



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5495

Introduced 2/15/2012, by Rep. Elaine Nekritz

#### SYNOPSIS AS INTRODUCED:

30 ILCS 805/8.36 new  
55 ILCS 5/Div. 6-35 heading new  
55 ILCS 5/6-35000 new  
65 ILCS 5/8-1-20 new  
105 ILCS 5/10-20.55 new

Amends the State Mandates Act. Provides that nothing in the amendatory Act shall override the process established under the provision of the School Code concerning the prohibition against unfunded mandates. Amends the Counties Code and Illinois Municipal Code to provide that beginning January 1, 2015, 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 beginning January 1, 2015, 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.

LRB097 18371 KMW 63597 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 State Mandates Act is amended by adding  
5 Section 8.36 as follows:

6 (30 ILCS 805/8.36 new)

7 Sec. 8.36. Exempt mandate. Notwithstanding Sections 6 and 8  
8 of this Act, no reimbursement by the State is required for the  
9 implementation of any mandate created by this amendatory Act of  
10 the 97th General Assembly. Nothing in this amendatory Act of  
11 the 97th General Assembly shall override the process  
12 established under Section 22-60 of the School Code.

13 Section 10. The Counties Code is amended by adding the  
14 heading of Div. 6-35 and Section 6-35000 as follows:

15 (55 ILCS 5/Div. 6-35 heading new)

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

18 (55 ILCS 5/6-35000 new)

19 Sec. 6-35000. Application of the prudent investor rule to  
20 457(b) plans.

1       (a) Beginning January 1, 2015, if a county offers a 457(b)  
2 plan to its officers, employees, or both, or makes  
3 contributions to such a plan on behalf of its officers,  
4 employees, or both, then the plan sponsor must act in  
5 accordance with the prudent investor rule when making  
6 plan-related decisions.

7       (b) For the purposes of this Section, a plan sponsor acts  
8 in accordance with the prudent investor rule if he or she acts  
9 in good faith and with the care, skill, prudence, diligence,  
10 and degree of judgment that an investor of prudence,  
11 discretion, and good judgment would exercise in the management  
12 of his or her own affairs, taking into account all aspects of  
13 plan design, including, but not limited to, total delivered  
14 fees and surrender charges. The intent of this legislation is  
15 for the plan sponsor to consolidate to a single provider.

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

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

25       Section 15. The Illinois Municipal Code is amended by

1 adding Section 8-1-20 as follows:

2 (65 ILCS 5/8-1-20 new)

3 Sec. 8-1-20. Application of the prudent investor rule to  
4 457(b) plans.

5 (a) Beginning January 1, 2015, if a municipality offers a  
6 457(b) plan to its officers, employees, or both, or makes  
7 contributions to such a plan on behalf of its officers,  
8 employees, or both, then the plan sponsor must act in  
9 accordance with the prudent investor rule when making  
10 plan-related decisions.

11 (b) For the purposes of this Section, a plan sponsor acts  
12 in accordance with the prudent investor rule if he or she acts  
13 in good faith and with the care, skill, prudence, diligence,  
14 and degree of judgment that an investor of prudence,  
15 discretion, and sound judgment would exercise in the management  
16 of his or her own affairs, taking into account all aspects of  
17 plan design, including, but not limited to, total delivered  
18 fees and surrender charges. The intent of this legislation is  
19 for the plan sponsor to consolidate to a single provider.

20 (c) A home rule unit may not regulate a municipal corporate  
21 authority's or its agents' plan-related fiduciary obligations  
22 in a manner that is less restrictive than the regulation by the  
23 State of those obligations under subsection (a). This  
24 subsection (c) is a limitation under subsection (i) of Section  
25 6 of Article VII of the Illinois Constitution on the concurrent

1 exercise by home rule units of powers and functions exercised  
2 by the State.

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

5 Section 20. The School Code is amended by adding Section  
6 10-20.55 as follows:

7 (105 ILCS 5/10-20.55 new)

8 Sec. 10-20.55. Application of the prudent investor rule to  
9 403(b) and 457(b) plans.

10 (a) Beginning January 1, 2015, if a school board other than  
11 the Chicago Board of Schools offers a 403(b) or 457(b) plan to  
12 its officers, employees, or both, or makes contributions to  
13 such a plan on behalf of its officers, employees, or both, then  
14 the plan sponsor must act in accordance with the prudent  
15 investor rule when making plan-related decisions.

16 (b) For the purposes of this Section, a plan sponsor acts  
17 in accordance with the prudent investor rule if he or she acts  
18 in good faith and with the care, skill, prudence, diligence,  
19 and degree of judgment that an investor of prudence,  
20 discretion, and sound judgment would exercise in the management  
21 of his or her own affairs, taking into account all aspects of  
22 plan design, including, but not limited to, total delivered  
23 fees, surrender charges, and third-party administrator fees.  
24 The intent of this legislation is for the plan sponsor to

1 consolidate to a single provider.

2 (c) The plan sponsor may comply with the requirements of  
3 this Section by joining a multiple employer plan that already  
4 complies with the prudent investor rule.

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