



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5643

by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-106	from Ch. 108 1/2, par. 16-106
40 ILCS 5/16-133.2	from Ch. 108 1/2, par. 16-133.2
40 ILCS 5/16-136.4	from Ch. 108 1/2, par. 16-136.4
40 ILCS 5/16-158.1	from Ch. 108 1/2, par. 16-158.1
40 ILCS 5/16-165	from Ch. 108 1/2, par. 16-165
40 ILCS 5/16-203.1 new	
30 ILCS 805/8.32 new	

Amends the Downstate Teacher Article of the Illinois Pension Code. Makes changes in the definition of "teacher". In provisions concerning early retirement without discount, provides that certain employer contributions shall be payable to the System within 30 days after receipt of the bill. Increases the single-sum retirement benefit from 1.67% of the member's final average salary for each year of creditable service to 2.2% of the member's final average salary for each year of creditable service. Provides that the System may charge interest at a rate equal to the System's annual actuarially assumed rate of return on investment compounded annually from the 91st day after a school district receives a bill for contributions required of it under the Article or contributions required of teachers. In provisions concerning vacancies on the Board of Trustees, provides that if the Board's secretary determines there is inadequate time to hold a special election so as to allow the newly elected trustee to participate in at least one regularly scheduled Board meeting, then no special election shall be held and the vacancy shall remain until the next regular election. Amends the State Mandates Act to require implementation without reimbursement. Includes new benefit increase language. Effective immediately.

LRB095 15660 AMC 41665 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

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 16-106, 16-133.2, 16-136.4, 16-158.1, and 16-165 and
6 by adding Section 16-203.1 as follows:

7 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)

8 Sec. 16-106. Teacher. "Teacher": The following
9 individuals, provided that, for employment prior to July 1,
10 1990, they are employed on a full-time basis, or if not
11 full-time, on a permanent and continuous basis in a position in
12 which services are expected to be rendered for at least one
13 school term:

14 (1) Any educational, administrative, professional or
15 other staff employed in the public common schools included
16 within this system in a position requiring certification
17 under the law governing the certification of teachers;

18 (2) Any educational, administrative, professional or
19 other staff employed in any facility of the Department of
20 Children and Family Services or the Department of Human
21 Services, in a position requiring certification under the
22 law governing the certification of teachers, and any person
23 who (i) works in such a position for the Department of

1 Corrections, (ii) was a member of this System on May 31,
2 1987, and (iii) did not elect to become a member of the
3 State Employees' Retirement System pursuant to Section
4 14-108.2 of this Code; except that "teacher" does not
5 include any person who (A) becomes a security employee of
6 the Department of Human Services, as defined in Section
7 14-110, after June 28, 2001 (the effective date of Public
8 Act 92-14), or (B) becomes a member of the State Employees'
9 Retirement System pursuant to Section 14-108.2c of this
10 Code;

11 (3) Any regional superintendent of schools, assistant
12 regional superintendent of schools, State Superintendent
13 of Education; any person employed by the State Board of
14 Education as an executive; any executive of the boards
15 engaged in the service of public common school education in
16 school districts covered under this system of which the
17 State Superintendent of Education is an ex-officio member;

18 (4) Any employee of a school board association
19 operating in compliance with Article 23 of the School Code
20 who is certificated under the law governing the
21 certification of teachers;

22 (5) Any person employed by the retirement system who:

23 (i) was an employee of and a participant in the
24 system on August 17, 2001 (the effective date of Public
25 Act 92-416), or

26 (ii) becomes an employee of the system on or after

1 August 17, 2001;

2 (6) Any educational, administrative, professional or
3 other staff employed by and under the supervision and
4 control of a regional superintendent of schools, provided
5 such employment position requires the person to be
6 certificated under the law governing the certification of
7 teachers and is in an educational program serving 2 or more
8 districts in accordance with a joint agreement authorized
9 by the School Code or by federal legislation;

10 (7) Any educational, administrative, professional or
11 other staff employed in an educational program serving 2 or
12 more school districts in accordance with a joint agreement
13 authorized by the School Code or by federal legislation and
14 in a position requiring certification under the laws
15 governing the certification of teachers;

16 (8) Any officer or employee of a statewide teacher
17 organization or officer of a national teacher organization
18 who is certified under the law governing certification of
19 teachers, provided: (i) the individual had previously
20 established creditable service under this Article, (ii)
21 the individual files with the system an irrevocable
22 election to become a member, and (iii) the individual does
23 not receive credit for such service under any other Article
24 of this Code;

25 (9) Any educational, administrative, professional, or
26 other staff employed in a charter school operating in

1 compliance with the Charter Schools Law who is certificated
2 under the law governing the certification of teachers.

3 (10) Any person employed, on the effective date of this
4 amendatory Act of the 94th General Assembly, by the
5 Macon-Piatt Regional Office of Education in a
6 birth-through-age-three pilot program receiving funds
7 under Section 2-389 of the School Code who is required by
8 the Macon-Piatt Regional Office of Education to hold a
9 teaching certificate, provided that the Macon-Piatt
10 Regional Office of Education makes an election, within 6
11 months after the effective date of this amendatory Act of
12 the 94th General Assembly, to have the person participate
13 in the system. Any service established prior to the
14 effective date of this amendatory Act of the 94th General
15 Assembly for service as an employee of the Macon-Piatt
16 Regional Office of Education in a birth-through-age-three
17 pilot program receiving funds under Section 2-389 of the
18 School Code shall be considered service as a teacher if
19 employee and employer contributions have been received by
20 the system and the system has not refunded those
21 contributions.

22 An annuitant receiving a retirement annuity under this
23 Article ~~or under Article 17 of this Code~~ who is employed by a
24 board of education or other employer as permitted under Section
25 16-118 or 16-150.1 is not a "teacher" for purposes of this
26 Article. A person who has received a single-sum retirement

1 benefit under Section 16-136.4 of this Article is not a
2 "teacher" for purposes of this Article.

3 A person who is a teacher as described in item (8) of this
4 Section may establish service credit for similar employment
5 prior to becoming certified as a teacher if he or she (i) is
6 certified as a teacher on or before the effective date of this
7 amendatory Act of the 94th General Assembly, (ii) applies in
8 writing to the system within 6 months after the effective date
9 of this amendatory Act of the 94th General Assembly, and (iii)
10 pays to the system contributions equal to the normal costs
11 calculated from the date of first full-time employment as
12 described in item (8) to the date of payment, compounded
13 annually at the rate of 8.5% per year for periods before the
14 effective date of this amendatory Act of the 94th General
15 Assembly and for subsequent periods at a rate equal to the
16 System's actuarially assumed rate of return on investments.
17 However, credit shall not be granted under this paragraph for
18 any such prior employment for which the applicant received
19 credit under any other provision of this Code.

20 (Source: P.A. 93-320, eff. 7-23-03; 94-1111, eff. 2-27-07.)

21 (40 ILCS 5/16-133.2) (from Ch. 108 1/2, par. 16-133.2)

22 Sec. 16-133.2. Early retirement without discount.

23 (a) A member retiring after June 1, 1980 and on or before
24 June 30, 2005 (or as provided in subsection (b) of this
25 Section), and applying for a retirement annuity within 6 months

1 of the last day of teaching for which retirement contributions
2 were required, may elect at the time of application for a
3 retirement annuity, to make a one time member contribution to
4 the System and thereby avoid the reduction in the retirement
5 annuity for retirement before age 60 specified in paragraph (B)
6 of Section 16-133. The exercise of the election shall also
7 obligate the last employer to make a one time non-refundable
8 contribution to the System. Substitute teachers wishing to
9 exercise this election must teach 85 or more days in one school
10 term with one employer, who shall be deemed the last employer
11 for purposes of this Section. The last day of teaching with
12 that employer must be within 6 months of the date of
13 application for retirement. All substitute teaching credit
14 applied toward the required 85 days must be earned after June
15 30, 1990.

16 The one time member and employer contributions shall be a
17 percentage of the retiring member's highest annual salary rate
18 used in the determination of the average salary for retirement
19 annuity purposes. However, when determining the one-time
20 member and employer contributions, that part of a member's
21 salary with the same employer which exceeds the annual salary
22 rate for the preceding year by more than 20% shall be excluded.
23 The member contribution shall be at the rate of 7% for the
24 lesser of the following 2 periods: (1) for each year that the
25 member is less than age 60; or (2) for each year that the
26 member's creditable service is less than 35 years. If a member

1 is at least age 55 and has at least 34 years of creditable
2 service, no member or employer contribution for the early
3 retirement option shall be required. The employer contribution
4 shall be at the rate of 20% for each year the member is under
5 age 60.

6 Upon receipt of the application and election, the System
7 shall determine the one time employee and employer
8 contributions required. The member contribution shall be
9 credited to the individual account of the member and the
10 employer contribution shall be credited to the Benefit Trust
11 Reserve. The provisions of this subsection (a) providing for
12 the avoidance of the reduction in retirement annuity shall not
13 be applicable until the member's contribution, if any, has been
14 received by the System; however, the date such contributions
15 are received shall not be considered in determining the
16 effective date of retirement.

17 The number of members working for a single employer who may
18 retire under this subsection or subsection (b) in any year may
19 be limited at the option of the employer to a specified
20 percentage of those eligible, not less than 30%, with the right
21 to participate to be allocated among those applying on the
22 basis of seniority in the service of the employer.

23 (b) The provisions of subsection (a) of this Section shall
24 remain in effect for a member retiring after June 30, 2005 and
25 on or before July 1, 2007, provided that the member satisfies
26 both of the following requirements:

1 (1) the member notified his or her employer of intent
2 to retire under this Article on or before the effective
3 date of this amendatory Act of the 94th General Assembly
4 under the terms of a contract or collective bargaining
5 agreement entered into, amended, or renewed with the
6 employer on or before the effective date of this amendatory
7 Act of the 94th General Assembly; and

8 (2) the effective date of the member's retirement is on
9 or before July 1, 2007.

10 The member's employer must give evidence of the member's
11 notification by providing to the System:

12 (i) a copy of the member's notification to the employer
13 or the record of that notification;

14 (ii) an affidavit signed by the member and the
15 employer, verifying the notification; and

16 (iii) any additional documentation that the System may
17 require.

18 (c) Except as otherwise provided in subsection (b), and
19 subject to the provisions of Section 16-176, a member retiring
20 on or after July 1, 2005, and applying for a retirement annuity
21 within 6 months of the last day of teaching for which
22 retirement contributions were required, may elect at the time
23 of application for a retirement annuity, to make a one-time
24 member contribution to the System and thereby avoid the
25 reduction in the retirement annuity for retirement before age
26 60 specified in paragraph (B) of Section 16-133. The exercise

1 of the election shall also obligate the last employer to make a
2 one-time nonrefundable contribution to the System. Substitute
3 teachers wishing to exercise this election must teach 85 or
4 more days in one school term with one employer, who shall be
5 deemed the last employer for purposes of this Section. The last
6 day of teaching with that employer must be within 6 months of
7 the date of application for retirement. All substitute teaching
8 credit applied toward the required 85 days must be earned after
9 June 30, 1990.

10 The one-time member and employer contributions shall be a
11 percentage of the retiring member's highest annual salary rate
12 used in the determination of the average salary for retirement
13 annuity purposes. However, when determining the one-time
14 member and employer contributions, that part of a member's
15 salary with the same employer which exceeds the annual salary
16 rate for the preceding year by more than 20% shall be excluded.
17 The member contribution shall be at the rate of 11.5% for the
18 lesser of the following 2 periods: (1) for each year that the
19 member is less than age 60; or (2) for each year that the
20 member's creditable service is less than 35 years. The employer
21 contribution shall be at the rate of 23.5% for each year the
22 member is under age 60 and shall be payable to the System
23 within 30 days after receipt of the bill. These employer
24 payments shall be subject to Section 16-158.1 of this Code..

25 Upon receipt of the application and election, the System
26 shall determine the one-time employee and employer

1 contributions required. The member contribution shall be
2 credited to the individual account of the member and the
3 employer contribution shall be credited to the Benefit Trust
4 Reserve. The avoidance of the reduction in retirement annuity
5 provided under this subsection (c) is not applicable until the
6 member's contribution, if any, has been received by the System;
7 however, the date that contribution is received shall not be
8 considered in determining the effective date of retirement.

9 The number of members working for a single employer who may
10 retire under this subsection (c) in any year may be limited at
11 the option of the employer to a specified percentage of those
12 eligible, not less than 10%, with the right to participate to
13 be allocated among those applying on the basis of seniority in
14 the service of the employer.

15 (Source: P.A. 93-469, eff. 8-8-03; 94-4, eff. 6-1-05.)

16 (40 ILCS 5/16-136.4) (from Ch. 108 1/2, par. 16-136.4)

17 Sec. 16-136.4. Single-sum retirement benefit.

18 (a) A member who has less than 5 years of creditable
19 service shall be entitled, upon written application to the
20 board, to receive a retirement benefit payable in a single sum
21 upon or after the member's attainment of age 65. However, the
22 benefit shall not be paid while the member is employed as a
23 teacher in the schools included under this Article or Article
24 17, unless the System is required by federal law to make
25 payment due to the member's age.

1 (b) The retirement benefit shall consist of a single sum
2 that is the actuarial equivalent of a life annuity consisting
3 of 2.2% ~~1.67%~~ of the member's final average salary for each
4 year of creditable service. In determining the amount of the
5 benefit, a fractional year shall be granted proportional
6 credit.

7 For the purposes of this Section, final average salary
8 shall be the average salary of the member's highest 4
9 consecutive years of service as determined under rules of the
10 board. For a member with less than 4 consecutive years of
11 service, final average salary shall be the average salary
12 during the member's entire period of service. In the
13 determination of final average salary for members other than
14 elected officials and their appointees when such appointees are
15 allowed by statute, that part of a member's salary which
16 exceeds the member's annual full-time salary rate with the same
17 employer for the preceding year by more than 20% shall be
18 excluded. The exclusion shall not apply in any year in which
19 the member's creditable earnings are less than 50% of the
20 preceding year's mean salary for downstate teachers as
21 determined by the survey of school district salaries provided
22 in Section 2-3.103 of the School Code.

23 (c) The retirement benefit determined under this Section
24 shall be available to all members who render teaching service
25 after July 1, 1947 for which member contributions are required.

26 (d) Upon acceptance of the retirement benefit, all of the

1 member's accrued rights and credits in the System are
2 forfeited. Receipt of a single-sum retirement benefit under
3 this Section does not make a person an "annuitant" for the
4 purposes of this Article, nor a "benefit recipient" for the
5 purposes of Sections 16-153.1 through 16-153.4.

6 (Source: P.A. 91-887, eff. 7-6-00.)

7 (40 ILCS 5/16-158.1) (from Ch. 108 1/2, par. 16-158.1)

8 Sec. 16-158.1. Actions to enforce payments by school
9 districts and other employing units. Any school district or
10 other employing unit failing to transmit to the System
11 contributions required of it under this Article or
12 contributions required of teachers, for more than 90 days after
13 such contributions are due is subject to the following: after
14 giving notice to the district or other unit, the System may
15 certify to the State Comptroller or the Regional Superintendent
16 of Schools the amounts of such delinquent payments and the
17 State Comptroller or the Regional Superintendent of Schools
18 shall deduct the amounts so certified or any part thereof from
19 any State funds to be remitted to the school district or other
20 employing unit involved and shall pay the amount so deducted to
21 the System. If State funds from which such deductions may be
22 made are not available, the System may proceed against the
23 school district or other employing unit to recover the amounts
24 of such delinquent payments in the appropriate circuit court
25 and the System may charge interest at a rate equal to the

1 System's annual actuarially assumed rate of return on
2 investment compounded annually from the 91st day after the
3 school district receives the bill.

4 The System may provide for an audit of the records of a
5 school district or other employing unit as may be required to
6 establish the amounts of required contributions. The school
7 district or other employing unit shall make its records
8 available to the System for the purpose of such audit. The cost
9 of such audit shall be added to the amount of the delinquent
10 payments and shall be recovered by the System from the school
11 district or other employing unit at the same time and in the
12 same manner as the delinquent payments are recovered.

13 (Source: P.A. 90-448, eff. 8-16-97.)

14 (40 ILCS 5/16-165) (from Ch. 108 1/2, par. 16-165)

15 Sec. 16-165. Board; elected members; vacancies.

16 (a) In each odd-numbered year, there shall be elected 2
17 teachers who shall hold office for a term of 4 years beginning
18 July 15 next following their election, in the manner provided
19 under this Section. An elected teacher member of the board who
20 ceases to be a teacher as defined in Section 16-106 may
21 continue to serve on the board for the remainder of the term to
22 which he or she was elected.

23 (b) One elected annuitant trustee shall first be elected in
24 1987, and in every fourth year thereafter, for a term of 4
25 years beginning July 15 next following his or her election.

1 (c) The elected annuitant position created by this
2 amendatory Act of the 91st General Assembly shall be filled as
3 soon as possible in the manner provided for vacancies, for an
4 initial term ending July 15, 2001. One elected annuitant
5 trustee shall be elected in 2001, and in every fourth year
6 thereafter, for a term of 4 years beginning July 15 next
7 following his or her election.

8 (d) Elections shall be held on May 1, unless May 1 falls on
9 a Saturday or Sunday, in which event the election shall be
10 conducted on the following Monday. Candidates shall be
11 nominated by petitions in writing, signed by not less than 500
12 teachers or annuitants, as the case may be, with their
13 addresses shown opposite their names. The petitions shall be
14 filed with the board's Secretary not less than 90 nor more than
15 120 days prior to May 1. The Secretary shall determine their
16 validity not less than 75 days before the election.

17 (e) If, for either teacher or annuitant members, the number
18 of qualified nominees exceeds the number of available
19 positions, the system shall prepare an appropriate ballot with
20 the names of the candidates in alphabetical order and shall
21 mail one copy thereof, at least 10 days prior to the election
22 day, to each teacher or annuitant of this system as of the
23 latest date practicable, at the latest known address, together
24 with a return envelope addressed to the board and also a
25 smaller envelope marked "For Ballot Only", and a slip for
26 signature. Each voter, upon marking his ballot with a cross

1 mark in the square before the name of the person voted for,
2 shall place the ballot in the envelope marked "For Ballot
3 Only", seal the envelope, write on the slip provided therefor
4 his signature and address, enclose both the slip and sealed
5 envelope containing the marked ballot in the return envelope
6 addressed to the board, and mail it. Whether a person is
7 eligible to vote for the teacher nominees or the annuitant
8 nominees shall be determined from system payroll records as of
9 March 1.

10 Upon receipt of the return envelopes, the system shall open
11 them and set aside unopened the envelopes marked "For Ballot
12 Only". On election day ballots shall be publicly opened and
13 counted by the trustees or canvassers appointed therefor. Each
14 vote cast for a candidate represents one vote only. No ballot
15 arriving after 10 o'clock a.m. on election day shall be
16 counted. The 2 teacher candidates and the annuitant candidate
17 receiving the highest number of votes shall be elected. The
18 board shall declare the results of the election, keep a record
19 thereof, and notify the candidates of the results thereof
20 within 30 days after the election.

21 If, for either class of members, there are only as many
22 qualified nominees as there are positions available, the
23 balloting as described in this Section shall not be conducted
24 for those nominees, and the board shall declare them duly
25 elected.

26 (f) A vacancy occurring in the elective membership of the

1 board shall be filled for the unexpired term by a person
2 qualified for the vacant position, selected by the remaining
3 elected members of the board, if there are no more than 6
4 months remaining on the term. For a term with more than 6
5 months remaining, the Director of the Teachers' Retirement
6 System of the State of Illinois shall institute an election in
7 accordance with this Act to fill the unexpired term; however,
8 if the Board's secretary determines there is inadequate time to
9 hold a special election so as to allow the newly elected
10 trustee to participate in at least one regularly scheduled
11 Board meeting, then no special election shall be held and the
12 vacancy shall remain until the next regular election.

13 (Source: P.A. 94-423, eff. 8-2-05; 94-710, eff. 12-5-05;
14 95-331, eff. 8-21-07.)

15 (40 ILCS 5/16-203.1 new)

16 Sec. 16-203.1. New benefit increases. The General Assembly
17 finds and declares that the amendment to Section 16-136.4 made
18 by this amendatory Act of the 95th General Assembly that
19 increases the retirement benefit of a member constitutes a new
20 benefit increase within the meaning of Section 16-203. The
21 additional funding required under Section 16-203 for this new
22 benefit increase was provided for by the increase in employee
23 and employer contributions for this purpose under Public Act
24 90-582.

1 Section 90. The State Mandates Act is amended by adding
2 Section 8.32 as follows:

3 (30 ILCS 805/8.32 new)

4 Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8
5 of this Act, no reimbursement by the State is required for the
6 implementation of any mandate created by this amendatory Act of
7 the 95th General Assembly.

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