



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3228

Introduced 2/24/2011, by Rep. Dan Brady

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-141.1  
30 ILCS 805/8.35 new

Amends the IMRF Article of the Illinois Pension Code. Provides that the restriction on return to service after accepting early retirement benefits applies only to (A) employment for which the person is required (or is allowed and has elected) to participate in the Fund and (B) contractual personal services which, if performed as an employee, would require the employee to participate in the Fund. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB097 06320 JDS 46398 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  
5 changing Section 7-141.1 as follows:

6 (40 ILCS 5/7-141.1)

7 Sec. 7-141.1. Early retirement incentive.

8 (a) The General Assembly finds and declares that:

9 (1) Units of local government across the State have  
10 been functioning under a financial crisis.

11 (2) This financial crisis is expected to continue.

12 (3) Units of local government must depend on additional  
13 sources of revenue and, when those sources are not  
14 forthcoming, must establish cost-saving programs.

15 (4) An early retirement incentive designed  
16 specifically to target highly-paid senior employees could  
17 result in significant annual cost savings.

18 (5) The early retirement incentive should be made  
19 available only to those units of local government that  
20 determine that an early retirement incentive is in their  
21 best interest.

22 (6) A unit of local government adopting a program of  
23 early retirement incentives under this Section is

1 encouraged to implement personnel procedures to prohibit,  
2 for at least 5 years, the rehiring (whether on payroll or  
3 by independent contract) of employees who receive early  
4 retirement incentives.

5 (7) A unit of local government adopting a program of  
6 early retirement incentives under this Section is also  
7 encouraged to replace as few of the participating employees  
8 as possible and to hire replacement employees for salaries  
9 totaling no more than 80% of the total salaries formerly  
10 paid to the employees who participate in the early  
11 retirement program.

12 It is the primary purpose of this Section to encourage  
13 units of local government that can realize true cost savings,  
14 or have determined that an early retirement program is in their  
15 best interest, to implement an early retirement program.

16 (b) Until the effective date of this amendatory Act of  
17 1997, this Section does not apply to any employer that is a  
18 city, village, or incorporated town, nor to the employees of  
19 any such employer. Beginning on the effective date of this  
20 amendatory Act of 1997, any employer under this Article,  
21 including an employer that is a city, village, or incorporated  
22 town, may establish an early retirement incentive program for  
23 its employees under this Section. The decision of a city,  
24 village, or incorporated town to consider or establish an early  
25 retirement program is at the sole discretion of that city,  
26 village, or incorporated town, and nothing in this amendatory

1 Act of 1997 limits or otherwise diminishes this discretion.  
2 Nothing contained in this Section shall be construed to require  
3 a city, village, or incorporated town to establish an early  
4 retirement program and no city, village, or incorporated town  
5 may be compelled to implement such a program.

6 The benefits provided in this Section are available only to  
7 members employed by a participating employer that has filed  
8 with the Board of the Fund a resolution or ordinance expressly  
9 providing for the creation of an early retirement incentive  
10 program under this Section for its employees and specifying the  
11 effective date of the early retirement incentive program.  
12 Subject to the limitation in subsection (h), an employer may  
13 adopt a resolution or ordinance providing a program of early  
14 retirement incentives under this Section at any time.

15 The resolution or ordinance shall be in substantially the  
16 following form:

17 RESOLUTION (ORDINANCE) NO. ....

18 A RESOLUTION (ORDINANCE) ADOPTING AN EARLY  
19 RETIREMENT INCENTIVE PROGRAM FOR EMPLOYEES  
20 IN THE ILLINOIS MUNICIPAL RETIREMENT FUND

21 WHEREAS, Section 7-141.1 of the Illinois Pension Code  
22 provides that a participating employer may elect to adopt an  
23 early retirement incentive program offered by the Illinois  
24 Municipal Retirement Fund by adopting a resolution or  
25 ordinance; and

1           WHEREAS, The goal of adopting an early retirement program  
2 is to realize a substantial savings in personnel costs by  
3 offering early retirement incentives to employees who have  
4 accumulated many years of service credit; and

5           WHEREAS, Implementation of the early retirement program  
6 will provide a budgeting tool to aid in controlling payroll  
7 costs; and

8           WHEREAS, The (name of governing body) has determined that  
9 the adoption of an early retirement incentive program is in the  
10 best interests of the (name of participating employer);  
11 therefore be it

12           RESOLVED (ORDAINED) by the (name of governing body) of  
13 (name of participating employer) that:

14           (1) The (name of participating employer) does hereby adopt  
15 the Illinois Municipal Retirement Fund early retirement  
16 incentive program as provided in Section 7-141.1 of the  
17 Illinois Pension Code. The early retirement incentive program  
18 shall take effect on (date).

19           (2) In order to help achieve a true cost savings, a person  
20 who retires under the early retirement incentive program shall  
21 lose those incentives if he or she later accepts employment  
22 with any IMRF employer in a position for which participation in  
23 IMRF is required or is elected by the employee.

24           (3) In order to utilize an early retirement incentive as a  
25 budgeting tool, the (name of participating employer) will use  
26 its best efforts either to limit the number of employees who

1 replace the employees who retire under the early retirement  
2 program or to limit the salaries paid to the employees who  
3 replace the employees who retire under the early retirement  
4 program.

5 (4) The effective date of each employee's retirement under  
6 this early retirement program shall be set by (name of  
7 employer) and shall be no earlier than the effective date of  
8 the program and no later than one year after that effective  
9 date; except that the employee may require that the retirement  
10 date set by the employer be no later than the June 30 next  
11 occurring after the effective date of the program and no  
12 earlier than the date upon which the employee qualifies for  
13 retirement.

14 (5) To be eligible for the early retirement incentive under  
15 this Section, the employee must have attained age 50 and have  
16 at least 20 years of creditable service by his or her  
17 retirement date.

18 (6) The (clerk or secretary) shall promptly file a  
19 certified copy of this resolution (ordinance) with the Board of  
20 Trustees of the Illinois Municipal Retirement Fund.

21 CERTIFICATION

22 I, (name), the (clerk or secretary) of the (name of  
23 participating employer) of the County of (name), State of  
24 Illinois, do hereby certify that I am the keeper of the books  
25 and records of the (name of employer) and that the foregoing is  
26 a true and correct copy of a resolution (ordinance) duly

1 adopted by the (governing body) at a meeting duly convened and  
2 held on (date).

3 SEAL

4 (Signature of clerk or secretary)

5 (c) To be eligible for the benefits provided under an early  
6 retirement incentive program adopted under this Section, a  
7 member must:

8 (1) be a participating employee of this Fund who, on  
9 the effective date of the program, (i) is in active payroll  
10 status as an employee of a participating employer that has  
11 filed the required ordinance or resolution with the Board,  
12 (ii) is on layoff status from such a position with a right  
13 of re-employment or recall to service, (iii) is on a leave  
14 of absence from such a position, or (iv) is on disability  
15 but has not been receiving benefits under Section 7-146 or  
16 7-150 for a period of more than 2 years from the date of  
17 application;

18 (2) have never previously received a retirement  
19 annuity under this Article or under the Retirement Systems  
20 Reciprocal Act using service credit established under this  
21 Article;

22 (3) (blank);

23 (4) have at least 20 years of creditable service in the  
24 Fund by the date of retirement, without the use of any  
25 creditable service established under this Section;

1           (5) have attained age 50 by the date of retirement,  
2           without the use of any age enhancement received under this  
3           Section; and

4           (6) be eligible to receive a retirement annuity under  
5           this Article by the date of retirement, for which purpose  
6           the age enhancement and creditable service established  
7           under this Section may be considered.

8           (d) The employer shall determine the retirement date for  
9           each employee participating in the early retirement program  
10          adopted under this Section. The retirement date shall be no  
11          earlier than the effective date of the program and no later  
12          than one year after that effective date, except that the  
13          employee may require that the retirement date set by the  
14          employer be no later than the June 30 next occurring after the  
15          effective date of the program and no earlier than the date upon  
16          which the employee qualifies for retirement. The employer shall  
17          give each employee participating in the early retirement  
18          program at least 30 days written notice of the employee's  
19          designated retirement date, unless the employee waives this  
20          notice requirement.

21          (e) An eligible person may establish up to 5 years of  
22          creditable service under this Section. In addition, for each  
23          period of creditable service established under this Section, a  
24          person shall have his or her age at retirement deemed enhanced  
25          by an equivalent period.

26          The creditable service established under this Section may



1 be used for all purposes under this Article and the Retirement  
2 Systems Reciprocal Act, except for the computation of final  
3 rate of earnings and the determination of earnings, salary, or  
4 compensation under this or any other Article of the Code.

5 The age enhancement established under this Section may be  
6 used for all purposes under this Article (including calculation  
7 of the reduction imposed under subdivision (a)1b(iv) of Section  
8 7-142), except for purposes of a reversionary annuity under  
9 Section 7-145 and any distributions required because of age.  
10 The age enhancement established under this Section may be used  
11 in calculating a proportionate annuity payable by this Fund  
12 under the Retirement Systems Reciprocal Act, but shall not be  
13 used in determining benefits payable under other Articles of  
14 this Code under the Retirement Systems Reciprocal Act.

15 (f) For all creditable service established under this  
16 Section, the member must pay to the Fund an employee  
17 contribution consisting of 4.5% of the member's highest annual  
18 salary rate used in the determination of the final rate of  
19 earnings for retirement annuity purposes for each year of  
20 creditable service granted under this Section. For creditable  
21 service established under this Section by a person who is a  
22 sheriff's law enforcement employee to be deemed service as a  
23 sheriff's law enforcement employee, the employee contribution  
24 shall be at the rate of 6.5% of highest annual salary per year  
25 of creditable service granted. Contributions for fractions of a  
26 year of service shall be prorated. Any amounts that are

1 disregarded in determining the final rate of earnings under  
2 subdivision (d) (5) of Section 7-116 (the 125% rule) shall also  
3 be disregarded in determining the required contribution under  
4 this subsection (f).

5 The employee contribution shall be paid to the Fund as  
6 follows: If the member is entitled to a lump sum payment for  
7 accumulated vacation, sick leave, or personal leave upon  
8 withdrawal from service, the employer shall deduct the employee  
9 contribution from that lump sum and pay the deducted amount  
10 directly to the Fund. If there is no such lump sum payment or  
11 the required employee contribution exceeds the net amount of  
12 the lump sum payment, then the remaining amount due, at the  
13 option of the employee, may either be paid to the Fund before  
14 the annuity commences or deducted from the retirement annuity  
15 in 24 equal monthly installments.

16 (g) An annuitant who has received any age enhancement or  
17 creditable service under this Section and thereafter accepts  
18 employment with or enters into a personal services contract  
19 with an employer under this Article thereby forfeits that age  
20 enhancement and creditable service; except that this  
21 restriction does not apply to (1) service in an elective  
22 office, so long as the annuitant does not participate in this  
23 Fund with respect to that office and (2) a person appointed as  
24 an officer under subsection (f) of Section 3-109 of this Code  
25 and except that beginning on the effective date of this  
26 amendatory Act of the 97th General Assembly, this restriction

1 applies only to (A) employment for which the person is required  
2 (or is allowed and has elected) to participate in this Fund and  
3 (B) contractual personal services that, if performed as an  
4 employee, would require the employee to participate in this  
5 Fund.

6 A person forfeiting early retirement incentives under this  
7 subsection (i) must repay to the Fund that portion of the  
8 retirement annuity already received which is attributable to  
9 the early retirement incentives that are being forfeited, (ii)  
10 shall not be eligible to participate in any future early  
11 retirement program adopted under this Section, and (iii) is  
12 entitled to a refund of the employee contribution paid under  
13 subsection (f). The Board shall deduct the required repayment  
14 from the refund and may impose a reasonable payment schedule  
15 for repaying the amount, if any, by which the required  
16 repayment exceeds the refund amount.

17 The change made to this subsection by this amendatory Act  
18 of the 97th General Assembly is not limited to persons in  
19 service on or after its effective date, but it does not restore  
20 eligibility for early retirement benefits to any person who has  
21 previously forfeited those benefits due to employment accepted  
22 (or a contract entered into) before that effective date.

23 (h) The additional unfunded liability accruing as a result  
24 of the adoption of a program of early retirement incentives  
25 under this Section by an employer shall be amortized over a  
26 period of 10 years beginning on January 1 of the second

1 calendar year following the calendar year in which the latest  
2 date for beginning to receive a retirement annuity under the  
3 program (as determined by the employer under subsection (d) of  
4 this Section) occurs; except that the employer may provide for  
5 a shorter amortization period (of no less than 5 years) by  
6 adopting an ordinance or resolution specifying the length of  
7 the amortization period and submitting a certified copy of the  
8 ordinance or resolution to the Fund no later than 6 months  
9 after the effective date of the program. An employer, at its  
10 discretion, may accelerate payments to the Fund.

11 An employer may provide more than one early retirement  
12 incentive program for its employees under this Section.  
13 However, an employer that has provided an early retirement  
14 incentive program for its employees under this Section may not  
15 provide another early retirement incentive program under this  
16 Section until the liability arising from the earlier program  
17 has been fully paid to the Fund.

18 (Source: P.A. 96-775, eff. 8-28-09.)

19 Section 90. The State Mandates Act is amended by adding  
20 Section 8.35 as follows:

21 (30 ILCS 805/8.35 new)

22 Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8  
23 of this Act, no reimbursement by the State is required for the  
24 implementation of any mandate created by this amendatory Act of

1 the 97th General Assembly.

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