



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3798

Introduced 2/25/2009, by Rep. Kevin A. McCarthy - Michael J. Madigan

SYNOPSIS AS INTRODUCED:

40 ILCS 5/2-103.1 new
40 ILCS 5/2-103.2 new
40 ILCS 5/2-117.4 new
40 ILCS 5/2-126
40 ILCS 5/2-126.2 new
40 ILCS 5/2-162.1 new

from Ch. 108 1/2, par. 2-126

Amends the Illinois Pension Code. Requires the General Assembly Retirement System to automatically enroll its newly eligible employees in a self-managed program of retirement benefits instead of the program of retirement benefits currently offered and allows currently eligible employees to elect to participate in the self-managed program. Provides that a self-managed plan shall authorize a participating employee to accumulate assets for retirement through a combination of employer and employee contributions that may be invested at the employee's direction in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts. Provides that, to the extent that the changes made by the amendatory Act are determined to be a new benefit increase, the changes are exempt from the 5-year expiration provision. Effective immediately.

LRB096 09737 AMC 19900 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 adding
5 Sections 2-103.1, 2-103.2, 2-117.4, 2-126.2, and 2-162.1, and
6 changing Section 2-126 as follows:

7 (40 ILCS 5/2-103.1 new)

8 Sec. 2-103.1. Traditional benefit package. "Traditional
9 benefit package" means the defined benefit retirement program
10 maintained by the System, which includes retirement annuities
11 payable directly from the System, as provided in Sections
12 2-119, 2-119.01, 2-119.1, and 2-120; survivor's annuities
13 payable directly from the System, as provided in Sections
14 2-121, 2-121.1, 2-121.2, and 2-121.3; and contribution
15 refunds, as provided in Section 2-123.

16 (40 ILCS 5/2-103.2 new)

17 Sec. 2-103.2. Self-managed plan. "Self-managed plan" means
18 the defined contribution retirement program maintained by the
19 System, as described in Section 2-126.2. The self-managed plan
20 does not include retirement annuities or survivor's benefits
21 payable directly from the System, as provided in Sections
22 2-119, 2-119.01, 2-119.1, 2-120, 2-121, 2-121.1, 2-121.2, and

1 2-121.3 or refunds determined under Section 2-123.

2 (40 ILCS 5/2-117.4 new)

3 Sec. 2-117.4. Retirement program elections.

4 (a) For the purposes of this Section:

5 "Eligible participant" means either a currently eligible
6 participant or a newly eligible participant of the System.

7 "Currently eligible participant" means a person who is a
8 participant under this Article on the date on which the System
9 first offers the self-managed plan as an alternative to the
10 traditional benefit package.

11 "Newly eligible participant" means a person who first
12 becomes a participant after the date on which the System first
13 offers the self-managed plan as an alternative to the
14 traditional benefit package.

15 (b) When the System offers to participants under this
16 Article a self-managed plan as an alternative to the
17 traditional benefit package, each currently eligible
18 participant shall be given the choice to elect which retirement
19 program he or she wishes to participate in with respect to all
20 periods of covered employment occurring on, before, and after
21 the effective date of the participant's election. The
22 retirement program election made by a currently eligible
23 participant must be made in writing, in the manner prescribed
24 by the System, and within the time period described in this
25 Section.

1 If a currently eligible participant elects the
2 self-managed plan, then that election is irrevocable. If a
3 currently eligible participant who elected to participate or
4 participated by default in the traditional benefit plan
5 terminates employment under this Article, then the
6 participant, upon his or her subsequent re-employment under
7 this Article, may make an election under this Section.

8 A currently eligible participant who fails to make an
9 election under this Section shall, by default, participate in
10 the traditional benefit package.

11 (c) A currently eligible participant may elect to
12 participate in the traditional benefit package or the
13 self-managed plan.

14 A currently eligible participant must make this election
15 within 5 years after the effective date of the adoption of the
16 self-managed plan under Section 2-126.2 or, in the case of a
17 currently eligible participant who terminates employment under
18 this Article, within 6 months after his or her re-employment
19 under this Article.

20 A newly eligible participant is automatically enrolled in
21 the self-managed plan under Section 2-162.2.

22 (d) If the currently eligible participant elects to
23 participate in the self-managed plan, the system shall fund
24 their account as stated in subsection (f) of Section 2-126.2.

25 (e) A currently eligible participant shall be provided with
26 written information prepared or prescribed by the System that

1 describes the participant's retirement program choices. The
2 eligible participant shall be offered an opportunity to receive
3 counseling from the System prior to making his or her election.
4 This counseling may consist of videotaped materials, group
5 presentations, individual consultation with an employee or
6 authorized representative of the System in person or by
7 telephone or other electronic means, or any combination of
8 these methods.

9 (40 ILCS 5/2-126) (from Ch. 108 1/2, par. 2-126)

10 Sec. 2-126. Contributions by participants.

11 (a) Each participant shall contribute toward the cost of
12 his or her retirement annuity a percentage of each payment of
13 salary received by him or her for service as a member as
14 follows: for service between October 31, 1947 and January 1,
15 1959, 5%; for service between January 1, 1959 and June 30,
16 1969, 6%; for service between July 1, 1969 and January 10,
17 1973, 6 1/2%; for service after January 10, 1973, 7%; for
18 service after December 31, 1981, 8 1/2%.

19 (b) Beginning August 2, 1949, each male participant, and
20 from July 1, 1971, each female participant shall contribute
21 towards the cost of the survivor's annuity 2% of salary.

22 A participant who has no eligible survivor's annuity
23 beneficiary may elect to cease making contributions for
24 survivor's annuity under this subsection. A survivor's annuity
25 shall not be payable upon the death of a person who has made

1 this election, unless prior to that death the election has been
2 revoked and the amount of the contributions that would have
3 been paid under this subsection in the absence of the election
4 is paid to the System, together with interest at the rate of 4%
5 per year from the date the contributions would have been made
6 to the date of payment.

7 Notwithstanding any provision in this subsection (b) to the
8 contrary, in the case of an employee who participates in the
9 self-managed plan under Section 2-126.2, contributions for a
10 survivor's annuity shall instead be used to finance the
11 benefits available under Section 2-126.2.

12 (c) Beginning July 1, 1967, each participant shall
13 contribute 1% of salary towards the cost of automatic increase
14 in annuity provided in Section 2-119.1. These contributions
15 shall be made concurrently with contributions for retirement
16 annuity purposes.

17 (d) In addition, each participant serving as an officer of
18 the General Assembly shall contribute, for the same purposes
19 and at the same rates as are required of a regular participant,
20 on each additional payment received as an officer. If the
21 participant serves as an officer for at least 2 but less than 4
22 years, he or she shall contribute an amount equal to the amount
23 that would have been contributed had the participant served as
24 an officer for 4 years. Persons who serve as officers in the
25 87th General Assembly but cannot receive the additional payment
26 to officers because of the ban on increases in salary during

1 their terms may nonetheless make contributions based on those
2 additional payments for the purpose of having the additional
3 payments included in their highest salary for annuity purposes;
4 however, persons electing to make these additional
5 contributions must also pay an amount representing the
6 corresponding employer contributions, as calculated by the
7 System.

8 (Source: P.A. 90-766, eff. 8-14-98.)

9 (40 ILCS 5/2-126.2 new)

10 Sec. 2-126.2. Self-managed plan.

11 (a) The General Assembly finds that the State should have
12 the flexibility to provide a defined contribution
13 (self-managed) plan for eligible participants. Accordingly,
14 the General Assembly Retirement System is hereby authorized to
15 establish and administer a self-managed plan, which shall offer
16 participants the opportunity to accumulate assets for
17 retirement through a combination of participant and State
18 contributions that may be invested in mutual funds, collective
19 investment funds, or other investment products and used to
20 purchase annuity contracts, either fixed or variable or a
21 combination of fixed and variable. The plan must be qualified
22 under the Internal Revenue Code of 1986.

23 (b) The Board shall adopt the self-managed plan established
24 under this Section for participants under this Article. The
25 adoption of the self-managed plan makes available to the

1 eligible participants under this Article the elections
2 described in Section 2-117.4.

3 The General Assembly Retirement System shall be the plan
4 sponsor for the self-managed plan and shall prepare a plan
5 document and adopt any rules and procedures as are considered
6 necessary or desirable for the administration of the
7 self-managed plan. Consistent with its fiduciary duty to the
8 participants and beneficiaries of the self-managed plan, the
9 Board of Trustees of the System may delegate aspects of plan
10 administration as it sees fit to companies authorized to do
11 business in this State.

12 (c) The System shall solicit proposals to provide
13 administrative services and funding vehicles for the
14 self-managed plan from insurance and annuity companies and
15 mutual fund companies, banks, trust companies, or other
16 financial institutions authorized to do business in this State.
17 In reviewing the proposals received and approving and
18 contracting with no fewer than 2 and no more than 7 companies,
19 the Board of Trustees of the System shall consider, among other
20 things, the following criteria:

21 (1) the nature and extent of the benefits that would be
22 provided to the participants;

23 (2) the reasonableness of the benefits in relation to
24 the premium charged;

25 (3) the suitability of the benefits to the needs and
26 interests of the participants and the State; and

1 (4) the ability of the company to provide benefits
2 under the contract and the financial stability of the
3 company.

4 The System shall periodically review each approved
5 company. A company may continue to provide administrative
6 services and funding vehicles for the self-managed plan only so
7 long as it continues to be an approved company under contract
8 with the Board.

9 In addition to the companies approved by the System under
10 this subsection (c), the System may offer its participants an
11 investment fund managed by the System.

12 (d) Participants in the program must be allowed to direct
13 the transfer of their account balances among the various
14 investment options offered, subject to applicable contractual
15 provisions. The participant shall not be deemed a fiduciary by
16 reason of providing such investment direction. A person who is
17 a fiduciary shall not be liable for any loss resulting from
18 that investment direction and shall not be deemed to have
19 breached any fiduciary duty by acting in accordance with that
20 direction. Neither the System nor the State shall guarantee any
21 of the investments in the participant's account balances.

22 (e) A currently eligible participant, as defined in Section
23 2-117.4, must make a written election to participate in the
24 self-managed plan in accordance with the provisions of Section
25 2-117.4 and the procedures established by the System.
26 Participation in the self-managed plan shall begin on the first

1 day of the month immediately following the month in which the
2 currently eligible participant's election is filed with the
3 System or when a newly eligible participant, as defined in
4 Section 2-117.4, enters the System, but not sooner than the
5 effective date of the self-managed plan. The System shall make
6 the self-managed plan available under this Article by January
7 1, 2011. A member's participation in the traditional retirement
8 package under this Article shall terminate on the date that
9 participation in the self-managed plan begins.

10 A member who has elected to participate in the self-managed
11 plan under this Section must continue participation while he or
12 she remains a participant under this Article, and may not
13 participate in the traditional benefit package.

14 Participation in the self-managed plan under this Section
15 shall constitute participation in the General Assembly
16 Retirement System.

17 A participant under this Section shall be entitled to the
18 benefits of Article 20 of this Code.

19 (f) If, at the time a participant elects to participate in
20 the self-managed plan, the participant has rights and credits
21 in the System due to previous participation in the traditional
22 benefit package, the System shall establish for the participant
23 an opening account balance in the self-managed plan, equal to
24 (1) the amount of the contribution refund that the participant
25 would be eligible to receive under Section 2-123 if the
26 participant terminated employment on that date and elected a

1 refund of contributions and (2) an amount equal to the regular
2 employer contribution that would be required to fund the actual
3 regular cost incurred for each year of service credit earned,
4 provided that the total opening account balance does not exceed
5 7.6% of the participant's salary for that year, plus interest.
6 The interest used in this subsection (f) is calculated as the
7 average annual rate of return that the System has earned over
8 the past 20 fiscal years and is compounded. The System shall
9 transfer assets from the defined benefit retirement program to
10 the self-managed plan, as a tax-free transfer in accordance
11 with Internal Revenue Service guidelines, for purposes of
12 funding the participant's opening account balance.

13 (g) Notwithstanding any other provision of this Article, a
14 participant may not purchase or receive service or service
15 credit applicable to the traditional benefit package under this
16 Article for any period during which the employee was a
17 participant in the self-managed plan established under this
18 Section.

19 (h) The self-managed plan shall be funded by contributions
20 from participants in the self-managed plan and State
21 contributions as provided in this Section.

22 The contribution rate for participants in the self-managed
23 plan under this Section shall be equal to the member
24 contribution rate for other participants in the System, as
25 provided in Section 2-126. This required contribution shall be
26 made as an employer pick-up under Section 414(h) of the

1 Internal Revenue Code of 1986 or any successor Section thereof.
2 Any participant in the System's traditional benefit package
3 prior to his or her election to participate in the self-managed
4 plan shall continue to have the employer pick up the
5 contributions required under Section 2-126. However, the
6 amounts picked up after the election of the self-managed plan
7 shall be remitted to and treated as assets of the self-managed
8 plan. In no event shall a participant have the option of
9 receiving these amounts in cash. Participants may make
10 additional contributions to the self-managed plan in
11 accordance with procedures prescribed by the System, to the
12 extent permitted under rules adopted by the System.

13 The program shall provide for State contributions to be
14 credited to each self-managed plan participant in an amount
15 equal to the regular employer contribution that would be
16 required to fund the actual regular cost incurred for each year
17 of service credit earned had the participant chosen to enroll
18 in the traditional benefit plan. The amounts so credited shall
19 be paid into the participant's self-managed plan accounts in a
20 manner to be prescribed by the System.

21 The State of Illinois shall make contributions by
22 appropriations to the System for participants in the
23 self-managed plan under this Section. The amount required shall
24 be certified by the Board of Trustees of the System and paid by
25 the State in accordance with Section 2-134. The System shall
26 not be obligated to remit the required State contributions to

1 any of the insurance and annuity companies, mutual fund
2 companies, banks, trust companies, financial institutions, or
3 other sponsors of any of the funding vehicles offered under the
4 self-managed plan until it has received the required State
5 contributions from the State.

6 (i) A participant in the self-managed plan becomes vested
7 in the State contributions credited to his or her accounts in
8 the self-managed plan on the earliest to occur of the
9 following: (1) attainment of 5 years of service credit; (2) the
10 death of the participating member while employed under this
11 Article, if the member has completed at least 1.5 years of
12 service; or (3) the member's election to retire and apply the
13 reciprocal provisions of Article 20 of this Code.

14 A participant in the self-managed plan who receives a
15 distribution of his or her vested amounts from the self-managed
16 plan while not yet eligible for retirement under this Article
17 (and Article 20, if applicable) shall forfeit all service
18 credit and accrued rights in the System; if he or she
19 subsequently becomes a participant under this Article again, he
20 or she shall be considered a new participant. If a former
21 participant again becomes a participating member (or becomes
22 employed by a participating system under Article 20 of this
23 Code) and continues as such for at least 2 years, all rights,
24 service credits, and previous status as a participant shall be
25 restored upon repayment of the amount of the distribution,
26 without interest.

1 (j) If a participant in the self-managed plan who is vested
2 in State contributions terminates employment, the participant
3 shall be entitled to a benefit that is based on the account
4 values attributable to both State and member contributions and
5 any investment return thereon.

6 If a participant in the self-managed plan who is not vested
7 in State contributions terminates employment, the participant
8 shall be entitled to a benefit based solely on the account
9 values attributable to the participant's contributions and any
10 investment return thereon, and the State contributions and any
11 investment return thereon shall be forfeited. Any State
12 contributions that are forfeited shall be held in escrow by the
13 company investing those contributions and shall be used, as
14 directed by the System, for future allocations of State
15 contributions or for the restoration of amounts previously
16 forfeited by former participants who again become
17 participating members.

18 (40 ILCS 5/2-162.1 new)

19 Sec. 2-162.1. New benefit increases. To the extent that the
20 changes made to this Article by this amendatory Act of the 96th
21 General Assembly authorizing the System to offer a self-managed
22 plan are determined to be a new benefit increase within the
23 meaning of Section 2-162, the changes made by this amendatory
24 Act are exempt from the provisions of subsection (d) of Section
25 2-162.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.