



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3308

by Rep. Thomas Morrison

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-153.6 new	
40 ILCS 5/16-153.7 new	
40 ILCS 5/16-203	
40 ILCS 5/20-121	from Ch. 108 1/2, par. 20-121
40 ILCS 5/20-123	from Ch. 108 1/2, par. 20-123
40 ILCS 5/20-124	from Ch. 108 1/2, par. 20-124
40 ILCS 5/20-125	from Ch. 108 1/2, par. 20-125

Amends the Downstate Teacher Article of the Illinois Pension Code. Directs the System to establish a self-managed plan. The plan applies only to teachers whose employers adopt the plan, and only to teachers who make an election to participate in the plan. Specifies the terms and contents of the plan and the method of electing to participate. Defines terms. Contains a new benefit increase exception. Makes conforming changes to the Retirement Systems Reciprocal Act (Article 20 of the Code). Effective immediately.

LRB098 08771 EFG 38897 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 adding  
5 Sections 16-153.6 and 16-153.7 and changing Sections 16-203,  
6 20-121, 20-123, 20-124, and 20-125 as follows:

7 (40 ILCS 5/16-153.6 new)

8 Sec. 16-153.6. Retirement program elections.

9 (a) For the purposes of this Section and Section 16-153.7:

10 "Traditional benefit package" means the package of  
11 benefits provided under this Article (including Section 1-160  
12 and Article 20, where applicable), other than the self-managed  
13 plan.

14 "Self-managed plan" means the self-managed plan  
15 established under Section 16-153.7.

16 "Employer" means an employer of teachers who participate in  
17 this System.

18 "Eligible teacher" means a teacher (as defined in Section  
19 16-106) who is either a currently eligible teacher or a newly  
20 eligible teacher.

21 "Currently eligible teacher" means a teacher who is  
22 employed by an employer on the date on which that employer  
23 offers the self-managed plan to its teachers as an alternative

1 to the traditional benefit package.

2 "Newly eligible teacher" means a teacher who first becomes  
3 employed by an employer after the effective date on which that  
4 employer offers the self-managed plan to its teachers as an  
5 alternative to the traditional benefit package.

6 (b) Every teacher who is a member of this System  
7 participates in the traditional benefit package, unless he or  
8 she has elected under this Section to participate in the  
9 self-managed plan.

10 (c) Beginning on the date that an employer chooses to offer  
11 the self-managed plan to its teachers as an alternative to the  
12 traditional benefit package, each of that employer's eligible  
13 teachers shall be given the opportunity to elect to participate  
14 in the self-managed plan with respect to all periods of covered  
15 employment occurring on or after the effective date of the  
16 teacher's election. The election must be made in writing, in  
17 the manner prescribed by the System, and within the time period  
18 prescribed in subsection (d).

19 The election to participate in the self-managed plan is a  
20 one-time, irrevocable election. If a teacher terminates  
21 employment after making that election, then upon his or her  
22 subsequent re-employment by an employer who has adopted the  
23 self-managed plan, that election shall automatically continue  
24 in effect.

25 (d) A currently eligible teacher must make the election  
26 within one year after the effective date of the employer's

1 adoption of the self-managed plan. A newly eligible teacher  
2 must make the election within 6 months after the date on which  
3 the System receives the report of status certification from the  
4 employer.

5 (e) If a teacher elects to participate in the self-managed  
6 plan, no employer contributions shall be remitted to the  
7 self-managed plan when the teacher's account balance transfer  
8 is made. Employer contributions to the self-managed plan shall  
9 commence as of the first pay period that begins after the  
10 System receives the teacher's election.

11 (f) An eligible teacher shall be provided with written  
12 information prepared or prescribed by the System which  
13 describes the teacher's retirement program choices. The  
14 eligible teacher shall be offered an opportunity to receive  
15 counseling from the System prior to making his or her election.  
16 This counseling may consist of video materials, group  
17 presentations, individual consultation with an employee or  
18 authorized representative of the System in person or by  
19 telephone or other electronic means, or any combination of  
20 these methods.

21 (40 ILCS 5/16-153.7 new)

22 Sec. 16-153.7. Self-managed plan.

23 (a) Findings; plan. The General Assembly finds that it is  
24 important for school districts to be able to attract and retain  
25 the most qualified teachers and that in order to attract and

1 retain these teachers, school districts should have the  
2 flexibility to provide a defined contribution plan as an  
3 alternative for eligible teachers who elect not to participate  
4 in the traditional benefit package provided under this Article.

5 Accordingly, the System is hereby authorized to establish  
6 and administer a self-managed plan, which shall offer  
7 participating teachers the opportunity to accumulate assets  
8 for retirement through a combination of teacher and employer  
9 contributions that may be invested in mutual funds, collective  
10 investment funds, or other investment products and used to  
11 purchase annuity contracts, either fixed or variable or a  
12 combination thereof. The plan must be qualified under the  
13 Internal Revenue Code of 1986.

14 The System shall be the plan sponsor for the self-managed  
15 plan and shall prepare a plan document and prescribe such rules  
16 and procedures as are considered necessary or desirable for the  
17 administration of the self-managed plan. Consistent with its  
18 fiduciary duty to the participants and beneficiaries of the  
19 self-managed plan, the Board of Trustees of the System may  
20 delegate aspects of plan administration as it sees fit to  
21 companies authorized to do business in this State, to the  
22 employers, or to a combination of both.

23 (b) Adoption by employers. Each employer of teachers under  
24 this Article may elect to adopt the self-managed plan  
25 established under this Section; this election is irrevocable.  
26 An employer's election to adopt the self-managed plan makes

1 available to the eligible teachers of that employer the  
2 election described in Section 16-153.6.

3 (c) Service providers and funding vehicles. The System, in  
4 consultation with the employers, shall solicit proposals to  
5 provide administrative services and funding vehicles for the  
6 self-managed plan from insurance and annuity companies and  
7 mutual fund companies, banks, trust companies, or other  
8 financial institutions authorized to do business in this State.  
9 In reviewing the proposals received and approving and  
10 contracting with no fewer than 2 and no more than 7 companies,  
11 the Board of Trustees of the System shall consider, among other  
12 things, the following criteria:

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

15 (2) the reasonableness of the benefits in relation to  
16 the premium charged;

17 (3) the suitability of the benefits to the needs and  
18 interests of the participating teachers and the employer;

19 (4) the ability of the company to provide benefits  
20 under the contract and the financial stability of the  
21 company; and

22 (5) the efficacy of the contract in the recruitment and  
23 retention of teachers.

24 The System, in consultation with the employers, shall  
25 periodically review each approved company. A company may  
26 continue to provide administrative services and funding

1 vehicles for the self-managed plan only so long as it continues  
2 to be an approved company under contract with the Board.

3 (d) Teacher direction. Teachers who are participating in  
4 the program must be allowed to direct the transfer of their  
5 account balances among the various investment options offered,  
6 subject to applicable contractual provisions. The participant  
7 shall not be deemed a fiduciary by reason of providing such  
8 investment direction. A person who is a fiduciary shall not be  
9 liable for any loss resulting from such investment direction  
10 and shall not be deemed to have breached any fiduciary duty by  
11 acting in accordance with that direction. Neither the System  
12 nor the employer guarantees any of the investments in the  
13 teacher's account balances.

14 (e) Participation. To participate in the self-managed  
15 plan, an eligible teacher must make a written election in  
16 accordance with Section 16-153.6 and the procedures  
17 established by the System. Participation in the self-managed  
18 plan by an electing teacher shall begin on the first day of the  
19 first pay period following the later of (i) the date the  
20 teacher's election is filed with the System or (ii) the  
21 effective date on which the teacher's employer begins to offer  
22 participation in the self-managed plan. A teacher's  
23 participation in the traditional benefit package under this  
24 Article shall terminate on the date that participation in the  
25 self-managed plan begins.

26 A teacher who has elected to participate in the

1 self-managed plan must continue participation while employed  
2 in an eligible position, and may not participate in the  
3 traditional benefit package while employed by that employer or  
4 any other employer that has adopted the self-managed plan,  
5 unless the self-managed plan is terminated.

6 Participation in the self-managed plan under this Section  
7 shall constitute membership in the System.

8 A participant under this Section shall be entitled to the  
9 benefits of Article 20 of this Code.

10 (f) Initial account balance. If at the time a teacher  
11 elects to participate in the self-managed plan he or she has  
12 rights and credits in the System due to previous participation  
13 in the traditional benefit package, the System shall establish  
14 for the teacher an opening account balance in the self-managed  
15 plan, equal to the amount of contribution refund that the  
16 teacher would be eligible to receive under Section 16-138 if  
17 the teacher terminated employment on that date and elected a  
18 refund of contributions, except that this hypothetical refund  
19 shall include interest at the effective rate for the respective  
20 years. The System shall transfer assets from the defined  
21 benefit retirement program to the self-managed plan as a tax  
22 free transfer in accordance with Internal Revenue Service  
23 guidelines, for purposes of funding the teacher's opening  
24 account balance.

25 (g) Service credit. Notwithstanding any other provision of  
26 this Article, a teacher may not purchase or receive service or



1 service credit applicable to any other retirement program  
2 administered by the System under this Article for any period  
3 during which the teacher was a participant in the self-managed  
4 plan established under this Section.

5 (h) Contributions. The self-managed plan shall be funded by  
6 contributions from teachers participating in the self-managed  
7 plan and employer contributions as provided in this Section.

8 The contribution rate for teachers participating in the  
9 self-managed plan shall be equal to the teacher contribution  
10 rate for other participants in the System, as provided in  
11 Section 16-152. This required contribution shall be made as an  
12 "employer pick-up" under Section 414(h) of the Internal Revenue  
13 Code of 1986 or any successor Section thereof. Any teacher  
14 participating in the System's traditional benefit package  
15 prior to his or her election to participate in the self-managed  
16 plan shall continue to have the employer pick up the  
17 contributions required under Section 16-152. However, the  
18 amounts picked up after the election of the self-managed plan  
19 shall be remitted to and treated as assets of the self-managed  
20 plan. In no event shall a teacher have an option of receiving  
21 these amounts in cash. A teacher may make additional  
22 contributions to the self-managed plan in accordance with  
23 procedures prescribed by the System, to the extent permitted  
24 under rules prescribed by the System.

25 The program shall provide for employer contributions to be  
26 credited to each self-managed plan participant at a rate of

1 7.6% of the participating teacher's salary, less the amount  
2 used by the System to provide disability benefits for the  
3 teacher. The amounts so credited shall be paid into the  
4 participant's self-managed plan accounts in a manner to be  
5 prescribed by the System.

6 An amount of employer contribution, not exceeding 1% of the  
7 participating teacher's salary, shall be used for the purpose  
8 of providing the disability benefits of the System to the  
9 teacher. Prior to the beginning of each plan year under the  
10 self-managed plan, the Board of Trustees shall determine, as a  
11 percentage of salary, the amount of employer contributions to  
12 be allocated during that plan year for providing disability  
13 benefits for teachers in the self-managed plan.

14 The State of Illinois shall make contributions by  
15 appropriations to the System of the employer contributions  
16 required for teachers who participate in the self-managed plan  
17 under this Section. The amount required shall be certified by  
18 the Board of Trustees of the System and paid by the State in  
19 accordance with Section 16-158. The System shall not be  
20 obligated to remit the required employer contributions to any  
21 of the insurance and annuity companies, mutual fund companies,  
22 banks, trust companies, financial institutions, or other  
23 sponsors of any of the funding vehicles offered under the  
24 self-managed plan until it has received the required employer  
25 contributions from the State. In the event of a deficiency in  
26 the amount of State contributions, the System shall implement

1 those procedures described in subsection (b-1) of Section  
2 16-158 to obtain the required funding from the Common School  
3 Fund.

4 (i) Vesting; Withdrawal; Return to Service. A participant  
5 in the self-managed plan becomes vested in the employer  
6 contributions credited to his or her accounts in the  
7 self-managed plan on the earliest to occur of the following:  
8 (1) completion of 5 years of service; (2) the death of the  
9 teacher while employed as a teacher, if the participant has  
10 completed at least 1 1/2 years of service; or (3) the  
11 participant's election to retire and apply the reciprocal  
12 provisions of Article 20 of this Code.

13 A participant in the self-managed plan who receives a  
14 distribution of his or her vested amounts from the self-managed  
15 plan while not yet eligible for retirement under this Article  
16 (and Article 20, if applicable) shall forfeit all service  
17 credit and accrued rights in the System; if subsequently  
18 re-employed, the participant shall be considered a new teacher.  
19 If a former participant again becomes a participating teacher  
20 (or becomes employed by a participating system under Article 20  
21 of this Code) and continues as such for at least 2 years, all  
22 such rights, service credits, and previous status as a  
23 participant shall be restored upon repayment of the amount of  
24 the distribution, without interest.

25 (k) Benefit amounts. If a teacher who is vested in employer  
26 contributions terminates employment, the teacher shall be

1 entitled to a benefit that is based on the account values  
2 attributable to both employer and teacher contributions and any  
3 investment return thereon.

4 If a teacher who is not vested in employer contributions  
5 terminates employment, the teacher shall be entitled to a  
6 benefit based solely on the account values attributable to the  
7 teacher's contributions and any investment return thereon, and  
8 the employer contributions and any investment return thereon  
9 shall be forfeited. Any employer contributions that are  
10 forfeited shall be held in escrow by the company investing  
11 those contributions and shall be used as directed by the System  
12 for future allocations of employer contributions or for the  
13 restoration of amounts previously forfeited by former  
14 participants who again become participating teachers.

15 (40 ILCS 5/16-203)

16 Sec. 16-203. Application and expiration of new benefit  
17 increases.

18 (a) As used in this Section, "new benefit increase" means  
19 an increase in the amount of any benefit provided under this  
20 Article, or an expansion of the conditions of eligibility for  
21 any benefit under this Article, that results from an amendment  
22 to this Code that takes effect after June 1, 2005 (the  
23 effective date of Public Act 94-4). "New benefit increase",  
24 however, does not include any benefit increase resulting from  
25 the changes made to this Article by Public Act 95-910 or this

1 amendatory Act of the 98th ~~95th~~ General Assembly.

2 (b) Notwithstanding any other provision of this Code or any  
3 subsequent amendment to this Code, every new benefit increase  
4 is subject to this Section and shall be deemed to be granted  
5 only in conformance with and contingent upon compliance with  
6 the provisions of this Section.

7 (c) The Public Act enacting a new benefit increase must  
8 identify and provide for payment to the System of additional  
9 funding at least sufficient to fund the resulting annual  
10 increase in cost to the System as it accrues.

11 Every new benefit increase is contingent upon the General  
12 Assembly providing the additional funding required under this  
13 subsection. The Commission on Government Forecasting and  
14 Accountability shall analyze whether adequate additional  
15 funding has been provided for the new benefit increase and  
16 shall report its analysis to the Public Pension Division of the  
17 Department of Financial and Professional Regulation. A new  
18 benefit increase created by a Public Act that does not include  
19 the additional funding required under this subsection is null  
20 and void. If the Public Pension Division determines that the  
21 additional funding provided for a new benefit increase under  
22 this subsection is or has become inadequate, it may so certify  
23 to the Governor and the State Comptroller and, in the absence  
24 of corrective action by the General Assembly, the new benefit  
25 increase shall expire at the end of the fiscal year in which  
26 the certification is made.

1           (d) Every new benefit increase shall expire 5 years after  
2 its effective date or on such earlier date as may be specified  
3 in the language enacting the new benefit increase or provided  
4 under subsection (c). This does not prevent the General  
5 Assembly from extending or re-creating a new benefit increase  
6 by law.

7           (e) Except as otherwise provided in the language creating  
8 the new benefit increase, a new benefit increase that expires  
9 under this Section continues to apply to persons who applied  
10 and qualified for the affected benefit while the new benefit  
11 increase was in effect and to the affected beneficiaries and  
12 alternate payees of such persons, but does not apply to any  
13 other person, including without limitation a person who  
14 continues in service after the expiration date and did not  
15 apply and qualify for the affected benefit while the new  
16 benefit increase was in effect.

17           (Source: P.A. 94-4, eff. 6-1-05; 95-910, eff. 8-26-08.)

18           (40 ILCS 5/20-121) (from Ch. 108 1/2, par. 20-121)

19           Sec. 20-121. Calculation of proportional retirement  
20 annuities. Upon retirement of the employee, a proportional  
21 retirement annuity shall be computed by each participating  
22 system in which pension credit has been established on the  
23 basis of pension credits under each system. The computation  
24 shall be in accordance with the formula or method prescribed by  
25 each participating system which is in effect at the date of the

1 employee's latest withdrawal from service covered by any of the  
2 systems in which he has pension credits which he elects to have  
3 considered under this Article. However, the amount of any  
4 retirement annuity payable under the self-managed plan  
5 established under Section 15-158.2 or 16-153.7 of this Code  
6 depends solely on the value of the participant's vested account  
7 balances and is not subject to any proportional adjustment  
8 under this Section.

9 Combined pension credit under all retirement systems  
10 subject to this Article shall be considered in determining  
11 whether the minimum qualification has been met and the formula  
12 or method of computation which shall be applied. If a system  
13 has a step-rate formula for calculation of the retirement  
14 annuity, pension credits covering previous service which have  
15 been established under another system shall be considered in  
16 determining which range or ranges of the step-rate formula are  
17 to be applicable to the employee.

18 Interest on pension credit shall continue to accumulate in  
19 accordance with the provisions of the law governing the  
20 retirement system in which the same has been established during  
21 the time an employee is in the service of another employer, on  
22 the assumption such employee, for interest purposes for pension  
23 credit, is continuing in the service covered by such retirement  
24 system.

25 (Source: P.A. 91-887, eff. 7-6-00.)

1 (40 ILCS 5/20-123) (from Ch. 108 1/2, par. 20-123)

2 Sec. 20-123. Survivor's annuity. The provisions governing  
3 a retirement annuity shall be applicable to a survivor's  
4 annuity. Appropriate credits shall be established for  
5 survivor's annuity purposes in those participating systems  
6 which provide survivor's annuities, according to the same  
7 conditions and subject to the same limitations and restrictions  
8 herein prescribed for a retirement annuity. If a participating  
9 system has no survivor's annuity benefit, or if the survivor's  
10 annuity benefit under that system is waived, pension credit  
11 established in that system shall not be considered in  
12 determining eligibility for or the amount of the survivor's  
13 annuity which may be payable by any other participating system.

14 For persons who participate in the self-managed plan  
15 established under Section 15-158.2 or the portable benefit  
16 package established under Section 15-136.4, pension credit  
17 established under Article 15 may be considered in determining  
18 eligibility for or the amount of the survivor's annuity that is  
19 payable by any other participating system, but pension credit  
20 established in any other system shall not result in any right  
21 to a survivor's annuity under the Article 15 system.

22 For persons who participate in the self-managed plan  
23 established under Section 16-153.7, pension credit established  
24 under Article 16 may be considered in determining eligibility  
25 for or the amount of the survivor's annuity that is payable by  
26 any other participating system, but pension credit established



1 in any other system shall not result in any right to a  
2 survivor's annuity under the Article 16 system.

3 (Source: P.A. 91-887, eff. 7-6-00.)

4 (40 ILCS 5/20-124) (from Ch. 108 1/2, par. 20-124)

5 Sec. 20-124. Maximum benefits.

6 (a) In no event shall the combined retirement or survivors  
7 annuities exceed the highest annuity which would have been  
8 payable by any participating system in which the employee has  
9 pension credits, if all of his pension credits had been  
10 validated in that system.

11 If the combined annuities should exceed the highest maximum  
12 as determined in accordance with this Section, the respective  
13 annuities shall be reduced proportionately according to the  
14 ratio which the amount of each proportional annuity bears to  
15 the aggregate of all such annuities.

16 (b) In the case of a participant in the self-managed plan  
17 established under Section 15-158.2 of this Code to whom the  
18 provisions of this Article apply:

19 (i) For purposes of calculating the combined  
20 retirement annuity and the proportionate reduction, if  
21 any, in a retirement annuity other than one payable under  
22 the self-managed plan, the amount of the Article 15  
23 retirement annuity shall be deemed to be the highest  
24 annuity to which the annuitant would have been entitled if  
25 he or she had participated in the traditional benefit

1 package as defined in Section 15-103.1 rather than the  
2 self-managed plan.

3 (ii) For purposes of calculating the combined  
4 survivor's annuity and the proportionate reduction, if  
5 any, in a survivor's annuity other than one payable under  
6 the self-managed plan, the amount of the Article 15  
7 survivor's annuity shall be deemed to be the highest  
8 survivor's annuity to which the survivor would have been  
9 entitled if the deceased employee had participated in the  
10 traditional benefit package as defined in Section 15-103.1  
11 rather than the self-managed plan.

12 (iii) Benefits payable under the self-managed plan are  
13 not subject to proportionate reduction under this Section.

14 (c) In the case of a participant in the self-managed plan  
15 established under Section 16-153.7 of this Code to whom the  
16 provisions of this Article apply:

17 (i) For purposes of calculating the combined  
18 retirement annuity and the proportionate reduction, if  
19 any, in a retirement annuity other than one payable under a  
20 self-managed plan, the amount of the Article 16 retirement  
21 annuity shall be deemed to be the highest annuity to which  
22 the annuitant would have been entitled if he or she had  
23 participated in the traditional benefit package instead of  
24 in the self-managed plan.

25 (ii) For purposes of calculating the combined  
26 survivor's annuity and the proportionate reduction, if

1       any, in a survivor's annuity other than one payable under a  
2       self-managed plan, the amount of the Article 16 survivor's  
3       annuity shall be deemed to be the highest survivor's  
4       annuity to which the survivor would have been entitled if  
5       the deceased person had participated in the traditional  
6       benefit package instead of in the self-managed plan.

7       (iii) Benefits payable under the self-managed plan are  
8       not subject to proportionate reduction under this Section.

9       (Source: P.A. 91-887, eff. 7-6-00.)

10       (40 ILCS 5/20-125) (from Ch. 108 1/2, par. 20-125)

11       Sec. 20-125. Return to employment - suspension of benefits.  
12       If a retired employee returns to employment which is covered by  
13       a system from which he is receiving a proportional annuity  
14       under this Article, his proportional annuity from all  
15       participating systems shall be suspended during the period of  
16       re-employment, except that this suspension does not apply to  
17       any distributions payable under the self-managed plan  
18       established under Section 15-158.2 or 16-153.7 of this Code.

19       The provisions of the Article under which such employment  
20       would be covered shall govern the determination of whether the  
21       employee has returned to employment, and if applicable the  
22       exemption of temporary employment or employment not exceeding a  
23       specified duration or frequency, for all participating systems  
24       from which the retired employee is receiving a proportional  
25       annuity under this Article, notwithstanding any contrary

1 provisions in the other Articles governing such systems.

2 (Source: P.A. 91-887, eff. 7-6-00.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.