



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2362

Introduced 1/28/2016, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-158.2

Amends the State Universities Article of the Illinois Pension Code. Requires the System to provide advance notice to a participant in the self-managed plan of the participant's obligation to direct the investment of employee and employer contributions into one or more investment funds selected by the System at the time he or she makes his or her initial retirement plan selection. Provides that if a participant in the self-managed plan fails to direct the investment of employee and employer contributions into the various investment options offered to the participant when making his or her initial retirement election choice, the System shall invest the employee and employer contributions in a default investment fund on behalf of the participant, and the investment shall be deemed to have been made at the participant's investment direction. Provides that the participant has the right to transfer account balances out of the default investment fund during time periods designated by the System. Effective immediately.

LRB099 17070 RPS 41428 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 Section 15-158.2 as follows:

6 (40 ILCS 5/15-158.2)

7 Sec. 15-158.2. Self-managed plan.

8 (a) Purpose. The General Assembly finds that it is
9 important for colleges and universities to be able to attract
10 and retain the most qualified employees and that in order to
11 attract and retain these employees, colleges and universities
12 should have the flexibility to provide a defined contribution
13 plan as an alternative for eligible employees who elect not to
14 participate in a defined benefit retirement program provided
15 under this Article. Accordingly, the State Universities
16 Retirement System is hereby authorized to establish and
17 administer a self-managed plan, which shall offer
18 participating employees the opportunity to accumulate assets
19 for retirement through a combination of employee and employer
20 contributions that may be invested in mutual funds, collective
21 investment funds, or other investment products and used to
22 purchase annuity contracts, either fixed or variable or a
23 combination thereof. The plan must be qualified under the

1 Internal Revenue Code of 1986.

2 (b) Adoption by employers. Each employer subject to this
3 Article may elect to adopt the self-managed plan established
4 under this Section; this election is irrevocable. An employer's
5 election to adopt the self-managed plan makes available to the
6 eligible employees of that employer the elections described in
7 Section 15-134.5.

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

18 (c) Selection of service providers and funding vehicles.
19 The System, in consultation with the employers, shall solicit
20 proposals to provide administrative services and funding
21 vehicles for the self-managed plan from insurance and annuity
22 companies and mutual fund companies, banks, trust companies, or
23 other financial institutions authorized to do business in this
24 State. In reviewing the proposals received and approving and
25 contracting with no fewer than 2 and no more than 7 companies,
26 the Board of Trustees of the System shall consider, among other

1 things, the following criteria:

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

4 (2) the reasonableness of the benefits in relation to
5 the premium charged;

6 (3) the suitability of the benefits to the needs and
7 interests of the participating employees and the employer;

8 (4) the ability of the company to provide benefits
9 under the contract and the financial stability of the
10 company; and

11 (5) the efficacy of the contract in the recruitment and
12 retention of employees.

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

18 (d) Employee Direction. Employees who are participating in
19 the program must be allowed to direct the transfer of their
20 account balances among the various investment options offered,
21 subject to applicable contractual provisions. The participant
22 shall not be deemed a fiduciary by reason of providing such
23 investment direction. A person who is a fiduciary shall not be
24 liable for any loss resulting from such investment direction
25 and shall not be deemed to have breached any fiduciary duty by
26 acting in accordance with that direction. The System shall

1 provide advance notice to the participant of the participant's
2 obligation to direct the investment of employee and employer
3 contributions into one or more investment funds selected by the
4 System at the time he or she makes his or her initial
5 retirement plan selection. If a participant fails to direct the
6 investment of employee and employer contributions into the
7 various investment options offered to the participant when
8 making his or her initial retirement election choice, that
9 failure shall require the System to invest the employee and
10 employer contributions in a default investment fund on behalf
11 of the participant, and the investment shall be deemed to have
12 been made at the participant's investment direction. The
13 participant has the right to transfer account balances out of
14 the default investment fund during time periods designated by
15 the System. Neither the System nor the employer guarantees any
16 of the investments in the employee's account balances.

17 (e) Participation. An employee eligible to participate in
18 the self-managed plan must make a written election in
19 accordance with the provisions of Section 15-134.5 and the
20 procedures established by the System. Participation in the
21 self-managed plan by an electing employee shall begin on the
22 first day of the first pay period following the later of the
23 date the employee's election is filed with the System or the
24 effective date as of which the employee's employer begins to
25 offer participation in the self-managed plan. Employers may not
26 make the self-managed plan available earlier than January 1,

1 1998. An employee's participation in any other retirement
2 program administered by the System under this Article shall
3 terminate on the date that participation in the self-managed
4 plan begins.

5 An employee who has elected to participate in the
6 self-managed plan under this Section must continue
7 participation while employed in an eligible position, and may
8 not participate in any other retirement program administered by
9 the System under this Article while employed by that employer
10 or any other employer that has adopted the self-managed plan,
11 unless the self-managed plan is terminated in accordance with
12 subsection (i).

13 Notwithstanding any other provision of this Article, a Tier
14 2 member shall have the option to enroll in the self-managed
15 plan.

16 Participation in the self-managed plan under this Section
17 shall constitute membership in the State Universities
18 Retirement System.

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

21 (f) Establishment of Initial Account Balance. If at the
22 time an employee elects to participate in the self-managed plan
23 he or she has rights and credits in the System due to previous
24 participation in the traditional benefit package, the System
25 shall establish for the employee an opening account balance in
26 the self-managed plan, equal to the amount of contribution

1 refund that the employee would be eligible to receive under
2 Section 15-154 if the employee terminated employment on that
3 date and elected a refund of contributions, except that this
4 hypothetical refund shall include interest at the effective
5 rate for the respective years. The System shall transfer assets
6 from the defined benefit retirement program to the self-managed
7 plan, as a tax free transfer in accordance with Internal
8 Revenue Service guidelines, for purposes of funding the
9 employee's opening account balance.

10 (g) No Duplication of Service Credit. Notwithstanding any
11 other provision of this Article, an employee may not purchase
12 or receive service or service credit applicable to any other
13 retirement program administered by the System under this
14 Article for any period during which the employee was a
15 participant in the self-managed plan established under this
16 Section.

17 (h) Contributions. The self-managed plan shall be funded by
18 contributions from employees participating in the self-managed
19 plan and employer contributions as provided in this Section.

20 The contribution rate for employees participating in the
21 self-managed plan under this Section shall be equal to the
22 employee contribution rate for other participants in the
23 System, as provided in Section 15-157. This required
24 contribution shall be made as an "employer pick-up" under
25 Section 414(h) of the Internal Revenue Code of 1986 or any
26 successor Section thereof. Any employee participating in the

1 System's traditional benefit package prior to his or her
2 election to participate in the self-managed plan shall continue
3 to have the employer pick up the contributions required under
4 Section 15-157. However, the amounts picked up after the
5 election of the self-managed plan shall be remitted to and
6 treated as assets of the self-managed plan. In no event shall
7 an employee have an option of receiving these amounts in cash.
8 Employees may make additional contributions to the
9 self-managed plan in accordance with procedures prescribed by
10 the System, to the extent permitted under rules prescribed by
11 the System.

12 The program shall provide for employer contributions to be
13 credited to each self-managed plan participant at a rate of
14 7.6% of the participating employee's salary, less the amount
15 used by the System to provide disability benefits for the
16 employee. The amounts so credited shall be paid into the
17 participant's self-managed plan accounts in a manner to be
18 prescribed by the System.

19 An amount of employer contribution, not exceeding 1% of the
20 participating employee's salary, shall be used for the purpose
21 of providing the disability benefits of the System to the
22 employee. Prior to the beginning of each plan year under the
23 self-managed plan, the Board of Trustees shall determine, as a
24 percentage of salary, the amount of employer contributions to
25 be allocated during that plan year for providing disability
26 benefits for employees in the self-managed plan.

1 The State of Illinois shall make contributions by
2 appropriations to the System of the employer contributions
3 required for employees who participate in the self-managed plan
4 under this Section. The amount required shall be certified by
5 the Board of Trustees of the System and paid by the State in
6 accordance with Section 15-165. The System shall not be
7 obligated to remit the required employer contributions to any
8 of the insurance and annuity companies, mutual fund companies,
9 banks, trust companies, financial institutions, or other
10 sponsors of any of the funding vehicles offered under the
11 self-managed plan until it has received the required employer
12 contributions from the State. In the event of a deficiency in
13 the amount of State contributions, the System shall implement
14 those procedures described in subsection (c) of Section 15-165
15 to obtain the required funding from the General Revenue Fund.

16 (i) Termination. The self-managed plan authorized under
17 this Section may be terminated by the System, subject to the
18 terms of any relevant contracts, and the System shall have no
19 obligation to reestablish the self-managed plan under this
20 Section. This Section does not create a right to continued
21 participation in any self-managed plan set up by the System
22 under this Section. If the self-managed plan is terminated, the
23 participants shall have the right to participate in one of the
24 other retirement programs offered by the System and receive
25 service credit in such other retirement program for any years
26 of employment following the termination.

1 (j) Vesting; Withdrawal; Return to Service. A participant
2 in the self-managed plan becomes vested in the employer
3 contributions credited to his or her accounts in the
4 self-managed plan on the earliest to occur of the following:
5 (1) completion of 5 years of service with an employer described
6 in Section 15-106; (2) the death of the participating employee
7 while employed by an employer described in Section 15-106, if
8 the participant has completed at least 1 1/2 years of service;
9 or (3) the participant's election to retire and apply the
10 reciprocal provisions of Article 20 of this Code.

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

23 (k) Benefit amounts. If an employee who is vested in
24 employer contributions terminates employment, the employee
25 shall be entitled to a benefit which is based on the account
26 values attributable to both employer and employee

1 contributions and any investment return thereon.

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

13 (Source: P.A. 98-92, eff. 7-16-13.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.