



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3138

Introduced 2/17/2023, by Rep. Stephanie A. Kifowit

SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-204
40 ILCS 5/16-207 new

Amends the Downstate Teacher Article of the Illinois Pension Code. In a provision that requires the System to automatically enroll certain employees in the System's defined contribution benefit, provides an exception for employees whose school district provides an alternative qualifying plan. Provides that the alternative qualifying plan shall abide by the automatic enrollment procedures and automatic increase in contribution provisions applicable to the System's defined contribution benefit. Sets forth additional requirements for alternative qualifying plans. Requires a school district that has an alternative qualifying to file a letter of compliance, passed by resolution of the school board, with the System. Effective immediately.

LRB103 29711 RPS 56116 b

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 Section 16-204 and by adding Section 16-207 as
6 follows:

7 (40 ILCS 5/16-204)

8 Sec. 16-204. Optional defined contribution benefit.

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

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

10 (b) As soon as is practicable on or after January 1, 2022,
11 the System shall automatically enroll any employee who first
12 becomes an active member or participant in the System, unless
13 the school district that employs the employee provides an
14 alternative qualifying plan under subsection (d) and Section
15 16-207. School districts electing to use an alternative
16 qualifying plan shall abide by the automatic enrollment
17 procedures provided in this subsection (b) and the automatic
18 increase of contributions provisions under subsection (c). A
19 member automatically enrolled under this Section shall have 3%
20 of his or her pre-tax gross compensation for each compensation
21 period deferred into his or her deferred compensation account,
22 unless the member otherwise instructs the System on forms
23 approved by the System. A member may elect, in a manner
24 provided for by the System, to not participate in the defined
25 contribution benefit or to increase or reduce the amount of
26 pre-tax gross compensation contributed, consistent with State

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

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

16 (d) In this Section, "alternative qualifying plan" means a
17 defined contribution benefit plan that is subject to the
18 requirements of Article 1 of this Code, meets the qualifying
19 criteria specified in this subsection (d), and is sponsored by
20 a school district. Any school district may elect to offer an
21 alternative qualifying plan, instead of adopting the System's
22 defined contribution benefit plan. A school district's
23 alternative qualifying plan may automatically enroll employees
24 who first become active members or participants in the System
25 on or after June 1, 2023 into an alternative qualifying plan
26 only if the plan satisfies the following criteria:

1 (1) the alternative qualifying plan only has a single
2 vendor for recordkeeping services;

3 (2) the alternative qualifying plan does not have any
4 annuities or separate accounts;

5 (3) the alternative qualifying plan permits employees
6 to transfer or roll over funds (i) without cost to the
7 employee and (ii) at the time instructed by the employee;
8 and

9 (4) the alternative qualifying plan requires that the
10 plan recordkeeper agree that, in performing services with
11 respect to the plan, the recordkeeper (i) must not use
12 information received as a result of providing services to
13 the plan or the plan's participants to solicit the plan's
14 participants for the purpose of cross-selling non-plan
15 products and services, unless in response to a request by
16 a plan participant; and (ii) shall not promote, recommend,
17 endorse, or solicit plan participants to purchase any
18 financial products or services outside of the plan.

19 (Source: P.A. 102-540, eff. 8-20-21.)

20 (40 ILCS 5/16-207 new)

21 Sec. 16-207. Alternative qualifying plan application and
22 documentation.

23 (a) The optional defined contribution benefit established
24 under Section 16-204 constitutes the default defined
25 contribution plan for members of the System. A school district

1 may only elect to enroll employees into an alternative
2 qualifying plan if the school district's desired alternative
3 qualifying plan meets the criteria established in Section
4 16-204 and the school district files a letter of compliance,
5 passed by resolution of the school board, with the System.

6 (b) School districts must submit a copy of the passed
7 resolution to the System certifying that its alternative
8 qualifying plan meets the criteria established in Section
9 16-204.

10 (c) The school district must submit the resolution to the
11 System as soon as practicable after the school board passes
12 the resolution.

13 (d) The System shall maintain a record of all alternative
14 qualifying plans.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.