



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1959

by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

See Index

Amends the General Assembly and Judges Articles of the Illinois Pension Code. Allows persons who first became or become employees in the affected Systems on or after January 1, 2011 to elect to participate in a self-managed program of retirement benefits instead of the program of reformed retirement benefits currently offered. Provides that a self-managed plan shall authorize a participant to accumulate assets for retirement through a combination of employer and employee contributions that may be invested at the participant's direction in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts. Requires the affected Systems to make the self-managed plan available within 6 months after the effective date of the amendatory Act. Provides that, to the extent that the changes made by the amendatory Act are determined to be a new benefit increase under the new benefit increase provisions, the changes are exempt from the 5-year expiration provision. Effective immediately.

LRB097 06378 JDS 46460 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, 2-162.1,
6 18-118.1, 18-118.2, 18-120.2, 18-133.2, and 18-169.1 and
7 changing Sections 2-126 and 18-133 as follows:

8 (40 ILCS 5/2-103.1 new)

9 Sec. 2-103.1. Reformed benefit package. "Reformed benefit
10 package" means the benefit retirement program maintained by the
11 System for persons who first became or become participants of
12 the System on or after January 1, 2011. It includes the
13 following benefits for those persons: retirement annuities
14 payable directly from the System, as provided in Sections
15 2-119, 2-119.01, 2-119.1, and 2-120; survivor's annuities
16 payable directly from the System, as provided in Sections
17 2-121, 2-121.1, 2-121.2, and 2-121.3; and contribution
18 refunds, as provided in Section 2-123.

19 (40 ILCS 5/2-103.2 new)

20 Sec. 2-103.2. Self-managed plan. "Self-managed plan" means
21 the defined contribution retirement program maintained by the
22 System, as described in Section 2-126.2. The self-managed plan

1 does not include retirement annuities or survivor's benefits
2 payable directly from the System, as provided in Sections
3 2-119, 2-119.01, 2-119.1, 2-120, 2-121, 2-121.1, 2-121.2, and
4 2-121.3 or refunds determined under Section 2-123.

5 (40 ILCS 5/2-117.4 new)

6 Sec. 2-117.4. Retirement program elections.

7 (a) For the purposes of this Section:

8 "Currently eligible participant" means a person who first
9 became or becomes a participant under this Article on or after
10 January 1, 2011 and is a participant under this Article before
11 the day on which the System first offers the self-managed plan
12 as an alternative to the reformed benefit package.

13 "Eligible participant" means either a currently eligible
14 participant or a newly eligible participant of the System.

15 "Newly eligible participant" means a person who first
16 becomes a participant under this Article on or after the date
17 on which the System first offers the self-managed plan as an
18 alternative to the reformed benefit package.

19 (b) When the System offers to participants under this
20 Article a self-managed plan as an alternative to the reformed
21 benefit package, each eligible participant shall be given the
22 choice to elect which retirement program he or she wishes to
23 participate in with respect to all periods of covered
24 employment occurring on, before, and after the effective date
25 of the participant's election. The retirement program election

1 made by an eligible participant must be made in writing, in the
2 manner prescribed by the System, and within the time period
3 described in this Section.

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

11 An eligible participant who fails to make an election under
12 this Section shall, by default, participate in the reformed
13 benefit package.

14 (c) An eligible participant may elect to participate in the
15 reformed benefit package or the self-managed plan. An eligible
16 participant must make this election within one year after the
17 effective date of the adoption of the self-managed plan under
18 Section 2-126.2 or 60 days after first becoming a participant
19 under this Article, whichever is later, or, in the case of a
20 currently eligible participant who terminates employment under
21 this Article, within one year after his or her re-employment
22 under this Article.

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

26 (e) An eligible participant shall be provided with written

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

10 (40 ILCS 5/2-126) (from Ch. 108 1/2, par. 2-126)

11 Sec. 2-126. Contributions by participants.

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

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

23 A participant who has no eligible survivor's annuity
24 beneficiary may elect to cease making contributions for
25 survivor's annuity under this subsection. A survivor's annuity

1 shall not be payable upon the death of a person who has made
2 this election, unless prior to that death the election has been
3 revoked and the amount of the contributions that would have
4 been paid under this subsection in the absence of the election
5 is paid to the System, together with interest at the rate of 4%
6 per year from the date the contributions would have been made
7 to the date of payment.

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

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

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

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

9 (e) Notwithstanding any other provision of this Article,
10 the required contribution of a participant who first becomes a
11 participant on or after January 1, 2011 shall not exceed the
12 contribution that would be due under this Article if that
13 participant's highest salary for annuity purposes were
14 \$106,800, plus any increases in that amount under Section
15 2-108.1.

16 (Source: P.A. 96-1490, eff. 1-1-11.)

17 (40 ILCS 5/2-126.2 new)

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

19 (a) The General Assembly finds that the State should have
20 the flexibility to provide a defined contribution
21 (self-managed) plan for eligible participants. Accordingly,
22 the General Assembly Retirement System is hereby authorized to
23 establish and administer a self-managed plan, which shall offer
24 participants the opportunity to accumulate assets for
25 retirement through a combination of participant and State

1 contributions that may be invested in mutual funds, collective
2 investment funds, or other investment products and used to
3 purchase annuity contracts that are fixed, variable, or a
4 combination of fixed and variable. The plan must be qualified
5 under the Internal Revenue Code of 1986.

6 (b) The Board shall adopt the self-managed plan established
7 under this Section for participants under this Article. The
8 adoption of the self-managed plan makes available to the
9 eligible participants under this Article the elections
10 described in Section 2-117.4.

11 The General Assembly Retirement System shall be the plan
12 sponsor for the self-managed plan and shall prepare a plan
13 document and adopt any rules and procedures as are considered
14 necessary or desirable for the administration of the
15 self-managed plan. Consistent with its fiduciary duty to the
16 participants and beneficiaries of the self-managed plan, the
17 Board of Trustees of the System may delegate aspects of plan
18 administration as it sees fit to companies authorized to do
19 business in this State.

20 (c) The System shall solicit proposals to provide
21 administrative services and funding vehicles for the
22 self-managed plan from insurance and annuity companies and
23 mutual fund companies, banks, trust companies, or other
24 financial institutions authorized to do business in this State.
25 In reviewing the proposals received and approving and
26 contracting with no fewer than 2 and no more than 7 companies,

1 the Board of Trustees of the System shall consider, among other
2 things, the following criteria:

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

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

7 (3) the suitability of the benefits to the needs and
8 interests of the participants and the State; and

9 (4) the ability of the company to provide benefits
10 under the contract and the financial stability of the
11 company.

12 The System shall periodically review each approved
13 company. A company may continue to provide administrative
14 services and funding vehicles for the self-managed plan only so
15 long as it continues to be an approved company under contract
16 with the Board.

17 In addition to the companies approved by the System under
18 this subsection (c), the System may offer its participants an
19 investment fund managed by the Illinois State Board of
20 Investment.

21 (d) Participants in the program must be allowed to direct
22 the transfer of their account balances among the various
23 investment options offered, subject to applicable contractual
24 provisions. The participant shall not be deemed a fiduciary by
25 reason of providing such investment direction. A person who is
26 a fiduciary shall not be liable for any loss resulting from

1 that investment direction and shall not be deemed to have
2 breached any fiduciary duty by acting in accordance with that
3 direction. Neither the System nor the State shall guarantee any
4 of the investments in the participant's account balances.

5 (e) Eligible participants, as defined in Section 2-117.4,
6 must make a written election to participate in the self-managed
7 plan in accordance with the provisions of Section 2-117.4 and
8 the procedures established by the System. Participation in the
9 self-managed plan shall begin on the first day of the month
10 immediately following the month in which the participant's
11 election is filed with the System, but not sooner than the
12 effective date of the self-managed plan. The System shall make
13 the self-managed plan available under this Article within 6
14 months after the effective date of this amendatory Act of the
15 97th General Assembly. A member's participation in the reformed
16 benefit package under this Article shall terminate on the date
17 that participation in the self-managed plan begins.

18 A member who has elected to participate in the self-managed
19 plan under this Section must continue participation while he or
20 she remains a participant under this Article, and may not
21 participate in the reformed benefit package.

22 Participation in the self-managed plan under this Section
23 shall constitute participation in the General Assembly
24 Retirement System.

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

1 (f) If, at the time a participant elects to participate in
2 the self-managed plan, the participant has rights and credits
3 in the System due to previous participation in the reformed
4 benefit package, the System shall establish for the participant
5 an opening account balance in the self-managed plan, equal to
6 (1) the amount of the contribution refund that the participant
7 would be eligible to receive under Section 2-123 if the
8 participant terminated employment on that date and elected a
9 refund of contributions and (2) an amount equal to the amount
10 of employee contributions, plus interest. The interest used in
11 this subsection (f) shall be calculated using the actual annual
12 rates of return that the System has earned during the time
13 period corresponding to the actual investment of the
14 contributions being transferred. The System shall transfer
15 assets from the reformed benefit package to the self-managed
16 plan, as a tax-free transfer in accordance with Internal
17 Revenue Service guidelines, for purposes of funding the
18 participant's opening account balance.

19 (g) Notwithstanding any other provision of this Article, a
20 participant may not purchase or receive service or service
21 credit applicable to the reformed benefit package under this
22 Article for any period during which the employee was a
23 participant in the self-managed plan established under this
24 Section.

25 (h) The self-managed plan shall be funded by contributions
26 from participants in the self-managed plan and State

1 contributions as provided in this Section.

2 The contribution rate for participants in the self-managed
3 plan under this Section shall be equal to the member
4 contribution rate for other participants in the System, as
5 provided in Section 2-126. This required contribution shall be
6 made as an employer pick-up under Section 414(h) of the
7 Internal Revenue Code of 1986 or any successor Section thereof.
8 Any participant in the System's reformed benefit package before
9 his or her election to participate in the self-managed plan
10 shall continue to have the employer pick up the contributions
11 required under Section 2-126. However, the amounts picked up
12 after the election of the self-managed plan shall be remitted
13 to and treated as assets of the self-managed plan. In no event
14 shall a participant have the option of receiving these amounts
15 in cash. Participants may make additional contributions to the
16 self-managed plan in accordance with procedures prescribed by
17 the System, to the extent permitted under rules adopted by the
18 System.

19 The program shall provide for State contributions to be
20 credited to each self-managed plan participant in an amount
21 equal to the employee contributions required under this
22 Section.

23 The State of Illinois shall make contributions by
24 appropriations to the System for participants in the
25 self-managed plan under this Section. The amount required shall
26 be certified by the Board of Trustees of the System and paid by

1 the State in accordance with Section 2-134. The System shall
2 not be obligated to remit the required State contributions to
3 any of the insurance and annuity companies, mutual fund
4 companies, banks, trust companies, financial institutions, or
5 other sponsors of any of the funding vehicles offered under the
6 self-managed plan until it has received the required State
7 contributions from the State.

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

16 A participant in the self-managed plan who receives a
17 distribution of his or her vested amounts from the self-managed
18 plan while not yet eligible for retirement under this Article
19 (and Article 20, if applicable) shall forfeit all service
20 credit and accrued rights in the System; if he or she
21 subsequently becomes a participant under this Article again, he
22 or she shall be considered a new participant. If a former
23 participant again becomes a participating member (or becomes
24 employed by a participating system under Article 20 of this
25 Code) and continues as such for at least 2 years, all rights,
26 service credits, and previous status as a participant shall be

1 restored upon repayment of the amount of the distribution, with
2 interest at the actuarially assumed rate from the date of
3 distribution until the date of payment.

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

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

21 (40 ILCS 5/2-162.1 new)

22 Sec. 2-162.1. New benefit increases. To the extent that the
23 changes made to this Article by this amendatory Act of the 97th
24 General Assembly authorizing the System to offer a self-managed
25 plan are determined to be a new benefit increase within the

1 meaning of Section 2-162, the changes made by this amendatory
2 Act are exempt from the provisions of subsection (d) of Section
3 2-162.

4 (40 ILCS 5/18-118.1 new)

5 Sec. 18-118.1. Reformed benefit package. "Reformed benefit
6 package" means the defined benefit retirement program
7 maintained by the System for persons who first became or become
8 participants of the System on or after January 1, 2011. It
9 includes the following benefits for those persons: retirement
10 annuities payable directly from the System, as provided in
11 Sections 18-124, 18-125, and 18-125.1; survivor's annuities
12 payable directly from the System, as provided in Sections
13 18-128, 18-128.01, 18-128.1, 18-128.1, and 18-128.3; and
14 contribution refunds, as provided in Section 18-129.

15 (40 ILCS 5/18-118.2 new)

16 Sec. 18-118.2. Self-managed plan. "Self-managed plan"
17 means the defined contribution retirement program maintained
18 by the System, as described in Section 18-133.2. The
19 self-managed plan does not include retirement annuities or
20 survivor's benefits payable directly from the System, as
21 provided in Sections 18-124, 18-125, 18-125.1, 18-128,
22 18-128.01, 18-128.1, 18-128.1, and 18-128.3 or refunds
23 determined under Section 18-129.

1 (40 ILCS 5/18-120.2 new)

2 Sec. 18-120.2. Retirement program elections.

3 (a) For the purposes of this Section:

4 "Currently eligible participant" means a person who first
5 became or becomes a participant under this Article on or after
6 January 1, 2011 and is a participant under this Article before
7 the day on which the System first offers the self-managed plan
8 as an alternative to the reformed benefit package.

9 "Eligible participant" means either a currently eligible
10 participant or a newly eligible participant of the System.

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

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

25 If an eligible participant elects the self-managed plan,
26 then that election is irrevocable. If an eligible participant

1 who elected to participate or participated by default in the
2 reformed benefit package terminates employment under this
3 Article, then the participant, upon his or her subsequent
4 re-employment under this Article, may make an election under
5 this Section.

6 An eligible participant who fails to make an election under
7 this Section shall, by default, participate in the reformed
8 benefit package.

9 (c) An eligible participant may elect to participate in the
10 reformed benefit package or the self-managed plan.

11 An eligible participant must make this election within one
12 year after the effective date of the adoption of the
13 self-managed plan under Section 18-133.2 or 60 days after first
14 becoming a participant under this Article, whichever is later,
15 or, in the case of a currently eligible participant who
16 terminates employment under this Article, within one year after
17 his or her re-employment under this Article.

18 (d) If the eligible participant elects to participate in
19 the self-managed plan, the system shall fund his or her account
20 as stated in subsection (f) of Section 18-133.2.

21 (e) An eligible participant shall be provided with written
22 information prepared or prescribed by the System that describes
23 the participant's retirement program choices. The eligible
24 participant shall be offered an opportunity to receive
25 counseling from the System before making his or her election.
26 This counseling may consist of videotaped materials, group

1 presentations, individual consultation with an employee or
2 authorized representative of the System in person or by
3 telephone or other electronic means, or any combination of
4 these methods.

5 (40 ILCS 5/18-133) (from Ch. 108 1/2, par. 18-133)

6 Sec. 18-133. Financing; employee contributions.

7 (a) Effective July 1, 1967, each participant is required to
8 contribute 7 1/2% of each payment of salary toward the
9 retirement annuity. Such contributions shall continue during
10 the entire time the participant is in service, with the
11 following exceptions:

12 (1) Contributions for the retirement annuity are not
13 required on salary received after 18 years of service by
14 persons who were participants before January 2, 1954.

15 (2) A participant who continues to serve as a judge
16 after becoming eligible to receive the maximum rate of
17 annuity may elect, through a written direction filed with
18 the Board, to discontinue contributing to the System. Any
19 such option elected by a judge shall be irrevocable unless
20 prior to January 1, 2000, and while continuing to serve as
21 judge, the judge (A) files with the Board a letter
22 cancelling the direction to discontinue contributing to
23 the System and requesting that such contributing resume,
24 and (B) pays into the System an amount equal to the total
25 of the discontinued contributions plus interest thereon at

1 5% per annum. Service credits earned in any other
2 "participating system" as defined in Article 20 of this
3 Code shall be considered for purposes of determining a
4 judge's eligibility to discontinue contributions under
5 this subdivision (a) (2).

6 (3) A participant who (i) has attained age 60, (ii)
7 continues to serve as a judge after becoming eligible to
8 receive the maximum rate of annuity, and (iii) has not
9 elected to discontinue contributing to the System under
10 subdivision (a) (2) of this Section (or has revoked any such
11 election) may elect, through a written direction filed with
12 the Board, to make contributions to the System based only
13 on the amount of the increases in salary received by the
14 judge on or after the date of the election, rather than the
15 total salary received. If a judge who is making
16 contributions to the System on the effective date of this
17 amendatory Act of the 91st General Assembly makes an
18 election to limit contributions under this subdivision
19 (a) (3) within 90 days after that effective date, the
20 election shall be deemed to become effective on that
21 effective date and the judge shall be entitled to receive a
22 refund of any excess contributions paid to the System
23 during that 90-day period; any other election under this
24 subdivision (a) (3) becomes effective on the first of the
25 month following the date of the election. An election to
26 limit contributions under this subdivision (a) (3) is

1 irrevocable. Service credits earned in any other
2 participating system as defined in Article 20 of this Code
3 shall be considered for purposes of determining a judge's
4 eligibility to make an election under this subdivision
5 (a) (3).

6 (b) Beginning July 1, 1969, each participant is required to
7 contribute 1% of each payment of salary towards the automatic
8 increase in annuity provided in Section 18-125.1. However, such
9 contributions need not be made by any participant who has
10 elected prior to September 15, 1969, not to be subject to the
11 automatic increase in annuity provisions.

12 (c) Effective July 13, 1953, each married participant
13 subject to the survivor's annuity provisions is required to
14 contribute 2 1/2% of each payment of salary, whether or not he
15 or she is required to make any other contributions under this
16 Section. Such contributions shall be made concurrently with the
17 contributions made for annuity purposes.

18 Notwithstanding any provision in this subsection (c) to the
19 contrary, in the case of an employee who participates in the
20 self-managed plan under Section 14-133.2, contributions for a
21 survivor's annuity shall instead be used to finance the
22 benefits available under Section 18-133.2.

23 (d) Notwithstanding any other provision of this Article,
24 the required contributions for a participant who first becomes
25 a participant on or after January 1, 2011 shall not exceed the
26 contributions that would be due under this Article if that

1 participant's highest salary for annuity purposes were
2 \$106,800, plus any increase in that amount under Section
3 18-125.

4 (Source: P.A. 96-1490, eff. 1-1-11.)

5 (40 ILCS 5/18-133.2 new)

6 Sec. 18-133.2. Self-managed plan.

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

19 (b) The Board shall adopt the self-managed plan established
20 under this Section for participants under this Article. The
21 adoption of the self-managed plan makes available to the
22 eligible participants under this Article the elections
23 described in Section 18-120.2.

24 The Judges Retirement System of Illinois shall be the plan
25 sponsor for the self-managed plan and shall prepare a plan

1 document and adopt any rules and procedures as are considered
2 necessary or desirable for the administration of the
3 self-managed plan. Consistent with its fiduciary duty to the
4 participants and beneficiaries of the self-managed plan, the
5 Board of Trustees of the System may delegate aspects of plan
6 administration as it sees fit to companies authorized to do
7 business in this State.

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

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

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

21 (3) the suitability of the benefits to the needs and
22 interests of the participants and the State; and

23 (4) the ability of the company to provide benefits
24 under the contract and the financial stability of the
25 company.

26 The System shall periodically review each approved

1 company. A company may continue to provide administrative
2 services and funding vehicles for the self-managed plan only so
3 long as it continues to be an approved company under contract
4 with the Board.

5 In addition to the companies approved by the System under
6 this subsection (c), the System may offer its participants an
7 investment fund managed by the Illinois State Board of
8 Investment.

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

19 (e) Eligible participants, as defined in Section 18-120.2,
20 must make a written election to participate in the self-managed
21 plan in accordance with the provisions of Section 18-120.2 and
22 the procedures established by the System. Participation in the
23 self-managed plan shall begin on the first day of the month
24 immediately following the month in which the participant's
25 election is filed with the System, but not sooner than the
26 effective date of the self-managed plan. The System shall make

1 the self-managed plan available under this Article within 6
2 months after the effective date of this amendatory Act of the
3 97th General Assembly. A member's participation in the reformed
4 benefit package under this Article shall terminate on the date
5 that participation in the self-managed plan begins.

6 A member who has elected to participate in the self-managed
7 plan under this Section must continue participation while he or
8 she remains a participant under this Article, and may not
9 participate in the reformed benefit package.

10 Participation in the self-managed plan under this Section
11 shall constitute participation in the Judges Retirement System
12 of Illinois.

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

15 (f) If, at the time a participant elects to participate in
16 the self-managed plan, the participant has rights and credits
17 in the System due to previous participation in the reformed
18 benefit package, the System shall establish for the participant
19 an opening account balance in the self-managed plan, equal to
20 (1) the amount of the contribution refund that the participant
21 would be eligible to receive under Section 18-129 if the
22 participant terminated employment on that date and elected a
23 refund of contributions and (2) an amount equal to the amount
24 of employee contributions, plus interest. The interest used in
25 this subsection (f) shall be calculated using the actual annual
26 rates of return that the System has earned during the time

1 period corresponding to the actual investment of the
2 contributions being transferred. The System shall transfer
3 assets from the reformed benefit package to the self-managed
4 plan, as a tax-free transfer in accordance with Internal
5 Revenue Service guidelines, for purposes of funding the
6 participant's opening account balance.

7 (g) Notwithstanding any other provision of this Article, a
8 participant may not purchase or receive service or service
9 credit applicable to the reformed benefit package under this
10 Article for any period during which the employee was a
11 participant in the self-managed plan established under this
12 Section.

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

16 The contribution rate for participants in the self-managed
17 plan under this Section shall be equal to the member
18 contribution rate for other participants in the System, as
19 provided in Section 18-133. This required contribution shall be
20 made as an employer pick-up under Section 414(h) of the
21 Internal Revenue Code of 1986 or any successor Section thereof.
22 Any participant in the System's reformed benefit package before
23 his or her election to participate in the self-managed plan
24 shall continue to have the employer pick up the contributions
25 required under Section 18-133. However, the amounts picked up
26 after the election of the self-managed plan shall be remitted

1 to and treated as assets of the self-managed plan. In no event
2 shall a participant have the option of receiving these amounts
3 in cash. Participants may make additional contributions to the
4 self-managed plan in accordance with procedures prescribed by
5 the System, to the extent permitted under rules adopted by the
6 System.

7 The program shall provide for State contributions to be
8 credited to each self-managed plan participant in an amount
9 equal to the employee contributions required under this
10 Section.

11 The State of Illinois shall make contributions by
12 appropriations to the System for participants in the
13 self-managed plan under this Section. The amount required shall
14 be certified by the Board of Trustees of the System and paid by
15 the State in accordance with Sections 18-132 and 18-140. The
16 System shall not be obligated to remit the required State
17 contributions to any of the insurance and annuity companies,
18 mutual fund companies, banks, trust companies, financial
19 institutions, or other sponsors of any of the funding vehicles
20 offered under the self-managed plan until it has received the
21 required State contributions from the State.

22 (i) A participant in the self-managed plan becomes vested
23 in the State contributions credited to his or her accounts in
24 the self-managed plan on the earliest to occur of the
25 following: (1) attainment of 5 years of service credit; (2) the
26 death of the participating member while employed under this

1 Article, if the member has completed at least 1.5 years of
2 service; or (3) the member's election to retire and apply the
3 reciprocal provisions of Article 20 of this Code.

4 A participant in the self-managed plan who receives a
5 distribution of his or her vested amounts from the self-managed
6 plan while not yet eligible for retirement under this Article
7 (and Article 20, if applicable) shall forfeit all service
8 credit and accrued rights in the System; if he or she
9 subsequently becomes a participant under this Article again, he
10 or she shall be considered a new participant. If a former
11 participant again becomes a participating member (or becomes
12 employed by a participating system under Article 20 of this
13 Code) and continues as such for at least 2 years, all rights,
14 service credits, and previous status as a participant shall be
15 restored upon repayment of the amount of the distribution, with
16 interest at the actuarially assumed rate from the date of
17 distribution until the date of payment.

18 (j) If a participant in the self-managed plan who is vested
19 in State contributions terminates employment, the participant
20 shall be entitled to a benefit that is based on the account
21 values attributable to both State and member contributions and
22 any investment return thereon.

23 If a participant in the self-managed plan who is not vested
24 in State contributions terminates employment, the participant
25 shall be entitled to a benefit based solely on the account
26 values attributable to the participant's contributions and any

1 investment return thereon, and the State contributions and any
2 investment return thereon shall be forfeited. Any State
3 contributions that are forfeited shall be held in escrow by the
4 company investing those contributions and shall be used, as
5 directed by the System, for future allocations of State
6 contributions or for the restoration of amounts previously
7 forfeited by former participants who again become
8 participating members.

9 (40 ILCS 5/18-169.1 new)

10 Sec. 18-169.1. New benefit increases. To the extent that
11 the changes made to this Article by this amendatory Act of the
12 97th General Assembly authorizing the System to offer a
13 self-managed plan are determined to be a new benefit increase
14 within the meaning of Section 18-169, the changes made by this
15 amendatory Act are exempt from the provisions of subsection (d)
16 of Section 18-169.

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

1 INDEX

2 Statutes amended in order of appearance

3 40 ILCS 5/2-103.1 new

4 40 ILCS 5/2-103.2 new

5 40 ILCS 5/2-117.4 new

6 40 ILCS 5/2-126 from Ch. 108 1/2, par. 2-126

7 40 ILCS 5/2-126.2 new

8 40 ILCS 5/2-162.1 new

9 40 ILCS 5/18-118.1 new

10 40 ILCS 5/18-118.2 new

11 40 ILCS 5/18-120.2 new

12 40 ILCS 5/18-133 from Ch. 108 1/2, par. 18-133

13 40 ILCS 5/18-133.2 new

14 40 ILCS 5/18-169.1 new