



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB0305**

Introduced 2/15/2005, by Sen. Iris Y. Martinez

**SYNOPSIS AS INTRODUCED:**

40 ILCS 5/7-137  
40 ILCS 5/7-144

from Ch. 108 1/2, par. 7-137  
from Ch. 108 1/2, par. 7-144

Amends the IMRF Article of the Illinois Pension Code. Provides that a person who becomes an employee after attaining age 65 may elect not to participate in the Fund for that employment. Provides for continuation of the employee's retirement annuity despite that employment. Effective immediately.

LRB094 04140 AMC 34161 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

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 Sections 7-137 and 7-144 as follows:

6 (40 ILCS 5/7-137) (from Ch. 108 1/2, par. 7-137)

7 Sec. 7-137. Participating and covered employees.

8 (a) The persons described in this paragraph (a) shall be  
9 included within and be subject to this Article and eligible to  
10 benefits from this fund, beginning upon the dates hereinafter  
11 specified:

12 1. Except as to the employees specifically excluded  
13 under the provisions of this Article, all persons who are  
14 employees of any municipality (or instrumentality thereof)  
15 or participating instrumentality on the effective date of  
16 participation of the municipality or participating  
17 instrumentality beginning upon such effective date.

18 2. Except as to the employees specifically excluded  
19 under the provisions of this Article, all persons, who  
20 became employees of any participating municipality (or  
21 instrumentality thereof) or participating instrumentality  
22 after the effective date of participation of such  
23 municipality or participating instrumentality, beginning  
24 upon the date such person becomes an employee.

25 3. All persons who file notice with the board as  
26 provided in paragraph (b) 2 and 3 of this Section,  
27 beginning upon the date of filing such notice.

28 (b) The following described persons shall not be considered  
29 participating employees eligible for benefits from this fund,  
30 but shall be included within and be subject to this Article  
31 (each of the descriptions is not exclusive but is cumulative):

32 1. Any person who occupies an office or is employed in

1 a position normally requiring performance of duty during  
2 less than 600 hours a year for a municipality (including  
3 all instrumentalities thereof) or a participating  
4 instrumentality. If a school treasurer performs services  
5 for more than one school district, the total number of  
6 hours of service normally required for the several school  
7 districts shall be considered to determine whether he  
8 qualifies under this paragraph;

9 2. Any person who holds elective office unless he has  
10 elected while in that office in a written notice on file  
11 with the board to become a participating employee;

12 3. Any person working for a city hospital unless any  
13 such person, while in active employment, has elected in a  
14 written notice on file with the board to become a  
15 participating employee and notification thereof is  
16 received by the board;

17 4. Any person who becomes an employee after June 30,  
18 1979 as a public service employment program participant  
19 under the federal Comprehensive Employment and Training  
20 Act and whose wages or fringe benefits are paid in whole or  
21 in part by funds provided under such Act;

22 5. Any person who is actively employed by a  
23 municipality on its effective date of participation in the  
24 Fund if that municipality (i) has at least 35 employees on  
25 its effective date of participation; (ii) is located in a  
26 county with at least 2,000,000 inhabitants; and (iii)  
27 maintains an independent defined benefit pension plan for  
28 the benefit of its eligible employees, unless the person  
29 files with the board within 90 days after the  
30 municipality's effective date of participation an  
31 irrevocable election to participate.

32 (b-5) A person who becomes an employee after attaining age  
33 65 may elect not to participate in the Fund for that employment  
34 by filing written notice with the Fund within 30 days after  
35 beginning employment. Employment under this subsection shall  
36 not otherwise affect that person's eligibility for benefits

1 under this Act.

2 (c) Any person electing to be a participating employee,  
3 pursuant to paragraph (b) of this Section may not change such  
4 election, except as provided in Section 7-137.1.

5 (d) Any employee who occupied the position of school nurse  
6 in any participating municipality on August 8, 1961 and  
7 continuously thereafter until the effective date of the  
8 exercise of the option authorized by this subparagraph, who on  
9 August 7, 1961 was a member of the Teachers' Retirement System  
10 of Illinois, by virtue of certification by the Department of  
11 Registration and Education as a public health nurse, may elect  
12 to terminate participation in this Fund in order to  
13 re-establish membership in such System. The election may be  
14 exercised by filing written notice thereof with the Board or  
15 with the Board of Trustees of said Teachers' Retirement System,  
16 not later than September 30, 1963, and shall be effective on  
17 the first day of the calendar month next following the month in  
18 which the notice was filed. If the written notice is filed with  
19 such Teachers' Retirement System, that System shall  
20 immediately notify this Fund, but neither failure nor delay in  
21 notification shall affect the validity of the employee's  
22 election. If the option is exercised, the Fund shall notify  
23 such Teachers' Retirement System of such fact and transfer to  
24 that system the amounts contributed by the employee to this  
25 Fund, including interest at 3% per annum, but excluding  
26 contributions applicable to social security coverage during  
27 the period beginning August 8, 1961 to the effective date of  
28 the employee's election. Participation in this Fund as to any  
29 credits on or after August 8, 1961 and up to the effective date  
30 of the employee's election shall terminate on such effective  
31 date.

32 (e) Any participating municipality or participating  
33 instrumentality, other than a school district or special  
34 education joint agreement created under Section 10-22.31 of the  
35 School Code, may, by a resolution or ordinance duly adopted by  
36 its governing body, elect to exclude from participation and

1 eligibility for benefits all persons who are employed after the  
2 effective date of such resolution or ordinance and who occupy  
3 an office or are employed in a position normally requiring  
4 performance of duty for less than 1000 hours per year for the  
5 participating municipality (including all instrumentalities  
6 thereof) or participating instrumentality except for persons  
7 employed in a position normally requiring performance of duty  
8 for 600 hours or more per year (i) by such participating  
9 municipality or participating instrumentality prior to the  
10 effective date of the resolution or ordinance, (ii) by any  
11 participating municipality or participating instrumentality  
12 prior to January 1, 1982 and (iii) by a participating  
13 municipality or participating instrumentality, which had not  
14 adopted such a resolution when the person was employed, and the  
15 function served by the employee's position is assumed by  
16 another participating municipality or participating  
17 instrumentality. A participating municipality or participating  
18 instrumentality included in and subject to this Article after  
19 January 1, 1982 may adopt such resolution or ordinance only  
20 prior to the date it becomes included in and subject to this  
21 Article. Notwithstanding the foregoing, a participating  
22 municipality or participating instrumentality which is formed  
23 solely to succeed to the functions of a participating  
24 municipality or participating instrumentality shall be  
25 considered to have adopted any such resolution or ordinance  
26 which may have been applicable to the employees performing such  
27 functions. The election made by the resolution or ordinance  
28 shall take effect at the time specified in the resolution or  
29 ordinance, and once effective shall be irrevocable.

30 (Source: P.A. 93-933, eff. 8-13-04.)

31 (40 ILCS 5/7-144) (from Ch. 108 1/2, par. 7-144)

32 Sec. 7-144. Retirement annuities-Suspended during  
33 employment.

34 (a) (1) If any person described in clause (i) of subsection  
35 (a) 2 of Section 7-141 receiving any annuity again becomes an

1 employee and receives earnings from employment in a position  
2 normally requiring performance of duty during 600 hours or more  
3 per year for any participating municipality and  
4 instrumentalities thereof or participating instrumentality; or  
5 (2) if any person described in clause (ii) of subsection (a) 2  
6 of Section 7-141 receiving any annuity returns to employment in  
7 a position requiring him, or entitling him to elect, to become  
8 a participating employee; then the annuity payable to such  
9 employee shall be suspended as of the 1st day of the month  
10 coincidental with or next following the date upon which such  
11 person becomes such an employee. Upon proper qualification of  
12 the participating employee payment of such annuity may be  
13 resumed on the 1st day of the month following such  
14 qualification and upon proper application therefor. The  
15 participating employee in such case shall be entitled to a  
16 supplemental annuity arising from service and credits earned  
17 subsequent to such re-entry as a participating employee.

18 (b) Supplemental annuities to persons who return to service  
19 for less than 48 months shall be computed under the provisions  
20 of Sections 7-141, 7-142 and 7-143. In determining whether an  
21 employee is eligible for an annuity which requires a minimum  
22 period of service, his entire period of service shall be taken  
23 into consideration but the supplemental annuity shall be based  
24 on earnings and service in the supplemental period only. The  
25 effective date of the suspended and supplemental annuity for  
26 the purpose of increases after retirement shall be considered  
27 to be the effective date of the suspended annuity.

28 (c) Supplemental annuities to persons who return to service  
29 for 48 months or more shall be a monthly amount determined as  
30 follows:

31 (1) An amount shall be computed under subparagraph b of  
32 paragraph (1) of subsection (a) of Section 7-142, considering  
33 all of the service credits of the employee;

34 (2) The actuarial value in monthly payments for life of the  
35 annuity payments made before suspension shall be determined and  
36 subtracted from the amount determined in (1) above;

1           (3) The monthly amount of the suspended annuity, with any  
2 applicable increases after retirement computed from the  
3 effective date to the date of reinstatement, shall be  
4 subtracted from the amount determined in (2) above and the  
5 remainder shall be the amount of the supplemental annuity  
6 provided that this amount shall not be less than the amount  
7 computed under subsection (b) of this Section.

8           (4) The suspended annuity shall be reinstated at an amount  
9 including any increases after retirement from the effective  
10 date to date of reinstatement.

11           (5) The effective date of the combined suspended and  
12 supplemental annuities for the purposes of increases after  
13 retirement shall be considered to be the effective date of the  
14 supplemental annuity.

15           (d) The provisions of this Section do not apply to  
16 employees returning to work after attaining age 65 who elect  
17 not to participate in the Fund under subsection (b-5) of  
18 Section 7-137.

19           (Source: P.A. 82-459.)

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