



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4622

Introduced 2/1/2012, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-170	from Ch. 108 1/2, par. 7-170
40 ILCS 5/7-171	from Ch. 108 1/2, par. 7-171
40 ILCS 5/7-172	from Ch. 108 1/2, par. 7-172
40 ILCS 5/7-172.2	from Ch. 108 1/2, par. 7-172.2
40 ILCS 5/7-173	from Ch. 108 1/2, par. 7-173
40 ILCS 5/7-220	from Ch. 108 1/2, par. 7-220
30 ILCS 805/8.36 new	

Amends the Illinois Municipal Retirement Fund (IMRF) Article of the Illinois Pension Code. Provides that revenue generated by specified tax levies may not be used to finance employees' contributions for Federal Social Security taxes. Removes provisions requiring participating municipalities and participating instrumentalities to pay into the Fund employee contributions for Federal Social Security taxes. Makes other technical changes. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB097 16031 JDS 61183 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

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 7-170, 7-171, 7-172, 7-172.2, 7-173, and 7-220 as
6 follows:

7 (40 ILCS 5/7-170) (from Ch. 108 1/2, par. 7-170)

8 Sec. 7-170. Federal Social Security coverage.

9 (a) It is declared to be the policy and purpose to extend
10 to covered employees as defined in Section 7-138, the benefits
11 of the Federal Old Age and Survivors Insurance System as
12 authorized by the Federal Social Security Act and amendments
13 thereto. To effect this, the board shall take such action as
14 may be required by applicable State and Federal laws or
15 regulations.

16 (b) The board shall execute an agreement with the State
17 Agency to secure coverage of covered employees as provided in
18 paragraph (a) of this section.

19 (c) Each participating municipality and each participating
20 instrumentality shall remit payment of contributions for
21 Social Security purposes on behalf of covered employees and
22 covered municipalities and participating instrumentalities as
23 required by applicable State and federal laws and regulations.

1 (d) Contributions of covered employees ~~to this fund~~ for
2 Federal Social Security purposes shall be paid in such amounts
3 and at such time as required by applicable State and federal
4 laws and regulations.

5 (e) (Blank).

6 (f) The board shall maintain such records and submit such
7 reports as may be required by applicable State and Federal laws
8 or regulations.

9 (Source: P.A. 96-1084, eff. 7-16-10.)

10 (40 ILCS 5/7-171) (from Ch. 108 1/2, par. 7-171)

11 Sec. 7-171. Finance; taxes.

12 (a) Each municipality other than a school district shall
13 appropriate an amount sufficient to provide for the current
14 municipality contributions required by Section 7-172 of this
15 Article, for the fiscal year for which the appropriation is
16 made and all amounts due for municipal contributions for
17 previous years. Those municipalities which have been assessed
18 an annual amount to amortize its unfunded obligation, as
19 provided in subparagraph 4 of paragraph (a) of Section 7-172 of
20 this Article, shall include in the appropriation an amount
21 sufficient to pay the amount assessed. The appropriation shall
22 be based upon an estimate of assets available for municipality
23 contributions and liabilities therefor for the fiscal year for
24 which appropriations are to be made, including funds available
25 from levies for this purpose in prior years.

1 (b) For the purpose of providing monies for municipality
2 contributions, beginning for the year in which a municipality
3 is included in this fund:

4 (1) A municipality other than a school district may
5 levy a tax which shall not exceed the amount appropriated
6 for municipality contributions.

7 (2) A school district may levy a tax in an amount
8 reasonably calculated at the time of the levy to provide
9 for the municipality contributions required under Section
10 7-172 of this Article for the fiscal years for which
11 revenues from the levy will be received and all amounts due
12 for municipal contributions for previous years. Any levy
13 adopted before the effective date of this amendatory Act of
14 1995 by a school district shall be considered valid and
15 authorized to the extent that the amount was reasonably
16 calculated at the time of the levy to provide for the
17 municipality contributions required under Section 7-172
18 for the fiscal years for which revenues from the levy will
19 be received and all amounts due for municipal contributions
20 for previous years. In no event shall a budget adopted by a
21 school district limit a levy of that school district
22 adopted under this Section.

23 (c) Any county which is served by a regional office of
24 education that serves 2 or more counties may include in its
25 appropriation an amount sufficient to provide its
26 proportionate share of the municipality contributions for that

1 regional office of education. The tax levy authorized by this
2 Section may include an amount necessary to provide monies for
3 this contribution.

4 (d) Any county that is a part of a multiple-county health
5 department or consolidated health department which is formed
6 under "An Act in relation to the establishment and maintenance
7 of county and multiple-county public health departments",
8 approved July 9, 1943, as amended, and which is a participating
9 instrumentality may include in the county's appropriation an
10 amount sufficient to provide its proportionate share of
11 municipality contributions of the department. The tax levy
12 authorized by this Section may include the amount necessary to
13 provide monies for this contribution.

14 (d-5) A school district participating in a special
15 education joint agreement created under Section 10-22.31 of the
16 School Code that is a participating instrumentality may include
17 in the school district's tax levy under this Section an amount
18 sufficient to provide its proportionate share of the
19 municipality contributions for current and prior service by
20 employees of the participating instrumentality created under
21 the joint agreement.

22 (e) Such tax shall be levied and collected in like manner,
23 with the general taxes of the municipality and shall be in
24 addition to all other taxes which the municipality is now or
25 may hereafter be authorized to levy upon all taxable property
26 therein, and shall be exclusive of and in addition to the

1 amount of tax levied for general purposes under Section 8-3-1
2 of the "Illinois Municipal Code", approved May 29, 1961, as
3 amended, or under any other law or laws which may limit the
4 amount of tax which the municipality may levy for general
5 purposes. The tax may be levied by the governing body of the
6 municipality without being authorized as being additional to
7 all other taxes by a vote of the people of the municipality.

8 (f) The county clerk of the county in which any such
9 municipality is located, in reducing tax levies shall not
10 consider any such tax as a part of the general tax levy for
11 municipality purposes, and shall not include the same in the
12 limitation of any other tax rate which may be extended.

13 (g) The amount of the tax to be levied in any year shall,
14 within the limits herein prescribed, be determined by the
15 governing body of the respective municipality.

16 (h) The revenue derived from any such tax levy shall be
17 used only for the contributions required under Section 7-172
18 ~~purposes specified in this Article~~ and, as collected, shall be
19 paid to the treasurer of the municipality levying the tax.
20 Monies received by a county treasurer for use in making
21 contributions to a regional office of education for its
22 municipality contributions shall be held by him for that
23 purpose and paid to the regional office of education in the
24 same manner as other monies appropriated for the expense of the
25 regional office.

26 (Source: P.A. 96-1084, eff. 7-16-10.)

1 (40 ILCS 5/7-172) (from Ch. 108 1/2, par. 7-172)
2 Sec. 7-172. Contributions by participating municipalities
3 and participating instrumentalities.

4 (a) Each participating municipality and each participating
5 instrumentality shall make payment to the fund as follows:

6 1. municipality contributions in an amount determined
7 by applying the municipality contribution rate to each
8 payment of earnings paid to each of its participating
9 employees;

10 2. an amount equal to the employee contributions
11 provided by paragraph ~~paragraphs~~ (a) ~~and (b)~~ of Section
12 7-173, whether or not the employee contributions are
13 withheld as permitted by that Section;

14 3. all accounts receivable, together with interest
15 charged thereon, as provided in Section 7-209;

16 4. if it has no participating employees with current
17 earnings, an amount payable which, over a closed period of
18 20 years for participating municipalities and 10 years for
19 participating instrumentalities, will amortize, at the
20 effective rate for that year, any unfunded obligation. The
21 unfunded obligation shall be computed as provided in
22 paragraph 2 of subsection (b);

23 5. if it has fewer than 7 participating employees or a
24 negative balance in its municipality reserve, the greater
25 of (A) an amount payable that, over a period of 20 years,

1 will amortize at the effective rate for that year any
2 unfunded obligation, computed as provided in paragraph 2 of
3 subsection (b) or (B) the amount required by paragraph 1 of
4 this subsection (a).

5 (b) A separate municipality contribution rate shall be
6 determined for each calendar year for all participating
7 municipalities together with all instrumentalities thereof.
8 The municipality contribution rate shall be determined for
9 participating instrumentalities as if they were participating
10 municipalities. The municipality contribution rate shall be
11 the sum of the following percentages:

12 1. The percentage of earnings of all the participating
13 employees of all participating municipalities and
14 participating instrumentalities which, if paid over the
15 entire period of their service, will be sufficient when
16 combined with all employee contributions available for the
17 payment of benefits, to provide all annuities for
18 participating employees, and the \$3,000 death benefit
19 payable under Sections 7-158 and 7-164, such percentage to
20 be known as the normal cost rate.

21 2. The percentage of earnings of the participating
22 employees of each participating municipality and
23 participating instrumentalities necessary to adjust for
24 the difference between the present value of all benefits,
25 excluding temporary and total and permanent disability and
26 death benefits, to be provided for its participating

1 employees and the sum of its accumulated municipality
2 contributions and the accumulated employee contributions
3 and the present value of expected future employee and
4 municipality contributions pursuant to subparagraph 1 of
5 this paragraph (b). This adjustment shall be spread over
6 the remainder of the period that is allowable under
7 generally accepted accounting principles.

8 3. The percentage of earnings of the participating
9 employees of all municipalities and participating
10 instrumentalities necessary to provide the present value
11 of all temporary and total and permanent disability
12 benefits granted during the most recent year for which
13 information is available.

14 4. The percentage of earnings of the participating
15 employees of all participating municipalities and
16 participating instrumentalities necessary to provide the
17 present value of the net single sum death benefits expected
18 to become payable from the reserve established under
19 Section 7-206 during the year for which this rate is fixed.

20 5. The percentage of earnings necessary to meet any
21 deficiency arising in the Terminated Municipality Reserve.

22 (c) A separate municipality contribution rate shall be
23 computed for each participating municipality or participating
24 instrumentality for its sheriff's law enforcement employees.

25 A separate municipality contribution rate shall be
26 computed for the sheriff's law enforcement employees of each

1 forest preserve district that elects to have such employees.
2 For the period from January 1, 1986 to December 31, 1986, such
3 rate shall be the forest preserve district's regular rate plus
4 2%.

5 In the event that the Board determines that there is an
6 actuarial deficiency in the account of any municipality with
7 respect to a person who has elected to participate in the Fund
8 under Section 3-109.1 of this Code, the Board may adjust the
9 municipality's contribution rate so as to make up that
10 deficiency over such reasonable period of time as the Board may
11 determine.

12 (d) The Board may establish a separate municipality
13 contribution rate for all employees who are program
14 participants employed under the federal Comprehensive
15 Employment Training Act by all of the participating
16 municipalities and instrumentalities. The Board may also
17 provide that, in lieu of a separate municipality rate for these
18 employees, a portion of the municipality contributions for such
19 program participants shall be refunded or an extra charge
20 assessed so that the amount of municipality contributions
21 retained or received by the fund for all CETA program
22 participants shall be an amount equal to that which would be
23 provided by the separate municipality contribution rate for all
24 such program participants. Refunds shall be made to prime
25 sponsors of programs upon submission of a claim therefor and
26 extra charges shall be assessed to participating

1 municipalities and instrumentalities. In establishing the
2 municipality contribution rate as provided in paragraph (b) of
3 this Section, the use of a separate municipality contribution
4 rate for program participants or the refund of a portion of the
5 municipality contributions, as the case may be, may be
6 considered.

7 (e) Computations of municipality contribution rates for
8 the following calendar year shall be made prior to the
9 beginning of each year, from the information available at the
10 time the computations are made, and on the assumption that the
11 employees in each participating municipality or participating
12 instrumentality at such time will continue in service until the
13 end of such calendar year at their respective rates of earnings
14 at such time.

15 (f) Any municipality which is the recipient of State
16 allocations representing that municipality's contributions for
17 retirement annuity purposes on behalf of its employees as
18 provided in Section 12-21.16 of the Illinois Public Aid Code
19 shall pay the allocations so received to the Board for such
20 purpose. Estimates of State allocations to be received during
21 any taxable year shall be considered in the determination of
22 the municipality's tax rate for that year under Section 7-171.
23 If a special tax is levied under Section 7-171, none of the
24 proceeds may be used to reimburse the municipality for the
25 amount of State allocations received and paid to the Board. Any
26 multiple-county or consolidated health department which

1 receives contributions from a county under Section 11.2 of "An
2 Act in relation to establishment and maintenance of county and
3 multiple-county health departments", approved July 9, 1943, as
4 amended, or distributions under Section 3 of the Department of
5 Public Health Act, shall use these only for municipality
6 contributions by the health department.

7 (g) Municipality contributions for the several purposes
8 specified shall, for township treasurers and employees in the
9 offices of the township treasurers who meet the qualifying
10 conditions for coverage hereunder, be allocated among the
11 several school districts and parts of school districts serviced
12 by such treasurers and employees in the proportion which the
13 amount of school funds of each district or part of a district
14 handled by the treasurer bears to the total amount of all
15 school funds handled by the treasurer.

16 From the funds subject to allocation among districts and
17 parts of districts pursuant to the School Code, the trustees
18 shall withhold the proportionate share of the liability for
19 municipality contributions imposed upon such districts by this
20 Section, in respect to such township treasurers and employees
21 and remit the same to the Board.

22 The municipality contribution rate for an educational
23 service center shall initially be the same rate for each year
24 as the regional office of education or school district which
25 serves as its administrative agent. When actuarial data become
26 available, a separate rate shall be established as provided in

1 subparagraph (i) of this Section.

2 The municipality contribution rate for a public agency,
3 other than a vocational education cooperative, formed under the
4 Intergovernmental Cooperation Act shall initially be the
5 average rate for the municipalities which are parties to the
6 intergovernmental agreement. When actuarial data become
7 available, a separate rate shall be established as provided in
8 subparagraph (i) of this Section.

9 (h) Each participating municipality and participating
10 instrumentality shall make the contributions in the amounts
11 provided in this Section in the manner prescribed from time to
12 time by the Board and all such contributions shall be
13 obligations of the respective participating municipalities and
14 participating instrumentalities to this fund. The failure to
15 deduct any employee contributions shall not relieve the
16 participating municipality or participating instrumentality of
17 its obligation to this fund. Delinquent payments of
18 contributions due under this Section may, with interest, be
19 recovered by civil action against the participating
20 municipalities or participating instrumentalities.
21 Municipality contributions, other than the amount necessary
22 for employee contributions ~~and Social Security contributions,~~
23 for periods of service by employees from whose earnings no
24 deductions were made for employee contributions to the fund,
25 may be charged to the municipality reserve for the municipality
26 or participating instrumentality.

1 (i) Contributions by participating instrumentalities shall
2 be determined as provided herein except that the percentage
3 derived under subparagraph 2 of paragraph (b) of this Section,
4 and the amount payable under subparagraph 4 of paragraph (a) of
5 this Section, shall be based on an amortization period of 10
6 years.

7 (j) Notwithstanding the other provisions of this Section,
8 the additional unfunded liability accruing as a result of this
9 amendatory Act of the 94th General Assembly shall be amortized
10 over a period of 30 years beginning on January 1 of the second
11 calendar year following the calendar year in which this
12 amendatory Act takes effect, except that the employer may
13 provide for a longer amortization period by adopting a
14 resolution or ordinance specifying a 35-year or 40-year period
15 and submitting a certified copy of the ordinance or resolution
16 to the fund no later than June 1 of the calendar year following
17 the calendar year in which this amendatory Act takes effect.

18 (k) If the amount of a participating employee's reported
19 earnings for any of the 12-month periods used to determine the
20 final rate of earnings exceeds the employee's 12 month reported
21 earnings with the same employer for the previous year by the
22 greater of 6% or 1.5 times the annual increase in the Consumer
23 Price Index-U, as established by the United States Department
24 of Labor for the preceding September, the participating
25 municipality or participating instrumentality that paid those
26 earnings shall pay to the Fund, in addition to any other

1 contributions required under this Article, the present value of
2 the increase in the pension resulting from the portion of the
3 increase in salary that is in excess of the greater of 6% or
4 1.5 times the annual increase in the Consumer Price Index-U, as
5 determined by the Fund. This present value shall be computed on
6 the basis of the actuarial assumptions and tables used in the
7 most recent actuarial valuation of the Fund that is available
8 at the time of the computation.

9 Whenever it determines that a payment is or may be required
10 under this subsection (k), the fund shall calculate the amount
11 of the payment and bill the participating municipality or
12 participating instrumentality for that amount. The bill shall
13 specify the calculations used to determine the amount due. If
14 the participating municipality or participating
15 instrumentality disputes the amount of the bill, it may, within
16 30 days after receipt of the bill, apply to the fund in writing
17 for a recalculation. The application must specify in detail the
18 grounds of the dispute. Upon receiving a timely application for
19 recalculation, the fund shall review the application and, if
20 appropriate, recalculate the amount due. The participating
21 municipality and participating instrumentality contributions
22 required under this subsection (k) may be paid in the form of a
23 lump sum within 90 days after receipt of the bill. If the
24 participating municipality and participating instrumentality
25 contributions are not paid within 90 days after receipt of the
26 bill, then interest will be charged at a rate equal to the

1 fund's annual actuarially assumed rate of return on investment
2 compounded annually from the 91st day after receipt of the
3 bill. Payments must be concluded within 3 years after receipt
4 of the bill by the participating municipality or participating
5 instrumentality.

6 When assessing payment for any amount due under this
7 subsection (k), the fund shall exclude earnings increases
8 resulting from overload or overtime earnings.

9 When assessing payment for any amount due under this
10 subsection (k), the fund shall also exclude earnings increases
11 attributable to standard employment promotions resulting in
12 increased responsibility and workload.

13 This subsection (k) does not apply to earnings increases
14 paid to individuals under contracts or collective bargaining
15 agreements entered into, amended, or renewed before January 1,
16 2012 (the effective date of Public Act 97-609) ~~this amendatory~~
17 ~~Act of the 97th General Assembly~~, earnings increases paid to
18 members who are 10 years or more from retirement eligibility,
19 or earnings increases resulting from an increase in the number
20 of hours required to be worked.

21 When assessing payment for any amount due under this
22 subsection (k), the fund shall also exclude earnings
23 attributable to personnel policies adopted before January 1,
24 2012 (the effective date of Public Act 97-609) ~~this amendatory~~
25 ~~Act of the 97th General Assembly~~ as long as those policies are
26 not applicable to employees who begin service on or after

1 January 1, 2012 (the effective date of Public Act 97-609) ~~this~~
2 ~~amendatory Act of the 97th General Assembly.~~

3 (Source: P.A. 96-1084, eff. 7-16-10; 96-1140, eff. 7-21-10;
4 97-333, eff. 8-12-11; 97-609, eff. 1-1-12.)

5 (40 ILCS 5/7-172.2) (from Ch. 108 1/2, par. 7-172.2)

6 Sec. 7-172.2. In addition to the payments otherwise
7 required by this Article, each participating municipality and
8 each participating instrumentality shall make payment of
9 Social Security contributions and medicare taxes in the amounts
10 and in the manner provided by law. Each employee shall make
11 contributions for Federal Social Security and medicare taxes,
12 for periods during which he or she is a covered employee, as
13 required by the Social Security Enabling Act and State and
14 federal law.

15 (Source: P.A. 84-1472.)

16 (40 ILCS 5/7-173) (from Ch. 108 1/2, par. 7-173)

17 Sec. 7-173. Contributions by employees.

18 (a) Each participating employee shall make contributions
19 to the fund as follows:

20 1. For retirement annuity purposes, normal
21 contributions of 3 3/4% of earnings.

22 2. Additional contributions of such percentages of
23 each payment of earnings, as shall be elected by the
24 employee for retirement annuity purposes, but not in excess

1 of 10%. The selected rate shall be applicable to all
2 earnings paid following receipt by the Board of written
3 notice of election to make such contributions. Additional
4 contributions at the selected rate shall be made
5 concurrently with normal contributions.

6 3. Survivor contributions, by each participating
7 employee, of 3/4% of each payment of earnings.

8 (b) (Blank) ~~Each employee shall make contributions for~~
9 ~~Federal Social Security taxes, for periods during which he is a~~
10 ~~covered employee, as required by the Social Security Enabling~~
11 ~~Act and State and federal law. For participating employees,~~
12 ~~such contributions shall be in addition to those required under~~
13 ~~paragraph (a) of this Section.~~

14 (c) Contributions shall be deducted from each
15 corresponding payment of earnings paid to each employee and
16 shall be remitted to the board by the participating
17 municipality or participating instrumentality making such
18 payment. The remittance, together with a report of the earnings
19 and contributions shall be made as directed by the board. For
20 township treasurers and employees of township treasurers
21 qualifying as employees hereunder, the contributions herein
22 required as deductions from salary shall be withheld by the
23 school township trustees from funds available for the payment
24 of the compensation of such treasurers and employees as
25 provided in the School Code and remitted to the board.

26 (d) An employee who has made additional contributions under

1 paragraph (a)2 of this Section may upon retirement or at any
2 time prior thereto, elect to withdraw the total of such
3 additional contributions including interest credited thereon
4 to the end of the preceding calendar year.

5 (e) Failure to make the deductions for employee
6 contributions provided in paragraph (c) of this Section shall
7 not relieve the employee from liability for such contributions.
8 The amount of such liability may be deducted, with interest
9 charged under Section 7-209, from any annuities or benefits
10 payable hereunder to the employee or any other person receiving
11 an annuity or benefit by reason of such employee's
12 participation.

13 (f) A participating employee who has at least 40 years of
14 creditable service in the Fund may elect to cease making the
15 contributions required under this Section. The status of the
16 employee under this Article shall be unaffected by this
17 election, except that the employee shall not receive any
18 additional creditable service for the periods of employment
19 following the election. An election under this subsection
20 relieves the employer from making additional employer
21 contributions in relation to that employee.

22 (Source: P.A. 96-1084, eff. 7-16-10; 96-1258, eff. 7-23-10;
23 97-333, eff. 8-12-11.)

24 (40 ILCS 5/7-220) (from Ch. 108 1/2, par. 7-220)

25 Sec. 7-220. Administrative review. The provisions of the

1 Administrative Review Law, and all amendments and
2 modifications thereof and the rules adopted pursuant thereto
3 shall apply to and govern all proceedings for the judicial
4 review of final administrative decisions of the retirement
5 board provided for under this Article. The term "administrative
6 decision" is as defined in Section 3-101 of the Code of Civil
7 Procedure. The venue for actions brought under the
8 Administrative Review Law shall be any county in which the
9 Board maintains an office or the county in which the member's
10 ~~plaintiff's~~ employing participating municipality or
11 participating instrumentality has its main office.

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

13 Section 90. The State Mandates Act is amended by adding
14 Section 8.36 as follows:

15 (30 ILCS 805/8.36 new)

16 Sec. 8.36. Exempt mandate. Notwithstanding Sections 6 and 8
17 of this Act, no reimbursement by the State is required for the
18 implementation of any mandate created by this amendatory Act of
19 the 97th General Assembly.

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