



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3336

Introduced 2/24/2011, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

55 ILCS 5/Div. 6-35 heading new
55 ILCS 5/6-35000 new
65 ILCS 5/8-1-20 new
105 ILCS 5/10-20.53 new
30 ILCS 805/8.35 new

Amends the Counties Code and Illinois Municipal Code to provide that if a county or municipality offers a 457(b) plan to its officers, employees, or both, or makes contributions to such a plan on behalf of its officers, employees, or both, then that county or municipality, and the persons acting under its authority, must act in accordance with the prudent investor rule when making plan-related decisions. Limits the concurrent exercise of home rule powers. Amends the School Code to provide that if a school board other than the Chicago Board of Education offers a 403(b) or 457(b) plan to its officers, employees, or both, or makes contributions to such a plan on behalf of its officers, employees, or both, then that school board, and the persons acting under its authority, must act in accordance with the prudent investor rule when making plan-related decisions. Amends the State Mandates Act to require implementation without reimbursement.

LRB097 06673 KMW 46759 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding the
5 heading of Div. 6-35 and Section 6-35000 as follows:

6 (55 ILCS 5/Div. 6-35 heading new)

7 Division 6-35. Application of the Prudent Investor Rule
8 to Eligible Deferred Compensation Plans

9 (55 ILCS 5/6-35000 new)

10 Sec. 6-35000. Application of the prudent investor rule to
11 457(b) plans.

12 (a) If a county offers a 457(b) plan to its officers,
13 employees, or both, or makes contributions to such a plan on
14 behalf of its officers, employees, or both, then the county
15 board and those persons acting under its authority must act in
16 accordance with the prudent investor rule when making
17 plan-related decisions.

18 (b) For the purposes of this Section, a person acts in
19 accordance with the prudent investor rule if he or she acts in
20 good faith and with the care, skill, prudence, diligence, and
21 degree of judgment that an investor of prudence, discretion,
22 and good judgment would exercise in the management of his or

1 her own affairs, taking into account the probable safety of the
2 plan capital as well as the probable investment return to be
3 derived from the invested assets.

4 (c) A home rule unit may not regulate a county board's or
5 its agents' plan-related fiduciary obligations in a manner that
6 is less restrictive than the regulation by the State of those
7 obligations under subsection (a). This subsection (c) is a
8 limitation under subsection (i) of Section 6 of Article VII of
9 the Illinois Constitution on the concurrent exercise by home
10 rule units of powers and functions exercised by the State.

11 (d) This Section does not apply to any plan authorized or
12 created under the Illinois Pension Code.

13 Section 10. The Illinois Municipal Code is amended by
14 adding Section 8-1-20 as follows:

15 (65 ILCS 5/8-1-20 new)

16 Sec. 8-1-20. Application of the prudent investor rule to
17 457(b) plans.

18 (a) If a municipality offers a 457(b) plan to its officers,
19 employees, or both, or makes contributions to such a plan on
20 behalf of its officers, employees, or both, then the corporate
21 authorities of the municipality and those persons acting under
22 their authority must act in accordance with the prudent
23 investor rule when making plan-related decisions.

24 (b) For the purposes of this Section, a person acts in

1 accordance with the prudent investor rule if he or she acts in
2 good faith and with the care, skill, prudence, diligence, and
3 degree of judgment that an investor of prudence, discretion,
4 and sound judgment would exercise in the management of his or
5 her own affairs, taking into account the probable safety of the
6 plan capital as well as the probable investment return to be
7 derived from the invested assets.

8 (c) A home rule unit may not regulate a municipal corporate
9 authority's or its agents' plan-related fiduciary obligations
10 in a manner that is less restrictive than the regulation by the
11 State of those obligations under subsection (a). This
12 subsection (c) is a limitation under subsection (i) of Section
13 6 of Article VII of the Illinois Constitution on the concurrent
14 exercise by home rule units of powers and functions exercised
15 by the State.

16 (d) This Section does not apply to any plan authorized or
17 created under the Illinois Pension Code.

18 Section 15. The School Code is amended by adding Section
19 10-20.53 as follows:

20 (105 ILCS 5/10-20.53 new)

21 Sec. 10-20.53. Application of the prudent investor rule to
22 403(b) and 457(b) plans.

23 (a) If a school board other than the Chicago Board of
24 Schools offers a 403(b) or 457(b) plan to its officers,

1 employees, or both, or makes contributions to such a plan on
2 behalf of its officers, employees, or both, then the board and
3 those persons acting under its authority must act in accordance
4 with the prudent investor rule when making plan-related
5 decisions.

6 (b) For the purposes of this Section, a person acts in
7 accordance with the prudent investor rule if he or she acts in
8 good faith and with the care, skill, prudence, diligence, and
9 degree of judgment that an investor of prudence, discretion,
10 and sound judgment would exercise in the management of his or
11 her own affairs, taking into account the probable safety of the
12 plan capital as well as the probable investment return to be
13 derived from the invested assets.

14 (c) This Section does not apply to any plan authorized or
15 created under the Illinois Pension Code.

16 Section 90. The State Mandates Act is amended by adding
17 Section 8.35 as follows:

18 (30 ILCS 805/8.35 new)

19 Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8
20 of this Act, no reimbursement by the State is required for the
21 implementation of any mandate created by this amendatory Act of
22 the 97th General Assembly.