



Sen. Robert F. Martwick

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10200SB2103sam003

LRB102 12567 RPS 25367 a

1 AMENDMENT TO SENATE BILL 2103

2 AMENDMENT NO. _____. Amend Senate Bill 2103 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 15-202, 16-204, and 24-104 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

1 Section 457(e)(1)(A) of the Internal Revenue Code of 1986, as
2 amended. Such eligible employers shall adopt the plan with an
3 effective date no later than September 1, 2021. Participating
4 employees may voluntarily elect to make elective deferrals to
5 the eligible deferred compensation plan. Eligible employers
6 may make optional employer contributions to the plan on behalf
7 of participating employees, which contributions may be
8 maintained, increased, reduced, or eliminated at the
9 discretion of the employer from plan year to plan year. ~~The~~
10 ~~defined contribution benefit shall be an optional benefit to~~
11 ~~any member who chooses to participate.~~ The plan defined
12 ~~contribution benefit~~ shall collect voluntary ~~optional~~ employee
13 and optional employer contributions into an account for each
14 participant and shall offer investment options to the
15 participant. The plan ~~benefit~~ under this Section shall be
16 operated in full compliance with any applicable State and
17 federal laws, and the System shall utilize generally accepted
18 practices in creating and maintaining the plan ~~benefit~~ for the
19 best interest of the participants. The System may use funds
20 from the employee and employer contributions to defray any and
21 all costs of creating and maintaining the plan ~~benefit~~. The
22 System shall produce an annual report on the participation in
23 the plan ~~benefit~~ and shall make the report public.

24 (b) The System shall automatically enroll in the eligible
25 deferred compensation plan any employee of an eligible
26 employer who first becomes a participating employee of the

1 System on or after July 1, 2022 under an eligible automatic
2 contribution arrangement that is subject to Section 414(w) of
3 the Internal Revenue Code of 1986, as amended, and the United
4 States Department of Treasury regulations promulgated
5 thereunder. An employee who is automatically enrolled under
6 this subsection (b) shall have 3% of his or her compensation,
7 as defined by the plan, for each pay period deferred on a
8 pre-tax basis into his or her account, subject to any
9 contribution limits applicable to the plan. The Board may
10 increase the default percentage of compensation deferred under
11 this subsection (b).

12 An employee shall have 30 days from the date on which the
13 System provides the notice required under Section 414(w) of
14 the Internal Revenue Code of 1986, as amended, to elect to not
15 participate in the eligible deferred compensation plan or to
16 elect to increase or reduce the initial amount of elective
17 deferrals made to the plan. In the absence of such affirmative
18 election, the employee shall be automatically enrolled in the
19 plan on 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. An employee who has been automatically enrolled in the
23 plan under this subsection (b) may elect, within 90 days of
24 enrollment, to withdraw from the plan and receive a refund of
25 amounts deferred, adjusted by applicable earnings and fees. An
26 employee making such an election shall forfeit all employer

1 matching contributions, if any, made with respect to such
2 refunded elective deferrals and such forfeited amounts shall
3 be used to defray plan expenses. Any refunded elective
4 deferrals shall be included in the employee's gross income for
5 the taxable year in which the refund is issued.

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

1 administratively practicable thereafter, following the 30th
2 day from the date on which the System provides the required
3 notice.

4 (d) The System may provide that the default percentage for
5 any employee automatically enrolled in the eligible deferred
6 compensation plan under subsection (b) or (c) be increased by
7 a specified percentage each plan year after the plan year in
8 which the employee is automatically enrolled in the plan. The
9 amount of automatic annual increases in any plan year shall
10 not exceed 1% of compensation as defined by the plan.

11 (e) The changes made to this Section by this amendatory
12 Act of the 102nd General Assembly are corrections of existing
13 law and are intended to be retroactive to the effective date of
14 Public Act 100-769, notwithstanding Section 1-103.1 of this
15 Code.

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

17 (40 ILCS 5/16-204)

18 Sec. 16-204. Optional defined contribution benefit. As
19 soon as practicable after the effective date of this
20 amendatory Act of the 100th General Assembly, the System shall
21 offer a defined contribution benefit to active members of the
22 System. The defined contribution benefit shall be an optional
23 benefit to any member who chooses to participate. The defined
24 contribution benefit shall collect optional employee and
25 optional employer contributions into an account and shall

1 offer investment options to the participant. The benefit under
2 this Section shall be operated in full compliance with any
3 applicable State and federal laws, and the System shall
4 utilize generally accepted practices in creating and
5 maintaining the benefit for the best interest of the
6 participants. The System may use funds from the employee and
7 employer contributions to defray any and all costs of creating
8 and maintaining the benefit. In addition, the System may use
9 funds provided under Section 16-158 of this Code to defray any
10 and all costs of creating and maintaining the benefit and then
11 shall reimburse those costs from funds received from the
12 employee and employer contributions under this Section. All
13 employers must comply with the reporting and administrative
14 functions established by the System and are required to
15 implement the benefits established under this Section. The
16 System shall produce an annual report on the participation in
17 the benefit and shall make the report public.

18 As soon as is practicable on or after January 1, 2022, the
19 System shall automatically enroll any employee who first
20 becomes an active member or participant in the System. A
21 member automatically enrolled under this Section shall have 3%
22 of his or her pre-tax gross compensation for each compensation
23 period deferred into his or her deferred compensation account,
24 unless the member otherwise instructs the System on forms
25 approved by the System. A member may elect, in a manner
26 provided for by the System, to not participate in the defined

1 contribution benefit or to increase or reduce the amount of
2 pre-tax gross compensation contributed, consistent with State
3 or federal law. A member shall be automatically enrolled in
4 the benefit beginning the first day of the pay period
5 following the member's 30th day of employment. A member who
6 has been automatically enrolled in the benefit may elect,
7 within 90 days of enrollment, to withdraw from the benefit and
8 receive a refund of amounts deferred, plus or minus any
9 applicable earnings, investment fees, and administrative fees.
10 Any refunded amount shall be included in the member's gross
11 income for the taxable year in which the refund is issued.

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

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

19 (40 ILCS 5/24-104) (from Ch. 108 1/2, par. 24-104)

20 Sec. 24-104. The Illinois State Board of Investment
21 created under Article 22A of this Act shall develop and
22 establish a deferred compensation plan for employees of the
23 State which shall be known as the State Employees Deferred
24 Compensation Plan. The Plan shall provide for the Board to
25 review proposed investment offerings and shall require that

1 only investments determined to be acceptable by the Board may
2 be used for investing compensation deferred.

3 The Plan shall include appropriate provisions pertaining
4 to its day to day operation providing for methods of electing
5 to defer income, methods of changing the amount of income to be
6 deferred, methods of selecting from among investment options
7 available under the plan and such other provisions as may be
8 appropriate.

9 The Plan shall provide for the preparation, and
10 distribution from time to time to all eligible State
11 employees, of pamphlets describing the Plan and outlining the
12 options and opportunities available to State employees under
13 the Plan. Such pamphlets, however, shall not be distributed to
14 employees who are covered under Articles 7, 15, or 16 of this
15 Code.

16 The Plan established under this Section shall not be
17 implemented or amended until the Board is satisfied that
18 compensation deferred under the Plan is not subject to income
19 tax for the year in which it is earned and that the taxation of
20 such compensation will be deferred until the time of its
21 distribution to the employee.

22 The Board shall also review and oversee the administration
23 of the Plan.

24 (Source: P.A. 81-671.)

25 Section 90. The State Mandates Act is amended by adding

1 Section 8.45 as follows:

2 (30 ILCS 805/8.45 new)

3 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and
4 8 of this Act, no reimbursement by the State is required for
5 the implementation of any mandate created by this amendatory
6 Act of the 102nd General Assembly.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".