation
9 per year, and at no time shall any total contribution exceed
10 any contribution limits established by State or federal law.

11 (Source: P.A. 100-769, eff. 8-10-18.)

12 (40 ILCS 5/24-102) (from Ch. 108 1/2, par. 24-102)

13 Sec. 24-102. As used in this Article, "employee" means any
14 person, including a person elected, appointed or under
15 contract, receiving compensation from the State or a unit of
16 local government or school district for personal services
17 rendered, including salaried persons. However, "employee", for
18 the purposes of the State Employees Deferred Compensation Plan
19 established under Section 24-104, does not include a person
20 employed by an employer under Section 15-106 who first becomes
21 a participant of the retirement system under Article 15 on or
22 after July 1, 2023 unless the person has made an election to
23 defer compensation into the State Employees Deferred
24 Compensation Plan under a written agreement and the deferral
25 election is in effect as of June 30, 2023. A health care

1 provider who elects to participate in the State Employees
2 Deferred Compensation Plan established under Section 24-104 of
3 this Code shall, for purposes of that participation, be deemed
4 an "employee" as defined in this Section.

5 As used in this Article, "health care provider" means a
6 dentist, physician, optometrist, pharmacist, or podiatric
7 physician that participates and receives compensation as a
8 provider under the Illinois Public Aid Code, the Children's
9 Health Insurance Act, or the Covering ALL KIDS Health
10 Insurance Act.

11 As used in this Article, "compensation" includes
12 compensation received in a lump sum for accumulated unused
13 vacation, personal leave or sick leave, with the exception of
14 health care providers. "Compensation" with respect to health
15 care providers is defined under the Illinois Public Aid Code,
16 the Children's Health Insurance Act, or the Covering ALL KIDS
17 Health Insurance Act.

18 Where applicable, in no event shall the total of the
19 amount of deferred compensation of an employee set aside in
20 relation to a particular year under the Illinois State
21 Employees Deferred Compensation Plan and the employee's
22 nondeferred compensation for that year exceed the total annual
23 salary or compensation under the existing salary schedule or
24 classification plan applicable to such employee in such year;
25 except that any compensation received in a lump sum for
26 accumulated unused vacation, personal leave or sick leave

1 shall not be included in the calculation of such totals.

2 (Source: P.A. 98-214, eff. 8-9-13.)

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

5 (30 ILCS 805/8.45 new)

6 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and
7 8 of this Act, no reimbursement by the State is required for
8 the implementation of any mandate created by this amendatory
9 Act of the 102nd General Assembly.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.