



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5666

Introduced 2/16/2012, by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-130.1 new
40 ILCS 5/7-130.2 new
40 ILCS 5/7-140.5 new
40 ILCS 5/7-173 from Ch. 108 1/2, par. 7-173
40 ILCS 5/7-173.3 new
30 ILCS 805/8.36 new
40 ILCS 5/7-173 from Ch. 108 1/2, par. 7-173

Amends the Illinois Municipal Retirement Fund (IMRF) Article of the Illinois Pension Code. Allows persons who first become participants 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 Fund to make the self-managed plan available within 6 months after the effective date of the amendatory Act. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB097 20429 EFG 65918 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 adding
5 Sections 7-130.1, 7-130.2, 7-140.5, and 7-173.3 and changing
6 Section 7-173 as follows:

7 (40 ILCS 5/7-130.1 new)

8 Sec. 7-130.1. Reformed benefit package. "Reformed benefit
9 package" means the benefit retirement program maintained by the
10 Fund for persons who first become participants of the Fund on
11 or after January 1, 2011. It includes the following benefits
12 for those persons: retirement annuities payable directly from
13 the Fund; surviving spouse annuities payable directly from the
14 Fund; child annuities payable directly from the Fund;
15 contribution refunds; and separation benefits.

16 (40 ILCS 5/7-130.2 new)

17 Sec. 7-130.2. Self-managed plan. "Self-managed plan" means
18 the defined contribution retirement program maintained by the
19 Fund, as described in Section 7-173.3. The self-managed plan
20 does not include retirement, surviving spouse, or child
21 annuities payable directly from the Fund, contribution
22 refunds, or separation benefits.

1 (40 ILCS 5/7-140.5 new)

2 Sec. 7-140.5. Retirement program elections.

3 (a) For the purposes of this Article:

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 Fund first offers the self-managed plan as
8 an alternative to the reformed benefit package.

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

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 Fund first offers the self-managed plan as an
14 alternative to the reformed benefit package.

15 (b) When the Fund offers to participants under this Article
16 a 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 Fund, and within the time period described in this
24 Section.

25 If an eligible participant elects the self-managed plan,

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

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

10 (c) An eligible participant may elect to participate in the
11 reformed benefit package or the self-managed plan. An eligible
12 participant must make this election within one year after the
13 effective date of the adoption of the self-managed plan under
14 Section 7-173.3 or 60 days after first becoming a participant
15 under this Article, whichever is later, or, in the case of a
16 currently eligible participant who terminates employment under
17 this Article, within one year after his or her re-employment
18 under this Article.

19 (d) If the eligible participant elects to participate in
20 the self-managed plan, the Fund shall fund his or her account
21 as stated in subsection (f) of Section 7-173.3.

22 (e) An eligible participant shall be provided with written
23 information prepared or prescribed by the Fund that describes
24 the participant's retirement program choices. The eligible
25 participant shall be offered an opportunity to receive
26 counseling from the Fund before making his or her election.

1 This counseling may consist of videotaped materials, group
2 presentations, individual consultation with an employee or
3 authorized representative of the Fund in person or by telephone
4 or other electronic means, or any combination of these methods.

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

6 Sec. 7-173. Contributions by employees.

7 (a) Each participating employee shall make contributions
8 to the fund as follows:

9 1. For retirement annuity purposes, normal
10 contributions of 3 3/4% of earnings.

11 2. Additional contributions of such percentages of
12 each payment of earnings, as shall be elected by the
13 employee for retirement annuity purposes, but not in excess
14 of 10%. The selected rate shall be applicable to all
15 earnings paid following receipt by the Board of written
16 notice of election to make such contributions. Additional
17 contributions at the selected rate shall be made
18 concurrently with normal contributions.

19 3. Survivor contributions, by each participating
20 employee, of 3/4% of each payment of earnings.
21 Notwithstanding this item 3, in the case of an employee who
22 participates in the self-managed plan under Section
23 7-173.3, contributions for a survivor's annuity shall
24 instead be used to finance the benefits available under
25 Section 1-173.3.

1 (b) Each employee shall make contributions for Federal
2 Social Security taxes, for periods during which he is a covered
3 employee, as required by the Social Security Enabling Act and
4 State and federal law. For participating employees, such
5 contributions shall be in addition to those required under
6 paragraph (a) of this Section.

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

19 (d) An employee who has made additional contributions under
20 paragraph (a)2 of this Section may upon retirement or at any
21 time prior thereto, elect to withdraw the total of such
22 additional contributions including interest credited thereon
23 to the end of the preceding calendar year.

24 (e) Failure to make the deductions for employee
25 contributions provided in paragraph (c) of this Section shall
26 not relieve the employee from liability for such contributions.

1 The amount of such liability may be deducted, with interest
2 charged under Section 7-209, from any annuities or benefits
3 payable hereunder to the employee or any other person receiving
4 an annuity or benefit by reason of such employee's
5 participation.

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

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

17 (40 ILCS 5/7-173.3 new)

18 Sec. 7-173.3. Self-managed plan.

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

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

7 (b) The Board shall adopt the self-managed plan established
8 under this Section for eligible participants under this
9 Article. The adoption of the self-managed plan makes available
10 to the eligible participants under this Article the elections
11 described in Section 7-140.5.

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

21 (c) The Fund shall solicit proposals to provide
22 administrative services and funding vehicles for the
23 self-managed plan from insurance and annuity companies and
24 mutual fund companies, banks, trust companies, or other
25 financial institutions authorized to do business in this State.
26 In reviewing the proposals received and approving and

1 contracting with no fewer than 2 and no more than 7 companies,
2 the Board of Trustees of the Fund shall consider, among other
3 things, the following criteria:

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

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

8 (3) the suitability of the benefits to the needs and
9 interests of the participants and the employers; and

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

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

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

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

1 a fiduciary shall not be liable for any loss resulting from
2 that investment direction and shall not be deemed to have
3 breached any fiduciary duty by acting in accordance with that
4 direction. Neither the Fund nor the employer shall guarantee
5 any of the investments in the participant's account balances.

6 (e) Eligible participants, as defined in Section 7-140.5,
7 must make a written election to participate in the self-managed
8 plan in accordance with the provisions of Section 7-140.5 and
9 the procedures established by the Fund. Participation in the
10 self-managed plan shall begin on the first day of the month
11 immediately following the month in which the participant's
12 election is filed with the Fund, but not sooner than the
13 effective date of the self-managed plan. The Fund shall make
14 the self-managed plan available under this Article within 6
15 months after the effective date of this amendatory Act of the
16 97th General Assembly. A member's participation in the reformed
17 benefit package under this Article shall terminate on the date
18 that participation in the self-managed plan begins.

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

23 Participation in the self-managed plan under this Section
24 shall constitute participation in the Illinois Municipal
25 Retirement Fund.

26 A participant under this Section shall be entitled to the

1 benefits of Article 20 of this Code.

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

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

26 (h) The self-managed plan shall be funded by contributions

1 from participants in the self-managed plan and employer
2 contributions as provided in this Section.

3 The contribution rate for participants in the self-managed
4 plan under this Section shall be equal to the member
5 contribution rate for other participants in the Fund, as
6 provided in Section 7-173. This required contribution shall be
7 made as an employer pick-up under Section 414(h) of the
8 Internal Revenue Code of 1986 or any successor Section thereof.
9 Any participant in the Fund's reformed benefit package before
10 his or her election to participate in the self-managed plan
11 shall continue to have the employer pick up the contributions
12 required under Section 7-173. However, the amounts picked up
13 after the election of the self-managed plan shall be remitted
14 to and treated as assets of the self-managed plan. In no event
15 shall a participant have the option of receiving these amounts
16 in cash. Participants may make additional contributions to the
17 self-managed plan in accordance with procedures prescribed by
18 the Fund, to the extent permitted under rules adopted by the
19 Fund.

20 The program shall provide for employer contributions to be
21 credited to each self-managed plan participant in an amount
22 equal to the employee contributions, notwithstanding Section
23 7-172.

24 Each employer shall make contributions by appropriations
25 to the Fund for participants in the self-managed plan under
26 this Section. The amount required shall be certified by the

1 Board of Trustees of the Fund and paid by the employer in
2 accordance with Section 7-172. The Fund shall not be obligated
3 to remit the required employer contributions to any of the
4 insurance and annuity companies, mutual fund companies, banks,
5 trust companies, financial institutions, or other sponsors of
6 any of the funding vehicles offered under the self-managed plan
7 until it has received the required employer contributions from
8 the employer

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

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

1 credits, and previous status as a participant shall be restored
2 upon repayment of the amount of the distribution, with interest
3 at the actuarially assumed rate from the date of distribution
4 until the date of payment.

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

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

22 Section 90. The State Mandates Act is amended by adding
23 Section 8.36 as follows:

24 (30 ILCS 805/8.36 new)

1 Sec. 8.36. Exempt mandate. Notwithstanding Sections 6 and 8
2 of this Act, no reimbursement by the State is required for the
3 implementation of any mandate created by this amendatory Act of
4 the 97th General Assembly.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.