

AN ACT concerning public employee benefits.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Pension Code is amended by changing Sections 15-202, 16-204, and 24-102 as follows:

(40 ILCS 5/15-202)

Sec. 15-202. Optional deferred compensation plan ~~defined contribution benefit.~~

(a) As soon as practicable after August 10, 2018 (the effective date of Public Act 100-769) this amendatory Act of the 100th General Assembly, the System shall offer a deferred compensation plan that is eligible under Section 457(b) of the Internal Revenue Code of 1986, as amended, defined contribution benefit to participating employees active members of the System employed by employers described in Section 15-106 of this Code that qualify as eligible employers under Section 457(e)(1)(A) of the Internal Revenue Code of 1986, as amended. Such eligible employers shall adopt the plan with an effective date no later than September 1, 2021. Participating employees may voluntarily elect to make elective deferrals to the eligible deferred compensation plan. Eligible employers may make optional employer contributions to the plan on behalf of participating employees, which contributions may be

maintained, increased, reduced, or eliminated at the discretion of the employer from plan year to plan year. ~~The defined contribution benefit shall be an optional benefit to any member who chooses to participate.~~ The plan defined ~~contribution benefit~~ shall collect voluntary ~~optional~~ employee and optional employer contributions into an account for each participant and shall offer investment options to the participant. The plan ~~benefit~~ under this Section shall be operated in full compliance with any applicable State and federal laws, and the System shall utilize generally accepted practices in creating and maintaining the plan ~~benefit~~ for the best interest of the participants. The System may use funds from the employee and employer contributions to defray any and all costs of creating and maintaining the plan ~~benefit~~. The System shall produce an annual report on the participation in the plan ~~benefit~~ and shall make the report public.

(b) The System shall automatically enroll in the eligible deferred compensation plan any employee of an eligible employer who first becomes a participating employee of the System on or after July 1, 2023 under an eligible automatic contribution arrangement that is subject to Section 414(w) of the Internal Revenue Code of 1986, as amended, and the United States Department of Treasury regulations promulgated thereunder. An employee who is automatically enrolled under this subsection (b) shall have 3% of his or her compensation, as defined by the plan, for each pay period deferred on a

pre-tax basis into his or her account, subject to any contribution limits applicable to the plan. The Board may increase the default percentage of compensation deferred under this subsection (b).

An employee shall have 30 days from the date on which the System provides the notice required under Section 414(w) of the Internal Revenue Code of 1986, as amended, to elect to not participate in the eligible deferred compensation plan or to elect to increase or reduce the initial amount of elective deferrals made to the plan. In the absence of such affirmative election, the employee shall be automatically enrolled in the plan on the first day of the calendar month, or as soon as administratively practicable thereafter, following the 30th day from the date on which the System provides the required notice. An employee who has been automatically enrolled in the plan under this subsection (b) may elect, within 90 days of enrollment, to withdraw from the plan and receive a refund of amounts deferred, adjusted by applicable earnings and fees. An employee making such an election shall forfeit all employer matching contributions, if any, made with respect to such refunded elective deferrals and such forfeited amounts shall be used to defray plan expenses. Any refunded elective deferrals shall be included in the employee's gross income for the taxable year in which the refund is issued.

(c) The System may provide for one or more automatic contribution arrangements, which shall comply with all

applicable Internal Revenue Service rules and regulations, in conjunction with or in lieu of the eligible automatic contribution arrangement under subsection (b), for participating employees of eligible employers whose annual earnings are limited by application of subsection (b) of Section 15-111 of this Code. The amount of elective deferrals made for the employee each pay period under an automatic contribution arrangement shall equal the default percentage specified by resolution of the Board multiplied by the employee's compensation as defined by the plan, subject to any contribution limits applicable to the plan, and shall be made on a pre-tax basis. An employee subject to this subsection (c) shall have 30 days from the date on which the System provides written notice to the employee to elect to not participate in the eligible deferred compensation plan or to elect to increase or reduce the amount of initial elective deferrals made to the plan. In the absence of such affirmative election, the employee shall be automatically enrolled in the plan beginning the first day of the calendar month, or as soon as administratively practicable thereafter, following the 30th day from the date on which the System provides the required notice.

(d) The System may provide that the default percentage for any employee automatically enrolled in the eligible deferred compensation plan under subsection (b) or (c) be increased by a specified percentage each plan year after the plan year in

which the employee is automatically enrolled in the plan. The amount of automatic annual increases in any plan year shall not exceed 1% of compensation as defined by the plan.

(e) The changes made to this Section by this amendatory Act of the 102nd General Assembly are corrections of existing law and are intended to be retroactive to the effective date of Public Act 100-769, notwithstanding Section 1-103.1 of this Code.

(Source: P.A. 100-769, eff. 8-10-18.)

(40 ILCS 5/16-204)

Sec. 16-204. Optional defined contribution benefit. As soon as practicable after the effective date of this amendatory Act of the 100th General Assembly, the System shall offer a defined contribution benefit to active members of the System. The defined contribution benefit shall be an optional benefit to any member who chooses to participate. The defined contribution benefit shall collect optional employee and optional employer contributions into an account and shall offer investment options to the participant. The benefit under this Section shall be operated in full compliance with any applicable State and federal laws, and the System shall utilize generally accepted practices in creating and maintaining the benefit for the best interest of the participants. The System may use funds from the employee and employer contributions to defray any and all costs of creating

and maintaining the benefit. In addition, the System may use funds provided under Section 16-158 of this Code to defray any and all costs of creating and maintaining the benefit and then shall reimburse those costs from funds received from the employee and employer contributions under this Section. All employers must comply with the reporting and administrative functions established by the System and are required to implement the benefits established under this Section. The System shall produce an annual report on the participation in the benefit and shall make the report public.

As soon as is practicable on or after January 1, 2022, the System shall automatically enroll any employee who first becomes an active member or participant in the System. A member automatically enrolled under this Section shall have 3% of his or her pre-tax gross compensation for each compensation period deferred into his or her deferred compensation account, unless the member otherwise instructs the System on forms approved by the System. A member may elect, in a manner provided for by the System, to not participate in the defined contribution benefit or to increase or reduce the amount of pre-tax gross compensation contributed, consistent with State or federal law. A member shall be automatically enrolled in the benefit beginning the first day of the pay period following the member's 30th day of employment. A member who has been automatically enrolled in the benefit may elect, within 90 days of enrollment, to withdraw from the benefit and

receive a refund of amounts deferred, plus or minus any applicable earnings, investment fees, and administrative fees. Any refunded amount shall be included in the member's gross income for the taxable year in which the refund is issued.

On or after January 1, 2023, the System may elect to increase the automatic annual contributions under this Section. The increase in the rate of contribution, however, shall not exceed 2% of a member's pre-tax gross compensation per year, and at no time shall any total contribution exceed any contribution limits established by State or federal law.

(Source: P.A. 100-769, eff. 8-10-18.)

(40 ILCS 5/24-102) (from Ch. 108 1/2, par. 24-102)

Sec. 24-102. As used in this Article, "employee" means any person, including a person elected, appointed or under contract, receiving compensation from the State or a unit of local government or school district for personal services rendered, including salaried persons. However, "employee", for the purposes of the State Employees Deferred Compensation Plan established under Section 24-104, does not include a person employed by an employer under Section 15-106 who first becomes a participant of the retirement system under Article 15 on or after July 1, 2023 unless the person has made an election to defer compensation into the State Employees Deferred Compensation Plan under a written agreement and the deferral election is in effect as of June 30, 2023. A health care

provider who elects to participate in the State Employees Deferred Compensation Plan established under Section 24-104 of this Code shall, for purposes of that participation, be deemed an "employee" as defined in this Section.

As used in this Article, "health care provider" means a dentist, physician, optometrist, pharmacist, or podiatric physician that participates and receives compensation as a provider under the Illinois Public Aid Code, the Children's Health Insurance Act, or the Covering ALL KIDS Health Insurance Act.

As used in this Article, "compensation" includes compensation received in a lump sum for accumulated unused vacation, personal leave or sick leave, with the exception of health care providers. "Compensation" with respect to health care providers is defined under the Illinois Public Aid Code, the Children's Health Insurance Act, or the Covering ALL KIDS Health Insurance Act.

Where applicable, in no event shall the total of the amount of deferred compensation of an employee set aside in relation to a particular year under the Illinois State Employees Deferred Compensation Plan and the employee's nondeferred compensation for that year exceed the total annual salary or compensation under the existing salary schedule or classification plan applicable to such employee in such year; except that any compensation received in a lump sum for accumulated unused vacation, personal leave or sick leave

shall not be included in the calculation of such totals.

(Source: P.A. 98-214, eff. 8-9-13.)

Section 90. The State Mandates Act is amended by adding Section 8.45 as follows:

(30 ILCS 805/8.45 new)

Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 102nd General Assembly.

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