

**SB2359**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB2359**

Introduced 2/14/2008, by Sen. A. J. Wilhelmi

**SYNOPSIS AS INTRODUCED:**

40 ILCS 5/7-132

from Ch. 108 1/2, par. 7-132

Amends the IMRF Article of the Illinois Pension Code. Allows a regional council of government that has an Internal Revenue Service ruling that it is a government entity or instrument of government to participate in IMRF. Effective immediately.

LRB095 14733 AMC 40662 b

PENSION IMPACT  
NOTE ACT MAY  
APPLY

**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  
5 changing Section 7-132 as follows:

6 (40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

7 Sec. 7-132. Municipalities, instrumentalities and  
8 participating instrumentalities included and effective dates.

9 (A) Municipalities and their instrumentalities.

10 (a) The following described municipalities, but not  
11 including any with more than 1,000,000 inhabitants, and the  
12 instrumentalities thereof, shall be included within and be  
13 subject to this Article beginning upon the effective dates  
14 specified by the Board:

15 (1) Except as to the municipalities and  
16 instrumentalities thereof specifically excluded under this  
17 Article, every county shall be subject to this Article, and  
18 all cities, villages and incorporated towns having a  
19 population in excess of 5,000 inhabitants as determined by  
20 the last preceding decennial or subsequent federal census,  
21 shall be subject to this Article following publication of  
22 the census by the Bureau of the Census. Within 90 days

1 after publication of the census, the Board shall notify any  
2 municipality that has become subject to this Article as a  
3 result of that census, and shall provide information to the  
4 corporate authorities of the municipality explaining the  
5 duties and consequences of participation. The notification  
6 shall also include a proposed date upon which participation  
7 by the municipality will commence.

8 However, for any city, village or incorporated town  
9 that attains a population over 5,000 inhabitants after  
10 having provided social security coverage for its employees  
11 under the Social Security Enabling Act, participation  
12 under this Article shall not be mandatory but may be  
13 elected in accordance with subparagraph (3) or (4) of this  
14 paragraph (a), whichever is applicable.

15 (2) School districts, other than those specifically  
16 excluded under this Article, shall be subject to this  
17 Article, without election, with respect to all employees  
18 thereof.

19 (3) Towns and all other bodies politic and corporate  
20 which are formed by vote of, or are subject to control by,  
21 the electors in towns and are located in towns which are  
22 not participating municipalities on the effective date of  
23 this Act, may become subject to this Article by election  
24 pursuant to Section 7-132.1.

25 (4) Any other municipality (together with its  
26 instrumentalities), other than those specifically excluded

1 from participation and those described in paragraph (3)  
2 above, may elect to be included either by referendum under  
3 Section 7-134 or by the adoption of a resolution or  
4 ordinance by its governing body. A copy of such resolution  
5 or ordinance duly authenticated and certified by the clerk  
6 of the municipality or other appropriate official of its  
7 governing body shall constitute the required notice to the  
8 board of such action.

9 (b) A municipality that is about to begin participation  
10 shall submit to the Board an application to participate, in a  
11 form acceptable to the Board, not later than 90 days prior to  
12 the proposed effective date of participation. The Board shall  
13 act upon the application within 90 days, and if it finds that  
14 the application is in conformity with its requirements and the  
15 requirements of this Article, participation by the applicant  
16 shall commence on a date acceptable to the municipality and  
17 specified by the Board, but in no event more than one year from  
18 the date of application.

19 (c) A participating municipality which succeeds to the  
20 functions of a participating municipality which is dissolved or  
21 terminates its existence shall assume and be transferred the  
22 net accumulation balance in the municipality reserve and the  
23 municipality account receivable balance of the terminated  
24 municipality.

25 (d) In the case of a Veterans Assistance Commission whose  
26 employees were being treated by the Fund on January 1, 1990 as

1 employees of the county served by the Commission, the Fund may  
2 continue to treat the employees of the Veterans Assistance  
3 Commission as county employees for the purposes of this  
4 Article, unless the Commission becomes a participating  
5 instrumentality in accordance with subsection (B) of this  
6 Section.

7 (B) Participating instrumentalities.

8 (a) The participating instrumentalities designated in  
9 paragraph (b) of this subsection shall be included within and  
10 be subject to this Article if:

11 (1) an application to participate, in a form acceptable  
12 to the Board and adopted by a two-thirds vote of the  
13 governing body, is presented to the Board not later than 90  
14 days prior to the proposed effective date; and

15 (2) the Board finds that the application is in  
16 conformity with its requirements, that the applicant has  
17 reasonable expectation to continue as a political entity  
18 for a period of at least 10 years and has the prospective  
19 financial capacity to meet its current and future  
20 obligations to the Fund, and that the actuarial soundness  
21 of the Fund may be reasonably expected to be unimpaired by  
22 approval of participation by the applicant.

23 The Board shall notify the applicant of its findings within  
24 90 days after receiving the application, and if the Board  
25 approves the application, participation by the applicant shall

1 commence on the effective date specified by the Board.

2 (b) The following participating instrumentalities, so long  
3 as they meet the requirements of Section 7-108 and the area  
4 served by them or within their jurisdiction is not located  
5 entirely within a municipality having more than one million  
6 inhabitants, may be included hereunder:

7 i. Township School District Trustees.

8 ii. Multiple County and Consolidated Health  
9 Departments created under Division 5-25 of the Counties  
10 Code or its predecessor law.

11 iii. Public Building Commissions created under the  
12 Public Building Commission Act, and located in counties of  
13 less than 1,000,000 inhabitants.

14 iv. A multitype, consolidated or cooperative library  
15 system created under the Illinois Library System Act. Any  
16 library system created under the Illinois Library System  
17 Act that has one or more predecessors that participated in  
18 the Fund may participate in the Fund upon application. The  
19 Board shall establish procedures for implementing the  
20 transfer of rights and obligations from the predecessor  
21 system to the successor system.

22 v. Regional Planning Commissions created under  
23 Division 5-14 of the Counties Code or its predecessor law.

24 vi. Local Public Housing Authorities created under the  
25 Housing Authorities Act, located in counties of less than  
26 1,000,000 inhabitants.

- 1           vii. Illinois Municipal League.
- 2           viii. Northeastern Illinois Metropolitan Area Planning  
3 Commission.
- 4           ix. Southwestern Illinois Metropolitan Area Planning  
5 Commission.
- 6           x. Illinois Association of Park Districts.
- 7           xi. Illinois Supervisors, County Commissioners and  
8 Superintendents of Highways Association.
- 9           xii. Tri-City Regional Port District.
- 10          xiii. An association, or not-for-profit corporation,  
11 membership in which is authorized under Section 85-15 of  
12 the Township Code.
- 13          xiv. Drainage Districts operating under the Illinois  
14 Drainage Code.
- 15          xv. Local mass transit districts created under the  
16 Local Mass Transit District Act.
- 17          xvi. Soil and water conservation districts created  
18 under the Soil and Water Conservation Districts Law.
- 19          xvii. Commissions created to provide water supply or  
20 sewer services or both under Division 135 or Division 136  
21 of Article 11 of the Illinois Municipal Code.
- 22          xviii. Public water districts created under the Public  
23 Water District Act.
- 24          xix. Veterans Assistance Commissions established under  
25 Section 9 of the Military Veterans Assistance Act that  
26 serve counties with a population of less than 1,000,000.

1           xx. The governing body of an entity, other than a  
2           vocational education cooperative, created under an  
3           intergovernmental cooperative agreement established  
4           between participating municipalities under the  
5           Intergovernmental Cooperation Act, which by the terms of  
6           the agreement is the employer of the persons performing  
7           services under the agreement under the usual common law  
8           rules determining the employer-employee relationship. The  
9           governing body of such an intergovernmental cooperative  
10          entity established prior to July 1, 1988 may make  
11          participation retroactive to the effective date of the  
12          agreement and, if so, the effective date of participation  
13          shall be the date the required application is filed with  
14          the fund. If any such entity is unable to pay the required  
15          employer contributions to the fund, then the participating  
16          municipalities shall make payment of the required  
17          contributions and the payments shall be allocated as  
18          provided in the agreement or, if not so provided, equally  
19          among them.

20           xxi. The Illinois Municipal Electric Agency.

21           xxii. The Waukegan Port District.

22           xxiii. The Fox Waterway Agency created under the Fox  
23          Waterway Agency Act.

24           xxiv. The Illinois Municipal Gas Agency.

25           xxv. The Kaskaskia Regional Port District.

26           xxvi. The Southwestern Illinois Development Authority.



1 xxvii. The Cairo Public Utility Company.

2 xxviii. Except with respect to employees who elect to  
3 participate in the State Employees' Retirement System of  
4 Illinois under Section 14-104.13 of this Code, the Chicago  
5 Metropolitan Agency for Planning created under the  
6 Regional Planning Act, provided that, with respect to the  
7 benefits payable pursuant to Sections 7-146, 7-150, and  
8 7-164 and the requirement that eligibility for such  
9 benefits is conditional upon satisfying a minimum period of  
10 service or a minimum contribution, any employee of the  
11 Chicago Metropolitan Agency for Planning that was  
12 immediately prior to such employment an employee of the  
13 Chicago Area Transportation Study or the Northeastern  
14 Illinois Planning Commission, such employee's service at  
15 the Chicago Area Transportation Study or the Northeastern  
16 Illinois Planning Commission and contributions to the  
17 State Employees' Retirement System of Illinois established  
18 under Article 14 and the Illinois Municipal Retirement Fund  
19 shall count towards the satisfaction of such requirements.

20 xxix. Regional councils of government, but only if the  
21 regional council of government has an Internal Revenue  
22 Service ruling that it is a government entity or instrument  
23 of government.

24 (c) The governing boards of special education joint  
25 agreements created under Section 10-22.31 of the School Code  
26 without designation of an administrative district shall be

1 included within and be subject to this Article as participating  
2 instrumentalities when the joint agreement becomes effective.  
3 However, the governing board of any such special education  
4 joint agreement in effect before September 5, 1975 shall not be  
5 subject to this Article unless the joint agreement is modified  
6 by the school districts to provide that the governing board is  
7 subject to this Article, except as otherwise provided by this  
8 Section.

9 The governing board of the Special Education District of  
10 Lake County shall become subject to this Article as a  
11 participating instrumentality on July 1, 1997. Notwithstanding  
12 subdivision (a)1 of Section 7-139, on the effective date of  
13 participation, employees of the governing board of the Special  
14 Education District of Lake County shall receive creditable  
15 service for their prior service with that employer, up to a  
16 maximum of 5 years, without any employee contribution.  
17 Employees may establish creditable service for the remainder of  
18 their prior service with that employer, if any, by applying in  
19 writing and paying an employee contribution in an amount  
20 determined by the Fund, based on the employee contribution  
21 rates in effect at the time of application for the creditable  
22 service and the employee's salary rate on the effective date of  
23 participation for that employer, plus interest at the effective  
24 rate from the date of the prior service to the date of payment.  
25 Application for this creditable service must be made before  
26 July 1, 1998; the payment may be made at any time while the

1 employee is still in service. The employer may elect to make  
2 the required contribution on behalf of the employee.

3 The governing board of a special education joint agreement  
4 created under Section 10-22.31 of the School Code for which an  
5 administrative district has been designated, if there are  
6 employees of the cooperative educational entity who are not  
7 employees of the administrative district, may elect to  
8 participate in the Fund and be included within this Article as  
9 a participating instrumentality, subject to such application  
10 procedures and rules as the Board may prescribe.

11 The Boards of Control of cooperative or joint educational  
12 programs or projects created and administered under Section  
13 3-15.14 of the School Code, whether or not the Boards act as  
14 their own administrative district, shall be included within and  
15 be subject to this Article as participating instrumentalities  
16 when the agreement establishing the cooperative or joint  
17 educational program or project becomes effective.

18 The governing board of a special education joint agreement  
19 entered into after June 30, 1984 and prior to September 17,  
20 1985 which provides for representation on the governing board  
21 by less than all the participating districts shall be included  
22 within and subject to this Article as a participating  
23 instrumentality. Such participation shall be effective as of  
24 the date the joint agreement becomes effective.

25 The governing boards of educational service centers  
26 established under Section 2-3.62 of the School Code shall be

1 included within and subject to this Article as participating  
2 instrumentalities. The governing boards of vocational  
3 education cooperative agreements created under the  
4 Intergovernmental Cooperation Act and approved by the State  
5 Board of Education shall be included within and be subject to  
6 this Article as participating instrumentalities. If any such  
7 governing boards or boards of control are unable to pay the  
8 required employer contributions to the fund, then the school  
9 districts served by such boards shall make payment of required  
10 contributions as provided in Section 7-172. The payments shall  
11 be allocated among the several school districts in proportion  
12 to the number of students in average daily attendance for the  
13 last full school year for each district in relation to the  
14 total number of students in average attendance for such period  
15 for all districts served. If such educational service centers,  
16 vocational education cooperatives or cooperative or joint  
17 educational programs or projects created and administered  
18 under Section 3-15.14 of the School Code are dissolved, the  
19 assets and obligations shall be distributed among the districts  
20 in the same proportions unless otherwise provided.

21 (d) The governing boards of special recreation joint  
22 agreements created under Section 8-10b of the Park District  
23 Code, operating without designation of an administrative  
24 district or an administrative municipality appointed to  
25 administer the program operating under the authority of such  
26 joint agreement shall be included within and be subject to this

1 Article as participating instrumentalities when the joint  
2 agreement becomes effective. However, the governing board of  
3 any such special recreation joint agreement in effect before  
4 January 1, 1980 shall not be subject to this Article unless the  
5 joint agreement is modified, by the districts and  
6 municipalities which are parties to the agreement, to provide  
7 that the governing board is subject to this Article.

8 If the Board returns any employer and employee  
9 contributions to any employer which erroneously submitted such  
10 contributions on behalf of a special recreation joint  
11 agreement, the Board shall include interest computed from the  
12 end of each year to the date of payment, not compounded, at the  
13 rate of 7% per annum.

14 (e) Each multi-township assessment district, the board of  
15 trustees of which has adopted this Article by ordinance prior  
16 to April 1, 1982, shall be a participating instrumentality  
17 included within and subject to this Article effective December  
18 1, 1981. The contributions required under Section 7-172 shall  
19 be included in the budget prepared under and allocated in  
20 accordance with Section 2-30 of the Property Tax Code.

21 (f) The Illinois Medical District Commission created under  
22 the Illinois Medical District Act may be included within and  
23 subject to this Article as a participating instrumentality,  
24 notwithstanding that the location of the District is entirely  
25 within the City of Chicago. To become a participating  
26 instrumentality, the Commission must apply to the Board in the

1 manner set forth in paragraph (a) of this subsection (B). If  
2 the Board approves the application, under the criteria and  
3 procedures set forth in paragraph (a) and any other applicable  
4 rules, criteria, and procedures of the Board, participation by  
5 the Commission shall commence on the effective date specified  
6 by the Board.

7 (C) Prospective participants.

8 Beginning January 1, 1992, each prospective participating  
9 municipality or participating instrumentality shall pay to the  
10 Fund the cost, as determined by the Board, of a study prepared  
11 by the Fund or its actuary, detailing the prospective costs of  
12 participation in the Fund to be expected by the municipality or  
13 instrumentality.

14 (Source: P.A. 94-1046, eff. 7-24-06; 95-677, eff. 10-11-07.)

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