



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2183

Introduced 2/10/2011, by Sen. Dale E. Risinger

SYNOPSIS AS INTRODUCED:

40 ILCS 5/3-103	from Ch. 108 1/2, par. 3-103
40 ILCS 5/3-145	from Ch. 108 1/2, par. 3-145
40 ILCS 5/4-103	from Ch. 108 1/2, par. 4-103
40 ILCS 5/4-141	from Ch. 108 1/2, par. 4-141
40 ILCS 5/7-132	from Ch. 108 1/2, par. 7-132

Amends the Downstate Police, Downstate Firefighters, and Illinois Municipal Retirement Fund (IMRF) Articles of the Illinois Pension Code. Changes the definition of municipality so that, on and after the effective date of the Act, a city, township, village, or incorporated town qualifies as a municipality for the purposes of the affected Articles if it has a population of more than 7,500 (rather than 5,000) but less than 500,000 inhabitants. Makes corresponding changes in provisions concerning referenda that smaller municipalities use to opt into in the affected funds. Requires any municipality that has, before the effective date of the amendatory Act, established a pension fund under one of the affected Articles to continue to maintain that fund. Effective immediately.

LRB097 10140 JDS 50326 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

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 3-103, 3-145, 4-103, 4-141, and 7-132 as follows:

6 (40 ILCS 5/3-103) (from Ch. 108 1/2, par. 3-103)

7 Sec. 3-103. Municipality. "Municipality":

8 (a) Before the effective date of this amendatory Act of
9 the 97th General Assembly, (1) any ~~Any~~ city, village, or
10 incorporated town of 5,000 or more but less than 500,000
11 inhabitants, as determined from the United States
12 Government statistics or a census taken at any time by the
13 city, village, or incorporated town and (2) any city,
14 village, or incorporated town of less than 5,000
15 inhabitants which, by referendum held under Section 3-145
16 adopts this Article. A city, village, or incorporated town
17 that falls within the definition of "municipality"
18 contained in this subsection (a) and has established a
19 pension fund under this Article before the effective date
20 of this amendatory Act of the 97th General Assembly must
21 continue to maintain the pension fund in accordance with
22 the provisions of this Article.

23 (b) On and after the effective date of this amendatory

1 Act of the 97th General Assembly, (1) any city, village, or
2 incorporated town of 7,500 or more but less than 500,000
3 inhabitants, as determined from the United States
4 Government statistics or a census taken at any time by the
5 city, village, or incorporated town and (2) any city,
6 village, or incorporated town of less than 7,500
7 inhabitants which, by referendum held under Section 3-145
8 adopts this Article.

9 (Source: P.A. 83-1440.)

10 (40 ILCS 5/3-145) (from Ch. 108 1/2, par. 3-145)

11 Sec. 3-145. Referendum in municipalities less than 7,500
12 ~~5,000~~.

13 (a) This Article shall not be effective in any municipality
14 having a population of less than 7,500 ~~5,000~~ unless the
15 proposition to adopt the Article is submitted to and approved
16 by the voters of the municipality in the manner herein
17 provided.

18 Whenever the electors of the municipality, equal in number
19 to 5% of the number of legal votes cast at the last preceding
20 general municipal election, petition the city, village or town
21 clerk to submit the proposition whether that municipality shall
22 adopt this Article, the officer to whom the petition is
23 addressed shall certify the proposition to the proper election
24 officials who shall submit the proposition in accordance with
25 the general election law at a regular election in the

1 municipality provided that notice of the referendum, if held
 2 before July 1, 1999, has been given in accordance with the
 3 provisions of Section 12-5 of the Election Code in effect at
 4 the time of the bond referendum, at least 10 and not more than
 5 45 days before the date of the election, notwithstanding the
 6 time for publication otherwise imposed by Section 12-5. Notices
 7 required in connection with the submission of public questions
 8 on or after July 1, 1999 shall be as set forth in Section 12-5
 9 of the Election Code. If the proposition is not adopted at that
 10 election, it may be submitted in like manner at any regular
 11 election thereafter. The proposition shall be substantially in
 12 the following form:

13 -----
 14 Shall the city (or village or
 15 incorporated town) of.... adopt YES
 16 Article 3 of the "Illinois Pension -----
 17 Code", pertaining to the creation NO
 18 of a police pension fund?

19 -----
 20 If a majority of the votes cast on the proposition is for the
 21 proposition, this Article is adopted in that municipality.

22 (b) For a period of 60 days after the effective date of
 23 this amendatory Act of the 96th General Assembly, if a
 24 municipality having a population of less than 5,000 has adopted
 25 this Article in accordance with the provisions of subsection
 26 (a), the municipality may elect to terminate participation

1 under this Article if all of the following conditions are met:

2 (1) An independent auditor certifies that the fund
3 created under this Article has no liabilities and there are
4 no members or participants in the fund and no beneficiaries
5 entitled to benefits under the fund.

6 (2) The corporate authorities of the municipality, by
7 ordinance, approve the closing of the fund.

8 If the conditions of this subsection (b) are met and the
9 closed fund contains assets, those assets shall be transferred
10 to the municipality for its general corporate purposes.

11 If a municipality that terminates participation under this
12 Article in accordance with this subsection (b) wants to
13 reinstate the fund, then the proposition to re-adopt the
14 Article must be submitted to and approved by the voters of the
15 municipality in the manner provided in subsection (a).

16 (Source: P.A. 96-216, eff. 8-10-09.)

17 (40 ILCS 5/4-103) (from Ch. 108 1/2, par. 4-103)

18 Sec. 4-103. Municipality. "Municipality":

19 (a) Before the effective date of this amendatory Act of
20 the 97th General Assembly, (1) any ~~Any~~ city, township,
21 village, or incorporated town of 5,000 or more but less
22 than 500,000 inhabitants, and any fire protection district
23 having any full-time paid firefighters, and (2) any city,
24 village, incorporated town, or township of less than 5,000
25 inhabitants having a full-time paid fire department which

1 adopts the provisions of this Article ~~article~~ pursuant to
2 the provisions of Section 4-141. A city, township, village,
3 or incorporated town that falls within the definition of
4 "municipality" contained in this subsection (a) and has
5 established a pension fund under this Article before the
6 effective date of this amendatory Act of the 97th General
7 Assembly must continue to maintain the pension fund in
8 accordance with the provisions of this Article.

9 (b) On and after the effective date of this amendatory
10 Act of the 97th General Assembly, (1) any city, township,
11 village, or incorporated town of 7,500 or more but less
12 than 500,000 inhabitants, and any fire protection district
13 having any full-time paid firefighters, and (2) any city,
14 township, village, incorporated town, or township of less
15 than 7,500 inhabitants having a full-time paid fire
16 department which adopts the provisions of this article
17 pursuant to the provisions of Section 4-141.

18 For the purposes of this Section, the ~~The~~ term "city
19 council" or "board of trustees" includes the board of trustees
20 of a fire protection district and the board of town trustees or
21 other persons empowered to draft the tentative budget and
22 appropriation ordinance and the electors of such a township
23 acting at the annual or special meeting of town electors.

24 (Source: P.A. 83-1440.)

25 (40 ILCS 5/4-141) (from Ch. 108 1/2, par. 4-141)

1 Sec. 4-141. Referendum in municipalities less than 7,500
2 ~~5,000~~. This Article shall become effective in any municipality
3 of less than 7,500 ~~5,000~~, population if the proposition to
4 adopt the Article is submitted to and approved by the voters of
5 the municipality in the manner herein provided.

6 Whenever the electors of the municipality equal in number
7 to 5% of the number of legal votes cast at the last preceding
8 general municipal election for mayor or president, as the case
9 may be, petition the corporate authorities of the municipality
10 to submit the proposition whether that municipality shall adopt
11 this Article, the municipal clerk shall certify the proposition
12 to the proper election official who shall submit it to the
13 electors in accordance with the general election law at the
14 next succeeding regular election in the municipality. If the
15 proposition is not adopted at that election, it may be
16 submitted in like manner at any regular election thereafter.

17 The proposition shall be substantially in the following
18 form:

19 -----

20 Shall the city (or village or
21 incorporated town as the case may be) YES

22 of.... adopt Article 4 of the

23 "Illinois Pension Code", -----

24 providing for a Firefighters' NO

25 Pension Fund and the levying

26 of an annual tax therefor?

1 -----

2 If a majority of the votes cast on the proposition is for
3 the proposition, this Article is adopted in that municipality.

4 (Source: P.A. 83-1440.)

5 (40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

6 Sec. 7-132. Municipalities, instrumentalities and
7 participating instrumentalities included and effective dates.

8 (A) Municipalities and their instrumentalities.

9 (a) The following described municipalities, but not
10 including any with more than 1,000,000 inhabitants, and the
11 instrumentalities thereof, shall be included within and be
12 subject to this Article beginning upon the effective dates
13 specified by the Board:

14 (1) Except as to the municipalities and
15 instrumentalities thereof specifically excluded under this
16 Article, every county shall be subject to this Article, and
17 all cities, villages, and incorporated towns (A) before the
18 effective date of this amendatory Act of the 97th General
19 Assembly, having a population in excess of 5,000
20 inhabitants as determined by the last preceding decennial
21 or subsequent federal census and (B) on and after the
22 effective date of this amendatory Act of the 97th General
23 Assembly, having a population in excess of 7,500
24 inhabitants as determined by the last preceding decennial

1 or subsequent federal census, shall be subject to this
2 Article following publication of the census by the Bureau
3 of the Census. Within 90 days after publication of the
4 census, the Board shall notify any municipality that has
5 become subject to this Article as a result of that census,
6 and shall provide information to the corporate authorities
7 of the municipality explaining the duties and consequences
8 of participation. The notification shall also include a
9 proposed date upon which participation by the municipality
10 will commence. A city, village, or incorporated town that
11 falls within the definition of "municipality" contained in
12 this subsection (a) and has established a pension fund
13 under this Article before the effective date of this
14 amendatory Act of the 97th General Assembly must continue
15 to maintain the pension fund in accordance with the
16 provisions of this Article.

17 However, for any city, village or incorporated town
18 that attains a population over 7,500 ~~5,000~~ inhabitants
19 after having provided social security coverage for its
20 employees under the Social Security Enabling Act,
21 participation under this Article shall not be mandatory but
22 may be elected in accordance with subparagraph (3) or (4)
23 of this paragraph (a), whichever is applicable.

24 (2) School districts, other than those specifically
25 excluded under this Article, shall be subject to this
26 Article, without election, with respect to all employees

1 thereof.

2 (3) Towns and all other bodies politic and corporate
3 which are formed by vote of, or are subject to control by,
4 the electors in towns and are located in towns which are
5 not participating municipalities on the effective date of
6 this Act, may become subject to this Article by election
7 pursuant to Section 7-132.1.

8 (4) Any other municipality (together with its
9 instrumentalities), other than those specifically excluded
10 from participation and those described in paragraph (3)
11 above, may elect to be included either by referendum under
12 Section 7-134 or by the adoption of a resolution or
13 ordinance by its governing body. A copy of such resolution
14 or ordinance duly authenticated and certified by the clerk
15 of the municipality or other appropriate official of its
16 governing body shall constitute the required notice to the
17 board of such action.

18 (b) A municipality that is about to begin participation
19 shall submit to the Board an application to participate, in a
20 form acceptable to the Board, not later than 90 days prior to
21 the proposed effective date of participation. The Board shall
22 act upon the application within 90 days, and if it finds that
23 the application is in conformity with its requirements and the
24 requirements of this Article, participation by the applicant
25 shall commence on a date acceptable to the municipality and
26 specified by the Board, but in no event more than one year from

1 the date of application.

2 (c) A participating municipality which succeeds to the
3 functions of a participating municipality which is dissolved or
4 terminates its existence shall assume and be transferred the
5 net accumulation balance in the municipality reserve and the
6 municipality account receivable balance of the terminated
7 municipality.

8 (d) In the case of a Veterans Assistance Commission whose
9 employees were being treated by the Fund on January 1, 1990 as
10 employees of the county served by the Commission, the Fund may
11 continue to treat the employees of the Veterans Assistance
12 Commission as county employees for the purposes of this
13 Article, unless the Commission becomes a participating
14 instrumentality in accordance with subsection (B) of this
15 Section.

16 (B) Participating instrumentalities.

17 (a) The participating instrumentalities designated in
18 paragraph (b) of this subsection shall be included within and
19 be subject to this Article if:

20 (1) an application to participate, in a form acceptable
21 to the Board and adopted by a two-thirds vote of the
22 governing body, is presented to the Board not later than 90
23 days prior to the proposed effective date; and

24 (2) the Board finds that the application is in
25 conformity with its requirements, that the applicant has

1 reasonable expectation to continue as a political entity
2 for a period of at least 10 years and has the prospective
3 financial capacity to meet its current and future
4 obligations to the Fund, and that the actuarial soundness
5 of the Fund may be reasonably expected to be unimpaired by
6 approval of participation by the applicant.

7 The Board shall notify the applicant of its findings within
8 90 days after receiving the application, and if the Board
9 approves the application, participation by the applicant shall
10 commence on the effective date specified by the Board.

11 (b) The following participating instrumentalities, so long
12 as they meet the requirements of Section 7-108 and the area
13 served by them or within their jurisdiction is not located
14 entirely within a municipality having more than one million
15 inhabitants, may be included hereunder:

16 i. Township School District Trustees.

17 ii. Multiple County and Consolidated Health
18 Departments created under Division 5-25 of the Counties
19 Code or its predecessor law.

20 iii. Public Building Commissions created under the
21 Public Building Commission Act, and located in counties of
22 less than 1,000,000 inhabitants.

23 iv. A multitype, consolidated or cooperative library
24 system created under the Illinois Library System Act. Any
25 library system created under the Illinois Library System
26 Act that has one or more predecessors that participated in

1 the Fund may participate in the Fund upon application. The
2 Board shall establish procedures for implementing the
3 transfer of rights and obligations from the predecessor
4 system to the successor system.

5 v. Regional Planning Commissions created under
6 Division 5-14 of the Counties Code or its predecessor law.

7 vi. Local Public Housing Authorities created under the
8 Housing Authorities Act, located in counties of less than
9 1,000,000 inhabitants.

10 vii. Illinois Municipal League.

11 viii. Northeastern Illinois Metropolitan Area Planning
12 Commission.

13 ix. Southwestern Illinois Metropolitan Area Planning
14 Commission.

15 x. Illinois Association of Park Districts.

16 xi. Illinois Supervisors, County Commissioners and
17 Superintendents of Highways Association.

18 xii. Tri-City Regional Port District.

19 xiii. An association, or not-for-profit corporation,
20 membership in which is authorized under Section 85-15 of
21 the Township Code.

22 xiv. Drainage Districts operating under the Illinois
23 Drainage Code.

24 xv. Local mass transit districts created under the
25 Local Mass Transit District Act.

26 xvi. Soil and water conservation districts created

1 under the Soil and Water Conservation Districts Law.

2 xvii. Commissions created to provide water supply or
3 sewer services or both under Division 135 or Division 136
4 of Article 11 of the Illinois Municipal Code.

5 xviii. Public water districts created under the Public
6 Water District Act.

7 xix. Veterans Assistance Commissions established under
8 Section 9 of the Military Veterans Assistance Act that
9 serve counties with a population of less than 1,000,000.

10 xx. The governing body of an entity, other than a
11 vocational education cooperative, created under an
12 intergovernmental cooperative agreement established
13 between participating municipalities under the
14 Intergovernmental Cooperation Act, which by the terms of
15 the agreement is the employer of the persons performing
16 services under the agreement under the usual common law
17 rules determining the employer-employee relationship. The
18 governing body of such an intergovernmental cooperative
19 entity established prior to July 1, 1988 may make
20 participation retroactive to the effective date of the
21 agreement and, if so, the effective date of participation
22 shall be the date the required application is filed with
23 the fund. If any such entity is unable to pay the required
24 employer contributions to the fund, then the participating
25 municipalities shall make payment of the required
26 contributions and the payments shall be allocated as

1 provided in the agreement or, if not so provided, equally
2 among them.

3 xxi. The Illinois Municipal Electric Agency.

4 xxii. The Waukegan Port District.

5 xxiii. The Fox Waterway Agency created under the Fox
6 Waterway Agency Act.

7 xxiv. The Illinois Municipal Gas Agency.

8 xxv. The Kaskaskia Regional Port District.

9 xxvi. The Southwestern Illinois Development Authority.

10 xxvii. The Cairo Public Utility Company.

11 xxviii. Except with respect to employees who elect to
12 participate in the State Employees' Retirement System of
13 Illinois under Section 14-104.13 of this Code, the Chicago
14 Metropolitan Agency for Planning created under the
15 Regional Planning Act, provided that, with respect to the
16 benefits payable pursuant to Sections 7-146, 7-150, and
17 7-164 and the requirement that eligibility for such
18 benefits is conditional upon satisfying a minimum period of
19 service or a minimum contribution, any employee of the
20 Chicago Metropolitan Agency for Planning that was
21 immediately prior to such employment an employee of the
22 Chicago Area Transportation Study or the Northeastern
23 Illinois Planning Commission, such employee's service at
24 the Chicago Area Transportation Study or the Northeastern
25 Illinois Planning Commission and contributions to the
26 State Employees' Retirement System of Illinois established

1 under Article 14 and the Illinois Municipal Retirement Fund
2 shall count towards the satisfaction of such requirements.

3 xxix. United Counties Council (formerly the Urban
4 Counties Council), but only if the Council has a ruling
5 from the United States Internal Revenue Service that it is
6 a governmental entity.

7 xxx. The Will County Governmental League, but only if
8 the League has a ruling from the United States Internal
9 Revenue Service that it is a governmental entity.

10 (c) The governing boards of special education joint
11 agreements created under Section 10-22.31 of the School Code
12 without designation of an administrative district shall be
13 included within and be subject to this Article as participating
14 instrumentalities when the joint agreement becomes effective.
15 However, the governing board of any such special education
16 joint agreement in effect before September 5, 1975 shall not be
17 subject to this Article unless the joint agreement is modified
18 by the school districts to provide that the governing board is
19 subject to this Article, except as otherwise provided by this
20 Section.

21 The governing board of the Special Education District of
22 Lake County shall become subject to this Article as a
23 participating instrumentality on July 1, 1997. Notwithstanding
24 subdivision (a)1 of Section 7-139, on the effective date of
25 participation, employees of the governing board of the Special
26 Education District of Lake County shall receive creditable

1 service for their prior service with that employer, up to a
2 maximum of 5 years, without any employee contribution.
3 Employees may establish creditable service for the remainder of
4 their prior service with that employer, if any, by applying in
5 writing and paying an employee contribution in an amount
6 determined by the Fund, based on the employee contribution
7 rates in effect at the time of application for the creditable
8 service and the employee's salary rate on the effective date of
9 participation for that employer, plus interest at the effective
10 rate from the date of the prior service to the date of payment.
11 Application for this creditable service must be made before
12 July 1, 1998; the payment may be made at any time while the
13 employee is still in service. The employer may elect to make
14 the required contribution on behalf of the employee.

15 The governing board of a special education joint agreement
16 created under Section 10-22.31 of the School Code for which an
17 administrative district has been designated, if there are
18 employees of the cooperative educational entity who are not
19 employees of the administrative district, may elect to
20 participate in the Fund and be included within this Article as
21 a participating instrumentality, subject to such application
22 procedures and rules as the Board may prescribe.

23 The Boards of Control of cooperative or joint educational
24 programs or projects created and administered under Section
25 3-15.14 of the School Code, whether or not the Boards act as
26 their own administrative district, shall be included within and

1 be subject to this Article as participating instrumentalities
2 when the agreement establishing the cooperative or joint
3 educational program or project becomes effective.

4 The governing board of a special education joint agreement
5 entered into after June 30, 1984 and prior to September 17,
6 1985 which provides for representation on the governing board
7 by less than all the participating districts shall be included
8 within and subject to this Article as a participating
9 instrumentality. Such participation shall be effective as of
10 the date the joint agreement becomes effective.

11 The governing boards of educational service centers
12 established under Section 2-3.62 of the School Code shall be
13 included within and subject to this Article as participating
14 instrumentalities. The governing boards of vocational
15 education cooperative agreements created under the
16 Intergovernmental Cooperation Act and approved by the State
17 Board of Education shall be included within and be subject to
18 this Article as participating instrumentalities. If any such
19 governing boards or boards of control are unable to pay the
20 required employer contributions to the fund, then the school
21 districts served by such boards shall make payment of required
22 contributions as provided in Section 7-172. The payments shall
23 be allocated among the several school districts in proportion
24 to the number of students in average daily attendance for the
25 last full school year for each district in relation to the
26 total number of students in average attendance for such period

1 for all districts served. If such educational service centers,
2 vocational education cooperatives or cooperative or joint
3 educational programs or projects created and administered
4 under Section 3-15.14 of the School Code are dissolved, the
5 assets and obligations shall be distributed among the districts
6 in the same proportions unless otherwise provided.

7 The governing board of Paris Cooperative High School shall
8 be included within and be subject to this Article as a
9 participating instrumentality on the effective date of this
10 amendatory Act of the 96th General Assembly. If the governing
11 board of Paris Cooperative High School is unable to pay the
12 required employer contributions to the fund, then the school
13 districts served shall make payment of required contributions
14 as provided in Section 7-172. The payments shall be allocated
15 among the several school districts in proportion to the number
16 of students in average daily attendance for the last full
17 school year for each district in relation to the total number
18 of students in average attendance for such period for all
19 districts served. If Paris Cooperative High School is
20 dissolved, then the assets and obligations shall be distributed
21 among the districts in the same proportions unless otherwise
22 provided.

23 (d) The governing boards of special recreation joint
24 agreements created under Section 8-10b of the Park District
25 Code, operating without designation of an administrative
26 district or an administrative municipality appointed to

1 administer the program operating under the authority of such
2 joint agreement shall be included within and be subject to this
3 Article as participating instrumentalities when the joint
4 agreement becomes effective. However, the governing board of
5 any such special recreation joint agreement in effect before
6 January 1, 1980 shall not be subject to this Article unless the
7 joint agreement is modified, by the districts and
8 municipalities which are parties to the agreement, to provide
9 that the governing board is subject to this Article.

10 If the Board returns any employer and employee
11 contributions to any employer which erroneously submitted such
12 contributions on behalf of a special recreation joint
13 agreement, the Board shall include interest computed from the
14 end of each year to the date of payment, not compounded, at the
15 rate of 7% per annum.

16 (e) Each multi-township assessment district, the board of
17 trustees of which has adopted this Article by ordinance prior
18 to April 1, 1982, shall be a participating instrumentality
19 included within and subject to this Article effective December
20 1, 1981. The contributions required under Section 7-172 shall
21 be included in the budget prepared under and allocated in
22 accordance with Section 2-30 of the Property Tax Code.

23 (f) The Illinois Medical District Commission created under
24 the Illinois Medical District Act may be included within and
25 subject to this Article as a participating instrumentality,
26 notwithstanding that the location of the District is entirely

1 within the City of Chicago. To become a participating
2 instrumentality, the Commission must apply to the Board in the
3 manner set forth in paragraph (a) of this subsection (B). If
4 the Board approves the application, under the criteria and
5 procedures set forth in paragraph (a) and any other applicable
6 rules, criteria, and procedures of the Board, participation by
7 the Commission shall commence on the effective date specified
8 by the Board.

9 (C) Prospective participants.

10 Beginning January 1, 1992, each prospective participating
11 municipality or participating instrumentality shall pay to the
12 Fund the cost, as determined by the Board, of a study prepared
13 by the Fund or its actuary, detailing the prospective costs of
14 participation in the Fund to be expected by the municipality or
15 instrumentality.

16 (Source: P.A. 95-677, eff. 10-11-07; 96-211, eff. 8-10-09;
17 96-551, eff. 8-17-09; 96-1000, eff. 7-2-10; 96-1046, eff.
18 7-14-10.)

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