Rep. Elizabeth Coulson

Filed: 3/22/2010

AMENDMENT TO HOUSE BILL 5576

AMENDMENT NO. ______. Amend House Bill 5576 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Section 3-109.3 and by adding Sections 4-118.3 and 7-173.3 as follows:

(40 ILCS 5/3-109.3)

Sec. 3-109.3. Self-managed plan.

(a) Purpose. The General Assembly finds that it is important for municipalities to be able to attract and retain the most qualified police officers and that in order to attract and retain these police officers, municipalities should have the flexibility to provide a defined contribution plan as an alternative for eligible employees who elect not to participate in a defined benefit retirement program provided under this Article. Accordingly, a self-managed plan shall be provided, which shall offer participating employees the opportunity to accumulate assets for retirement through a combination of employee and employer contributions that may be invested in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts, either fixed or variable, or a combination thereof. The plan must be qualified under the Internal Revenue Code of 1986.

(b) Study by Commission; Adoption of plan. The Illinois Pension Laws Commission (or its successor, the Commission on Government Forecasting and Accountability) shall study and evaluate the creation of a statewide self-managed plan for eligible employees under this Article. The Commission shall report its findings and recommendations to the General Assembly no later than January 1, 2002.

In accordance with the recommendations of the Commission and any action taken by the General Assembly in response to those recommendations, a statewide self-managed plan shall be adopted for eligible employees under this Article. The self-managed plan shall take effect as specified in the plan, but in no event earlier than July 1, 2002 or the date of its approval by the U.S. Internal Revenue Service, whichever occurs later.

The self-managed plan shall include a plan document and shall provide for the adoption of such rules and procedures as are necessary or desirable for the administration of the self-managed plan. Consistent with fiduciary duty to the participants and beneficiaries of the self-managed plan, it may provide for delegation of suitable aspects of plan administration to companies authorized to do business in this State.

(c) Selection of service providers and funding vehicles. The principal administrator of the self-managed plan shall solicit proposals to provide administrative services and funding vehicles for the self-managed plan from insurance and annuity companies and mutual fund companies, banks, trust companies, or other financial institutions authorized to do business in this State. In reviewing the proposals received and approving and contracting with no fewer than 2 and no more than 7 companies, the principal administrator shall consider, among other things, the following criteria:

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

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

(3) the suitability of the benefits to the needs and interests of the participating employees and the employer;

(4) the ability of the company to provide benefits under the contract and the financial stability of the company; and

(5) the efficacy of the contract in the recruitment and retention of employees.

The principal administrator shall periodically review each approved company. A company may continue to provide administrative services and funding vehicles for the self-managed plan only so long as it continues to be an approved company under contract with the principal administrator.

(d) Employee Direction. Employees who are participating in the program must be allowed to direct the transfer of their account balances among the various investment options offered, subject to applicable contractual provisions. The participant shall not be deemed a fiduciary by reason of providing such investment direction. A person who is a fiduciary shall not be liable for any loss resulting from such investment direction and shall not be deemed to have breached any fiduciary duty by acting in accordance with that direction. The self-managed plan does not guarantee any of the investments in the employee's account balances.

(e) Participation. An eligible employee must make a written election in accordance with the provisions of Section 3-109.2 and the procedures established under the self-managed plan. Participation in the self-managed plan by an eligible employee who elects to participate in the self-managed plan shall begin on the first day of the first pay period following the later of the date the employee's election is filed with the fund or the employer, but in no event sooner than the effective date of the self-managed plan.

A police officer who has elected to participate in the self-managed plan under this Section must continue participation while employed in an eligible position, and may not participate in any other retirement program administered by the municipality while employed as a police officer by that municipality. Participation in the self-managed plan under this Section shall constitute membership in an Article 3 pension fund.

Notwithstanding any other provision of this Article, a municipality may require that any police officer who first becomes a police officer for that municipality on or after January 1, 2011 participate in the self-managed plan under this Section.

(f) No Duplication of Service Credit. Notwithstanding any other provision of this Article, a police officer may not purchase or receive service or service credit applicable to any other retirement program administered by a fund under this Article for any period during which the police officer was a participant in the self-managed plan established under this Section.

(g) Contributions. The self-managed plan shall be funded by contributions from participants in the self-managed plan and employer contributions as provided in this Section.

The contribution rate for a participant in the self-managed plan under this Section shall be a minimum of 10% of his or her salary. This required contribution shall be made as an "employer pick-up" under Section 414(h) of the Internal Revenue

Code of 1986 or any successor Section thereof. An employee may make additional contributions to the self-managed plan in accordance with the terms of the plan.

The self-managed plan shall provide for employer contributions to be credited to each self-managed plan participant at a rate of 10% of the participating employee's salary, less the amount of the employer contribution used to provide disability benefits for the employee. The amounts so credited shall be paid into the participant's self-managed plan accounts in the manner prescribed by the plan.

An amount of employer contribution, not exceeding 1.5% of the participating employee's salary, shall be used for the purpose of providing disability benefits to the participating employee. Prior to the beginning of each plan year under the self-managed plan, the principal administrator shall determine, as a percentage of salary, the amount of employer contributions to be allocated during that plan year for providing disability benefits for employees in the self-managed plan.

(h) Vesting; Withdrawal; Return to Service. A participant in the self-managed plan becomes fully vested in the employer contributions credited to his or her account in the self-managed plan on the earliest to occur of the following:

(1) completion of 6 years of service with the municipality; or

(2) the death of the participating employee while

employed by the municipality, if the participant has completed at least 1.5 years of service.

A participant in the self-managed plan who receives a distribution of his or her vested amounts from the self-managed plan upon or after termination of employment shall forfeit all service credit and accrued rights in the fund of his or her employer; if subsequently re-employed, the participant shall be considered a new employee. If a former participant again becomes a participating employee and continues as such for at least 2 years, all such rights, service credit, and previous status as a participant shall be restored upon repayment of the amount of the distribution without interest.

(i) Benefit amounts. If a participating employee who is fully vested in employer contributions terminates employment, the participating employee shall be entitled to a benefit which is based on the account values attributable to both employer and employee contributions and any investment return thereon.

If a participating employee who is not fully vested in employer contributions terminates employment, the employee shall be entitled to a benefit based on the account values attributable to the employee's contributions and any investment return thereon, plus the following percentage of employer contributions and any investment return thereon: 20% after the second year; 40% after the third year; 60% after the fourth year; 80% after the fifth year; and 100% after the sixth year. The remainder of employer contributions and investment return thereon shall be forfeited. Any employer contributions that are forfeited shall be held in escrow by the company investing those contributions and shall be used as directed by the municipality for future allocations of employer contributions or for the restoration of amounts previously forfeited by former participants who again become participating employees.

(Source: P.A. 93-632, eff. 2-1-04; 93-1067, eff. 1-15-05.)

(40 ILCS 5/4-118.3 new)

Sec. 4-118.3. Self-managed plan. A municipality may require that any firefighter who first becomes a firefighter for that municipality on or after January 1, 2011 participate in a self-managed plan established by the municipality. A self-managed plan established under this Section must be qualified under the Internal Revenue Code of 1986.

For the purposes of this Section, "self-managed plan" means a plan that offers firefighters the opportunity to accumulate assets for retirement through a combination of employee and employer contributions that may be invested in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts, either fixed or variable, or a combination thereof.

(40 ILCS 5/7-173.3 new)

Sec. 7-173.3. Self-managed plan. A participating municipality or participating instrumentality may require that any employee who first becomes an employee for that participating municipality or participating instrumentality on or after January 1, 2011 participate in a self-managed plan established by the participating municipality or participating instrumentality. A self-managed plan established under this Section must be qualified under the Internal Revenue Code of 1986.

For the purposes of this Section, "self-managed plan" means a plan that offers employees the opportunity to accumulate assets for retirement through a combination of employee and employer contributions that may be invested in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts, either fixed or variable, or a combination thereof.

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