



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0036

Introduced 1/26/2005, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-141.1
30 ILCS 805/8.29 new

Amends the IMRF Article of the Illinois Pension Code. Provides that the prohibition on return to service after accepting early retirement benefits applies only to (1) employment for which the person is required (or is allowed and has elected) to participate in the Fund and (2) contractual personal services which, if performed as an employee, would require the employee to participate in the Fund. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB094 04134 AMC 34155 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
5 changing Section 7-141.1 as follows:

6 (40 ILCS 5/7-141.1)

7 Sec. 7-141.1. Early retirement incentive.

8 (a) The General Assembly finds and declares that:

9 (1) Units of local government across the State have
10 been functioning under a financial crisis.

11 (2) This financial crisis is expected to continue.

12 (3) Units of local government must depend on additional
13 sources of revenue and, when those sources are not
14 forthcoming, must establish cost-saving programs.

15 (4) An early retirement incentive designed
16 specifically to target highly-paid senior employees could
17 result in significant annual cost savings.

18 (5) The early retirement incentive should be made
19 available only to those units of local government that
20 determine that an early retirement incentive is in their
21 best interest.

22 (6) A unit of local government adopting a program of
23 early retirement incentives under this Section is
24 encouraged to implement personnel procedures to prohibit,
25 for at least 5 years, the rehiring (whether on payroll or
26 by independent contract) of employees who receive early
27 retirement incentives.

28 (7) A unit of local government adopting a program of
29 early retirement incentives under this Section is also
30 encouraged to replace as few of the participating employees
31 as possible and to hire replacement employees for salaries
32 totaling no more than 80% of the total salaries formerly

1 paid to the employees who participate in the early
2 retirement program.

3 It is the primary purpose of this Section to encourage
4 units of local government that can realize true cost savings,
5 or have determined that an early retirement program is in their
6 best interest, to implement an early retirement program.

7 (b) Until the effective date of this amendatory Act of
8 1997, this Section does not apply to any employer that is a
9 city, village, or incorporated town, nor to the employees of
10 any such employer. Beginning on the effective date of this
11 amendatory Act of 1997, any employer under this Article,
12 including an employer that is a city, village, or incorporated
13 town, may establish an early retirement incentive program for
14 its employees under this Section. The decision of a city,
15 village, or incorporated town to consider or establish an early
16 retirement program is at the sole discretion of that city,
17 village, or incorporated town, and nothing in this amendatory
18 Act of 1997 limits or otherwise diminishes this discretion.
19 Nothing contained in this Section shall be construed to require
20 a city, village, or incorporated town to establish an early
21 retirement program and no city, village, or incorporated town
22 may be compelled to implement such a program.

23 The benefits provided in this Section are available only to
24 members employed by a participating employer that has filed
25 with the Board of the Fund a resolution or ordinance expressly
26 providing for the creation of an early retirement incentive
27 program under this Section for its employees and specifying the
28 effective date of the early retirement incentive program.
29 Subject to the limitation in subsection (h), an employer may
30 adopt a resolution or ordinance providing a program of early
31 retirement incentives under this Section at any time.

32 The resolution or ordinance shall be in substantially the
33 following form:

34 RESOLUTION (ORDINANCE) NO.

35 A RESOLUTION (ORDINANCE) ADOPTING AN EARLY

1 RETIREMENT INCENTIVE PROGRAM FOR EMPLOYEES

2 IN THE ILLINOIS MUNICIPAL RETIREMENT FUND

3 WHEREAS, Section 7-141.1 of the Illinois Pension Code
4 provides that a participating employer may elect to adopt an
5 early retirement incentive program offered by the Illinois
6 Municipal Retirement Fund by adopting a resolution or
7 ordinance; and

8 WHEREAS, The goal of adopting an early retirement program
9 is to realize a substantial savings in personnel costs by
10 offering early retirement incentives to employees who have
11 accumulated many years of service credit; and

12 WHEREAS, Implementation of the early retirement program
13 will provide a budgeting tool to aid in controlling payroll
14 costs; and

15 WHEREAS, The (name of governing body) has determined that
16 the adoption of an early retirement incentive program is in the
17 best interests of the (name of participating employer);
18 therefore be it

19 RESOLVED (ORDAINED) by the (name of governing body) of
20 (name of participating employer) that:

21 (1) The (name of participating employer) does hereby adopt
22 the Illinois Municipal Retirement Fund early retirement
23 incentive program as provided in Section 7-141.1 of the
24 Illinois Pension Code. The early retirement incentive program
25 shall take effect on (date).

26 (2) In order to help achieve a true cost savings, a person
27 who retires under the early retirement incentive program shall
28 lose those incentives if he or she later accepts employment
29 with any IMRF employer in a position for which participation in
30 IMRF is required or is elected by the employee.

31 (3) In order to utilize an early retirement incentive as a
32 budgeting tool, the (name of participating employer) will use
33 its best efforts either to limit the number of employees who
34 replace the employees who retire under the early retirement
35 program or to limit the salaries paid to the employees who
36 replace the employees who retire under the early retirement

1 program.

2 (4) The effective date of each employee's retirement under
3 this early retirement program shall be set by (name of
4 employer) and shall be no earlier than the effective date of
5 the program and no later than one year after that effective
6 date; except that the employee may require that the retirement
7 date set by the employer be no later than the June 30 next
8 occurring after the effective date of the program and no
9 earlier than the date upon which the employee qualifies for
10 retirement.

11 (5) To be eligible for the early retirement incentive under
12 this Section, the employee must have attained age 50 and have
13 at least 20 years of creditable service by his or her
14 retirement date.

15 (6) The (clerk or secretary) shall promptly file a
16 certified copy of this resolution (ordinance) with the Board of
17 Trustees of the Illinois Municipal Retirement Fund.

18 CERTIFICATION

19 I, (name), the (clerk or secretary) of the (name of
20 participating employer) of the County of (name), State of
21 Illinois, do hereby certify that I am the keeper of the books
22 and records of the (name of employer) and that the foregoing is
23 a true and correct copy of a resolution (ordinance) duly
24 adopted by the (governing body) at a meeting duly convened and
25 held on (date).

26 SEAL

27 (Signature of clerk or secretary)

28 (c) To be eligible for the benefits provided under an early
29 retirement incentive program adopted under this Section, a
30 member must:

31 (1) be a participating employee of this Fund who, on
32 the effective date of the program, (i) is in active payroll
33 status as an employee of a participating employer that has
34 filed the required ordinance or resolution with the Board,
35 (ii) is on layoff status from such a position with a right

1 of re-employment or recall to service, (iii) is on a leave
2 of absence from such a position, or (iv) is on disability
3 but has not been receiving benefits under Section 7-146 or
4 7-150 for a period of more than 2 years from the date of
5 application;

6 (2) have never previously received a retirement
7 annuity under this Article or under the Retirement Systems
8 Reciprocal Act using service credit established under this
9 Article;

10 (3) (blank);

11 (4) have at least 20 years of creditable service in the
12 Fund by the date of retirement, without the use of any
13 creditable service established under this Section;

14 (5) have attained age 50 by the date of retirement,
15 without the use of any age enhancement received under this
16 Section; and

17 (6) be eligible to receive a retirement annuity under
18 this Article by the date of retirement, for which purpose
19 the age enhancement and creditable service established
20 under this Section may be considered.

21 (d) The employer shall determine the retirement date for
22 each employee participating in the early retirement program
23 adopted under this Section. The retirement date shall be no
24 earlier than the effective date of the program and no later
25 than one year after that effective date, except that the
26 employee may require that the retirement date set by the
27 employer be no later than the June 30 next occurring after the
28 effective date of the program and no earlier than the date upon
29 which the employee qualifies for retirement. The employer shall
30 give each employee participating in the early retirement
31 program at least 30 days written notice of the employee's
32 designated retirement date, unless the employee waives this
33 notice requirement.

34 (e) An eligible person may establish up to 5 years of
35 creditable service under this Section. In addition, for each
36 period of creditable service established under this Section, a

1 person shall have his or her age at retirement deemed enhanced
2 by an equivalent period.

3 The creditable service established under this Section may
4 be used for all purposes under this Article and the Retirement
5 Systems Reciprocal Act, except for the computation of final
6 rate of earnings and the determination of earnings, salary, or
7 compensation under this or any other Article of the Code.

8 The age enhancement established under this Section may be
9 used for all purposes under this Article (including calculation
10 of the reduction imposed under subdivision (a)1b(iv) of Section
11 7-142), except for purposes of a reversionary annuity under
12 Section 7-145 and any distributions required because of age.
13 The age enhancement established under this Section may be used
14 in calculating a proportionate annuity payable by this Fund
15 under the Retirement Systems Reciprocal Act, but shall not be
16 used in determining benefits payable under other Articles of
17 this Code under the Retirement Systems Reciprocal Act.

18 (f) For all creditable service established under this
19 Section, the member must pay to the Fund an employee
20 contribution consisting of 4.5% of the member's highest annual
21 salary rate used in the determination of the final rate of
22 earnings for retirement annuity purposes for each year of
23 creditable service granted under this Section. For creditable
24 service established under this Section by a person who is a
25 sheriff's law enforcement employee to be deemed service as a
26 sheriff's law enforcement employee, the employee contribution
27 shall be at the rate of 6.5% of highest annual salary per year
28 of creditable service granted. Contributions for fractions of a
29 year of service shall be prorated. Any amounts that are
30 disregarded in determining the final rate of earnings under
31 subdivision (d) (5) of Section 7-116 (the 125% rule) shall also
32 be disregarded in determining the required contribution under
33 this subsection (f).

34 The employee contribution shall be paid to the Fund as
35 follows: If the member is entitled to a lump sum payment for
36 accumulated vacation, sick leave, or personal leave upon

1 withdrawal from service, the employer shall deduct the employee
2 contribution from that lump sum and pay the deducted amount
3 directly to the Fund. If there is no such lump sum payment or
4 the required employee contribution exceeds the net amount of
5 the lump sum payment, then the remaining amount due, at the
6 option of the employee, may either be paid to the Fund before
7 the annuity commences or deducted from the retirement annuity
8 in 24 equal monthly installments.

9 (g) An annuitant who has received any age enhancement or
10 creditable service under this Section and thereafter accepts
11 employment with or enters into a personal services contract
12 with an employer under this Article thereby forfeits that age
13 enhancement and creditable service; except that beginning on
14 the effective date of this amendatory Act of the 94th General
15 Assembly, this prohibition applies only to (1) employment for
16 which the person is required (or is allowed and has elected) to
17 participate in this Fund and (2) contractual personal services
18 that, if performed as an employee, would require the employee
19 to participate in this Fund.

20 A person forfeiting early retirement incentives under this
21 subsection (i) must repay to the Fund that portion of the
22 retirement annuity already received which is attributable to
23 the early retirement incentives that are being forfeited, (ii)
24 shall not be eligible to participate in any future early
25 retirement program adopted under this Section, and (iii) is
26 entitled to a refund of the employee contribution paid under
27 subsection (f). The Board shall deduct the required repayment
28 from the refund and may impose a reasonable payment schedule
29 for repaying the amount, if any, by which the required
30 repayment exceeds the refund amount.

31 The change made to this subsection by this amendatory Act
32 of the 94th General Assembly is not limited to persons in
33 service on or after its effective date, but it does not restore
34 eligibility for early retirement benefits to any person who has
35 previously forfeited those benefits due to employment accepted
36 (or a contract entered into) before that effective date.

1 (h) The additional unfunded liability accruing as a result
2 of the adoption of a program of early retirement incentives
3 under this Section by an employer shall be amortized over a
4 period of 10 years beginning on January 1 of the second
5 calendar year following the calendar year in which the latest
6 date for beginning to receive a retirement annuity under the
7 program (as determined by the employer under subsection (d) of
8 this Section) occurs; except that the employer may provide for
9 a shorter amortization period (of no less than 5 years) by
10 adopting an ordinance or resolution specifying the length of
11 the amortization period and submitting a certified copy of the
12 ordinance or resolution to the Fund no later than 6 months
13 after the effective date of the program. An employer, at its
14 discretion, may accelerate payments to the Fund.

15 An employer may provide more than one early retirement
16 incentive program for its employees under this Section.
17 However, an employer that has provided an early retirement
18 incentive program for its employees under this Section may not
19 provide another early retirement incentive program under this
20 Section until the liability arising from the earlier program
21 has been fully paid to the Fund.

22 (Source: P.A. 90-32, eff. 6-27-97; 91-887, eff. 7-6-00.)

23 Section 90. The State Mandates Act is amended by adding
24 Section 8.29 as follows:

25 (30 ILCS 805/8.29 new)

26 Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8
27 of this Act, no reimbursement by the State is required for the
28 implementation of any mandate created by this amendatory Act of
29 the 94th General Assembly.

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.