



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### HB1956

by Rep. Elaine Nekritz

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-135	from Ch. 108 1/2, par. 7-135
40 ILCS 5/7-137	from Ch. 108 1/2, par. 7-137
40 ILCS 5/7-141	from Ch. 108 1/2, par. 7-141
40 ILCS 5/7-144	from Ch. 108 1/2, par. 7-144
30 ILCS 805/8.35 new	

Amends the Illinois Municipal Retirement Fund (IMRF) Article of the Illinois Pension Code. Deletes a provision that requires the authorized agent of a participating municipality or participating instrumentality to be a member of the fund. Deletes a provision that prohibited certain employers from electing a 1,000 hour participation standard based on their original date of participation. Authorizes retired members who return to work for an IMRF employer to keep their pension even if employed in a position requiring less than the employer's standard for participation in IMRF. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB097 10454 JDS 50686 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 7-135, 7-137, 7-141, and 7-144 as follows:

6 (40 ILCS 5/7-135) (from Ch. 108 1/2, par. 7-135)

7 Sec. 7-135. Authorized agents.

8 (a) Each participating municipality and participating  
9 instrumentality shall appoint an authorized agent who shall  
10 have the powers and duties set forth in this section. In  
11 absence of such appointment, the duties of the authorized agent  
12 shall devolve upon the clerk or secretary of the municipality  
13 or instrumentality and in the case of township school trustees  
14 upon the township school treasurer. In townships the Authorized  
15 Agent shall be the township supervisor.

16 (b) The authorized agent shall have the following powers  
17 and duties:

18 1. To certify to the fund whether or not a given person  
19 is authorized to participate in the fund;

20 2. To certify to the fund when a participating employee  
21 is on a leave of absence authorized by the municipality;

22 3. To request the proper officer to cause employee  
23 contributions to be withheld from earnings and transmitted

1 to the fund;

2 4. To request the proper officer to cause municipality  
3 contributions to be forwarded to the fund promptly;

4 5. To forward promptly to all participating employees  
5 any communications from the fund for such employees;

6 6. To forward promptly to the fund all applications,  
7 claims, reports and other communications delivered to him  
8 by participating employees;

9 7. To perform all duties related to the administration  
10 of this retirement system as requested by the fund and the  
11 governing body of his municipality.

12 (c) The governing body of each participating municipality  
13 and participating instrumentality may delegate any or all of  
14 the following powers and duties to its authorized agent, ~~but~~  
15 ~~only if the agent is a member of the fund:~~

16 1. To file a petition for nomination of an executive  
17 trustee of the fund.

18 2. To cast the ballot for election of an executive  
19 trustee of the fund.

20 If a governing body does not authorize its agent to perform  
21 the powers and duties set forth in this paragraph (c), they  
22 shall be performed by the governing body itself, unless the  
23 governing body by resolution duly certified to the fund  
24 delegates them to some other officer or employee.

25 (d) The delivery of any communication or document by an  
26 employee or a participating municipality or participating

1 instrumentality to its authorized agent shall not constitute  
2 delivery to the fund.

3 (Source: P.A. 87-740.)

4 (40 ILCS 5/7-137) (from Ch. 108 1/2, par. 7-137)

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

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

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

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

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

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

5 1. Any person who occupies an office or is employed in  
6 a position normally requiring performance of duty during  
7 less than 600 hours a year for a municipality (including  
8 all instrumentalities thereof) or a participating  
9 instrumentality. If a school treasurer performs services  
10 for more than one school district, the total number of  
11 hours of service normally required for the several school  
12 districts shall be considered to determine whether he  
13 qualifies under this paragraph;

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

17 3. Any person working for a city hospital unless any  
18 such person, while in active employment, has elected in a  
19 written notice on file with the board to become a  
20 participating employee and notification thereof is  
21 received by the board;

22 4. Any person who becomes an employee after June 30,  
23 1979 as a public service employment program participant  
24 under the federal Comprehensive Employment and Training  
25 Act and whose wages or fringe benefits are paid in whole or  
26 in part by funds provided under such Act;

1           5. Any person who is actively employed by a  
2           municipality on its effective date of participation in the  
3           Fund if that municipality (i) has at least 35 employees on  
4           its effective date of participation; (ii) is located in a  
5           county with at least 2,000,000 inhabitants; and (iii)  
6           maintains an independent defined benefit pension plan for  
7           the benefit of its eligible employees, unless the person  
8           files with the board within 90 days after the  
9           municipality's effective date of participation an  
10          irrevocable election to participate.

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

14          (d) Any employee who occupied the position of school nurse  
15          in any participating municipality on August 8, 1961 and  
16          continuously thereafter until the effective date of the  
17          exercise of the option authorized by this subparagraph, who on  
18          August 7, 1961 was a member of the Teachers' Retirement System  
19          of Illinois, by virtue of certification by the Department of  
20          Registration and Education as a public health nurse, may elect  
21          to terminate participation in this Fund in order to  
22          re-establish membership in such System. The election may be  
23          exercised by filing written notice thereof with the Board or  
24          with the Board of Trustees of said Teachers' Retirement System,  
25          not later than September 30, 1963, and shall be effective on  
26          the first day of the calendar month next following the month in

1 which the notice was filed. If the written notice is filed with  
2 such Teachers' Retirement System, that System shall  
3 immediately notify this Fund, but neither failure nor delay in  
4 notification shall affect the validity of the employee's  
5 election. If the option is exercised, the Fund shall notify  
6 such Teachers' Retirement System of such fact and transfer to  
7 that system the amounts contributed by the employee to this  
8 Fund, including interest at 3% per annum, but excluding  
9 contributions applicable to social security coverage during  
10 the period beginning August 8, 1961 to the effective date of  
11 the employee's election. Participation in this Fund as to any  
12 credits on or after August 8, 1961 and up to the effective date  
13 of the employee's election shall terminate on such effective  
14 date.

15 (e) Any participating municipality or participating  
16 instrumentality, other than a school district or special  
17 education joint agreement created under Section 10-22.31 of the  
18 School Code, may, by a resolution or ordinance duly adopted by  
19 its governing body, elect to exclude from participation and  
20 eligibility for benefits all persons who are employed after the  
21 effective date of such resolution or ordinance and who occupy  
22 an office or are employed in a position normally requiring  
23 performance of duty for less than 1000 hours per year for the  
24 participating municipality (including all instrumentalities  
25 thereof) or participating instrumentality except for persons  
26 employed in a position normally requiring performance of duty

1 for 600 hours or more per year (i) by such participating  
2 municipality or participating instrumentality prior to the  
3 effective date of the resolution or ordinance and (ii) by a  
4 participating municipality or participating instrumentality,  
5 which had not adopted such a resolution when the person was  
6 employed, and the function served by the employee's position is  
7 assumed by another participating municipality or participating  
8 instrumentality. ~~A participating municipality or participating~~  
9 ~~instrumentality included in and subject to this Article after~~  
10 ~~January 1, 1982 may adopt such resolution or ordinance only~~  
11 ~~prior to the date it becomes included in and subject to this~~  
12 ~~Article.~~ Notwithstanding the foregoing, a participating  
13 municipality or participating instrumentality which is formed  
14 solely to succeed to the functions of a participating  
15 municipality or participating instrumentality shall be  
16 considered to have adopted any such resolution or ordinance  
17 which may have been applicable to the employees performing such  
18 functions. The election made by the resolution or ordinance  
19 shall take effect at the time specified in the resolution or  
20 ordinance, and once effective shall be irrevocable.

21 (Source: P.A. 96-1140, eff. 7-21-10.)

22 (40 ILCS 5/7-141) (from Ch. 108 1/2, par. 7-141)

23 Sec. 7-141. Retirement annuities - Conditions. Retirement  
24 annuities shall be payable as hereinafter set forth:

25 (a) A participating employee who, regardless of cause, is



1 separated from the service of all participating municipalities  
2 and instrumentalities thereof and participating  
3 instrumentalities shall be entitled to a retirement annuity  
4 provided:

5 1. He is at least age 55, or in the case of a person who  
6 is eligible to have his annuity calculated under Section  
7 7-142.1, he is at least age 50;

8 2. He is ~~(i) an employee who was employed by any~~  
9 ~~participating municipality or participating~~  
10 ~~instrumentality which had not elected to exclude persons~~  
11 ~~employed in positions normally requiring performance of~~  
12 ~~duty for less than 1000 hours per year or was employed in a~~  
13 ~~position normally requiring performance of duty for 600~~  
14 ~~hours or more per year prior to such election by any~~  
15 ~~participating municipality or participating~~  
16 ~~instrumentality included in and subject to this Article on~~  
17 ~~or before the effective date of this amendatory Act of 1981~~  
18 ~~which made such election and is not entitled to receive~~  
19 ~~earnings for employment in a position normally requiring~~  
20 ~~performance of duty for 600 hours or more per year for any~~  
21 ~~participating municipality and instrumentalities thereof~~  
22 ~~and participating instrumentality; or (ii) an employee who~~  
23 ~~was employed only by a participating municipality or~~  
24 ~~participating instrumentality, or participating~~  
25 ~~municipalities or participating instrumentalities, which~~  
26 ~~have elected to exclude persons in positions normally~~

1 ~~requiring performance of duty for less than 1000 hours per~~  
2 ~~year after the effective date of such exclusion or which~~  
3 ~~are included under and subject to the Article after the~~  
4 ~~effective date of this amendatory Act of 1981 and elects to~~  
5 ~~exclude persons in such positions, and is not entitled to~~  
6 receive earnings for employment in a position requiring  
7 him, or entitling him to elect, to be a participating  
8 employee normally requiring performance of duty for 1000  
9 hours or more per year by such a participating municipality  
10 or participating instrumentality;

11 3. The amount of his annuity, before the application of  
12 paragraph (b) of Section 7-142 is at least \$10 per month;

13 4. If he first became a participating employee after  
14 December 31, 1961, he has at least 8 years of service. This  
15 service requirement shall not apply to any participating  
16 employee, regardless of participation date, if the General  
17 Assembly terminates the Fund.

18 (b) Retirement annuities shall be payable:

19 1. As provided in Section 7-119;

20 2. Except as provided in item 3, upon receipt by the  
21 fund of a written application. The effective date may be  
22 not more than one year prior to the date of the receipt by  
23 the fund of the application;

24 3. Upon attainment of age 70 1/2 if the member (i) is  
25 no longer in service, and (ii) is otherwise entitled to an  
26 annuity under this Article;

1           4. To the beneficiary of the deceased annuitant for the  
2           unpaid amount accrued to date of death, if any.

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

4           (40 ILCS 5/7-144) (from Ch. 108 1/2, par. 7-144)

5           Sec. 7-144. Retirement annuities-Suspended during  
6           employment.

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

1           (b) Supplemental annuities to persons who return to service  
2 for less than 48 months shall be computed under the provisions  
3 of Sections 7-141, 7-142 and 7-143. In determining whether an  
4 employee is eligible for an annuity which requires a minimum  
5 period of service, his entire period of service shall be taken  
6 into consideration but the supplemental annuity shall be based  
7 on earnings and service in the supplemental period only. The  
8 effective date of the suspended and supplemental annuity for  
9 the purpose of increases after retirement shall be considered  
10 to be the effective date of the suspended annuity.

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

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

17           (2) The actuarial value in monthly payments for life of  
18 the annuity payments made before suspension shall be  
19 determined and subtracted from the amount determined in (1)  
20 above;

21           (3) The monthly amount of the suspended annuity, with  
22 any applicable increases after retirement computed from  
23 the effective date to the date of reinstatement, shall be  
24 subtracted from the amount determined in (2) above and the  
25 remainder shall be the amount of the supplemental annuity  
26 provided that this amount shall not be less than the amount

1           computed under subsection (b) of this Section.

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

5           (5) The effective date of the combined suspended and  
6           supplemental annuities for the purposes of increases after  
7           retirement shall be considered to be the effective date of  
8           the supplemental annuity.

9           (Source: P.A. 82-459.)

10           Section 90. The State Mandates Act is amended by adding  
11           Section 8.35 as follows:

12           (30 ILCS 805/8.35 new)

13           Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8  
14           of this Act, no reimbursement by the State is required for the  
15           implementation of any mandate created by this amendatory Act of  
16           the 97th General Assembly.

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