

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 1-109, 7-105, 7-135, 7-172, and 7-174 as follows:

(40 ILCS 5/1-109) (from Ch. 108 1/2, par. 1-109)

Sec. 1-109. Duties of fiduciaries. A fiduciary with respect to a retirement system or pension fund established under this Code shall discharge his or her duties with respect to the retirement system or pension fund solely in the interest of the participants and beneficiaries and:

(a) for the exclusive purpose of:

(1) providing benefits to participants and their beneficiaries; and

(2) defraying reasonable expenses of administering the retirement system or pension fund;

(b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person ~~man~~ acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims;

(c) by diversifying the investments of the retirement

system or pension fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) in accordance with the provisions of the Article of this Code governing the retirement system or pension fund.

(Source: P.A. 102-558, eff. 8-20-21.)

(40 ILCS 5/7-105) (from Ch. 108 1/2, par. 7-105)

Sec. 7-105. "Municipality": A city, village, incorporated town, county, township; a Financial Oversight Panel established pursuant to Article 1H of the School Code; and any school, park, sanitary, road, forest preserve, water, fire protection, public health, river conservancy, mosquito abatement, tuberculosis sanitarium, public community college district, or other local district with general continuous power to levy taxes on the property within such district; now existing or hereafter created within the State; and, for the purposes of providing annuities and benefits to its employees, the fund itself.

(Source: P.A. 97-429, eff. 8-16-11.)

(40 ILCS 5/7-135) (from Ch. 108 1/2, par. 7-135)

Sec. 7-135. Authorized agents.

(a) Each participating municipality and participating instrumentality shall appoint an authorized agent who shall

have the powers and duties set forth in this section. In absence of such appointment, the duties of the authorized agent shall devolve upon the clerk or secretary of the municipality or instrumentality, the township supervisor in the case of a township, and in the case of township school trustees upon the township school treasurer.

(b) The authorized agent shall have the following powers and duties:

1. To certify to the fund whether or not a given person is authorized to participate in the fund;

2. To certify to the fund when a participating employee is on a leave of absence authorized by the municipality;

3. To request the proper officer to cause employee contributions to be withheld from earnings and transmitted to the fund;

4. To request the proper officer to cause municipality contributions to be forwarded to the fund promptly;

5. To forward promptly to all participating employees any communications from the fund for such employees;

6. To forward promptly to the fund all applications, claims, reports and other communications delivered to him by participating employees;

7. To perform all duties related to the administration of this retirement system as requested by the fund and the governing body of his municipality.

(c) The governing body of each participating municipality and participating instrumentality may delegate any or all of the following powers and duties to its authorized agent:

1. To file a petition for nomination of an executive trustee of the fund.

2. To cast the ballot for election of an executive trustee of the fund.

If a governing body does not authorize its agent to perform the powers and duties set forth in this paragraph (c), they shall be performed by the governing body itself, unless the governing body by resolution duly certified to the fund delegates them to some other officer or employee.

(d) The delivery of any communication or document by an employee or a participating municipality or participating instrumentality to its authorized agent shall not constitute delivery to the fund.

(e) All authorized agents appointed on or after the effective date of this amendatory Act of the 103rd General Assembly must complete a course of training regarding the duties and responsibilities of being an authorized agent no less than 3 months after his or her initial appointment. Such training must be provided by the Fund and made available online to all authorized agents no less than quarterly at no cost to the authorized agent or his or her employer.

(Source: P.A. 97-328, eff. 8-12-11; 97-609, eff. 1-1-12; 98-218, eff. 8-9-13.)

(40 ILCS 5/7-172) (from Ch. 108 1/2, par. 7-172)

Sec. 7-172. Contributions by participating municipalities and participating instrumentalities.

(a) Each participating municipality and each participating instrumentality shall make payment to the fund as follows:

1. municipality contributions in an amount determined by applying the municipality contribution rate to each payment of earnings paid to each of its participating employees;

2. an amount equal to the employee contributions provided by paragraph (a) of Section 7-173, whether or not the employee contributions are withheld as permitted by that Section;

3. all accounts receivable, together with interest charged thereon, as provided in Section 7-209, and any amounts due under subsection (a-5) of Section 7-144;

4. if it has no participating employees with current earnings, an amount payable which, over a closed period of 20 years for participating municipalities and 10 years for participating instrumentalities, will amortize, at the effective rate for that year, any unfunded obligation. The unfunded obligation shall be computed as provided in paragraph 2 of subsection (b);

5. if it has fewer than 7 participating employees or a negative balance in its municipality reserve, the greater

of (A) an amount payable that, over a period of 20 years, will amortize at the effective rate for that year any unfunded obligation, computed as provided in paragraph 2 of subsection (b) or (B) the amount required by paragraph 1 of this subsection (a).

(b) A separate municipality contribution rate shall be determined for each calendar year for all participating municipalities together with all instrumentalities thereof. The municipality contribution rate shall be determined for participating instrumentalities as if they were participating municipalities. The municipality contribution rate shall be the sum of the following percentages:

1. The percentage of earnings of all the participating employees of all participating municipalities and participating instrumentalities which, if paid over the entire period of their service, will be sufficient when combined with all employee contributions available for the payment of benefits, to provide all annuities for participating employees, and the \$3,000 death benefit payable under Sections 7-158 and 7-164, such percentage to be known as the normal cost rate.

2. The percentage of earnings of the participating employees of each participating municipality and participating instrumentalities necessary to adjust for the difference between the present value of all benefits, excluding temporary and total and permanent disability and

death benefits, to be provided for its participating employees and the sum of its accumulated municipality contributions and the accumulated employee contributions and the present value of expected future employee and municipality contributions pursuant to subparagraph 1 of this paragraph (b). This adjustment shall be spread over a period determined by the Board, not to exceed 30 years for participating municipalities or 10 years for participating instrumentalities.

3. The percentage of earnings of the participating employees of all municipalities and participating instrumentalities necessary to provide the present value of all temporary and total and permanent disability benefits granted during the most recent year for which information is available.

4. The percentage of earnings of the participating employees of all participating municipalities and participating instrumentalities necessary to provide the present value of the net single sum death benefits expected to become payable from the reserve established under Section 7-206 during the year for which this rate is fixed.

5. The percentage of earnings necessary to meet any deficiency arising in the Terminated Municipality Reserve.

(c) A separate municipality contribution rate shall be computed for each participating municipality or participating

instrumentality for its sheriff's law enforcement employees.

A separate municipality contribution rate shall be computed for the sheriff's law enforcement employees of each forest preserve district that elects to have such employees. For the period from January 1, 1986 to December 31, 1986, such rate shall be the forest preserve district's regular rate plus 2%.

In the event that the Board determines that there is an actuarial deficiency in the account of any municipality with respect to a person who has elected to participate in the Fund under Section 3-109.1 of this Code, the Board may adjust the municipality's contribution rate so as to make up that deficiency over such reasonable period of time as the Board may determine.

(d) The Board may establish a separate municipality contribution rate for all employees who are program participants employed under the federal Comprehensive Employment Training Act by all of the participating municipalities and instrumentalities. The Board may also provide that, in lieu of a separate municipality rate for these employees, a portion of the municipality contributions for such program participants shall be refunded or an extra charge assessed so that the amount of municipality contributions retained or received by the fund for all CETA program participants shall be an amount equal to that which would be provided by the separate municipality contribution

rate for all such program participants. Refunds shall be made to prime sponsors of programs upon submission of a claim therefor and extra charges shall be assessed to participating municipalities and instrumentalities. In establishing the municipality contribution rate as provided in paragraph (b) of this Section, the use of a separate municipality contribution rate for program participants or the refund of a portion of the municipality contributions, as the case may be, may be considered.

(e) Computations of municipality contribution rates for the following calendar year shall be made prior to the beginning of each year, from the information available at the time the computations are made, and on the assumption that the employees in each participating municipality or participating instrumentality at such time will continue in service until the end of such calendar year at their respective rates of earnings at such time.

(f) Any municipality which is the recipient of State allocations representing that municipality's contributions for retirement annuity purposes on behalf of its employees as provided in Section 12-21.16 of the Illinois Public Aid Code shall pay the allocations so received to the Board for such purpose. Estimates of State allocations to be received during any taxable year shall be considered in the determination of the municipality's tax rate for that year under Section 7-171. If a special tax is levied under Section 7-171, none of the

proceeds may be used to reimburse the municipality for the amount of State allocations received and paid to the Board. Any multiple-county or consolidated health department which receives contributions from a county under Section 11.2 of "An Act in relation to establishment and maintenance of county and multiple-county health departments", approved July 9, 1943, as amended, or distributions under Section 3 of the Department of Public Health Act, shall use these only for municipality contributions by the health department.

(g) Municipality contributions for the several purposes specified shall, for township treasurers and employees in the offices of the township treasurers who meet the qualifying conditions for coverage hereunder, be allocated among the several school districts and parts of school districts serviced by such treasurers and employees in the proportion which the amount of school funds of each district or part of a district handled by the treasurer bears to the total amount of all school funds handled by the treasurer.

From the funds subject to allocation among districts and parts of districts pursuant to the School Code, the trustees shall withhold the proportionate share of the liability for municipality contributions imposed upon such districts by this Section, in respect to such township treasurers and employees and remit the same to the Board.

The municipality contribution rate for an educational service center shall initially be the same rate for each year

as the regional office of education or school district which serves as its administrative agent. When actuarial data become available, a separate rate shall be established as provided in subparagraph (i) of this Section.

The municipality contribution rate for a public agency, other than a vocational education cooperative, formed under the Intergovernmental Cooperation Act shall initially be the average rate for the municipalities which are parties to the intergovernmental agreement. When actuarial data become available, a separate rate shall be established as provided in subparagraph (i) of this Section.

(h) Each participating municipality and participating instrumentality shall make the contributions in the amounts provided in this Section in the manner prescribed from time to time by the Board and all such contributions shall be obligations of the respective participating municipalities and participating instrumentalities to this fund. The failure to deduct any employee contributions shall not relieve the participating municipality or participating instrumentality of its obligation to this fund. Delinquent payments of contributions due under this Section may, with interest, be recovered by civil action against the participating municipalities or participating instrumentalities. Municipality contributions, other than the amount necessary for employee contributions, for periods of service by employees from whose earnings no deductions were made for

employee contributions to the fund, may be charged to the municipality reserve for the municipality or participating instrumentality.

(i) Contributions by participating instrumentalities shall be determined as provided herein except that the percentage derived under subparagraph 2 of paragraph (b) of this Section, and the amount payable under subparagraph 4 of paragraph (a) of this Section, shall be based on an amortization period of 10 years.

(j) Notwithstanding the other provisions of this Section, the additional unfunded liability accruing as a result of Public Act 94-712 shall be amortized over a period of 30 years beginning on January 1 of the second calendar year following the calendar year in which Public Act 94-712 takes effect, except that the employer may provide for a longer amortization period by adopting a resolution or ordinance specifying a 35-year or 40-year period and submitting a certified copy of the ordinance or resolution to the fund no later than June 1 of the calendar year following the calendar year in which Public Act 94-712 takes effect.

(k) If the amount of a participating employee's reported earnings for any of the 12-month periods used to determine the final rate of earnings exceeds the employee's 12-month reported earnings with the same employer for the previous year by the greater of 6% or 1.5 times the annual increase in the Consumer Price Index-U, as established by the United States

Department of Labor for the preceding September, the participating municipality or participating instrumentality that paid those earnings shall pay to the Fund, in addition to any other contributions required under this Article, the present value of the increase in the pension resulting from the portion of the increase in reported earnings that is in excess of the greater of 6% or 1.5 times the annual increase in the Consumer Price Index-U, as determined by the Fund. This present value shall be computed on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the Fund that is available at the time of the computation.

Whenever it determines that a payment is or may be required under this subsection (k), the fund shall calculate the amount of the payment and bill the participating municipality or participating instrumentality for that amount. The bill shall specify the calculations used to determine the amount due. If the participating municipality or participating instrumentality disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to the fund in writing for a recalculation. The application must specify in detail the grounds of the dispute. Upon receiving a timely application for recalculation, the fund shall review the application and, if appropriate, recalculate the amount due. The participating municipality and participating instrumentality contributions required under this subsection

(k) may be paid in the form of a lump sum within 90 days after receipt of the bill. If the participating municipality and participating instrumentality contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to the fund's annual actuarially assumed rate of return on investment compounded annually from the 91st day after receipt of the bill. Payments must be concluded within 3 years after receipt of the bill by the participating municipality or participating instrumentality.

When assessing payment for any amount due under this subsection (k), the fund shall exclude earnings increases resulting from overload or overtime earnings.

When assessing payment for any amount due under this subsection (k), the fund shall exclude earnings increases resulting from payments for unused vacation time, but only for payments for unused vacation time made in the final 3 months of the final rate of earnings period.

When assessing payment for any amount due under this subsection (k), the fund shall also exclude earnings increases attributable to standard employment promotions resulting in increased responsibility and workload.

When assessing payment for any amount due under this subsection (k), the fund shall exclude reportable earnings increases resulting from periods where the member was paid through workers' compensation.

This subsection (k) does not apply to earnings increases

due to amounts paid as required by federal or State law or court mandate or to earnings increases due to the participating employee returning to the regular number of hours worked after having a temporary reduction in the number of hours worked.

This subsection (k) does not apply to earnings increases paid to individuals under contracts or collective bargaining agreements entered into, amended, or renewed before January 1, 2012 (the effective date of Public Act 97-609), earnings increases paid to members who are 10 years or more from retirement eligibility, or earnings increases resulting from an increase in the number of hours required to be worked.

When assessing payment for any amount due under this subsection (k), the fund shall also exclude earnings attributable to personnel policies adopted before January 1, 2012 (the effective date of Public Act 97-609) as long as those policies are not applicable to employees who begin service on or after January 1, 2012 (the effective date of Public Act 97-609).

The change made to this Section by Public Act 100-139 is a clarification of existing law and is intended to be retroactive to January 1, 2012 (the effective date of Public Act 97-609).

(Source: P.A. 102-849, eff. 5-13-22.)

Sec. 7-174. Board created.

(a) A board of 8 members shall constitute a board of trustees authorized to carry out the provisions of this Article. Each trustee shall be a participating employee of a participating municipality or participating instrumentality or an annuitant of the Fund and no person shall be eligible to become a trustee after January 1, 1979 who does not have the minimum service credit in this Fund to qualify for a pension.

(b) The board shall consist of representatives of various groups as follows:

1. 4 trustees shall be a chief executive officer, chief finance officer, or other officer, executive or department head of a participating municipality or participating instrumentality, and each such trustee shall be designated as an executive trustee.

2. 3 trustees shall be employees of a participating municipality or participating instrumentality and each such trustee shall be designated as an employee trustee. A person who meets the criteria to be an executive trustee may not serve as an employee trustee.

3. One trustee shall be an annuitant of the Fund, who shall be designated the annuitant trustee.

(c) A person elected as a trustee shall qualify as a trustee, after declaration by the board that he has been duly elected, upon taking and subscribing to the constitutional oath of office and filing same in the office of the Fund.

(d) The term of office of each trustee shall begin upon January 1 of the year following the year in which he is elected and shall continue for a period of 5 years and until a successor has been elected and qualified, or until prior resignation, death, incapacity or disqualification.

(e) Any elected trustee (other than the annuitant trustee) shall be disqualified immediately upon termination of employment with all participating municipalities and instrumentalities thereof or upon any change in status which removes any such trustee from all employments within the group he represents. The annuitant trustee shall be disqualified upon termination of his or her annuity.

(e-5) Notwithstanding any other provision, an elected trustee shall not be considered disqualified due to termination of participation under subsection (e) if:

(1) he or she thereafter begins participation with a different participating employer;

(2) there is no gap in service credit established under this Article; and

(3) the trustee continues to meet all eligibility requirements under subsection (b) for the same type of trustee position.

(f) The trustees shall fill any vacancy in the board by appointment, for the period until the next election of trustees, or, if the remaining term is less than 2 years, for the remainder of the term, and until his successor has been

elected and qualified.

(g) Trustees shall serve without compensation, but shall be reimbursed for any reasonable expenses incurred in attending meetings of the board and in performing duties on behalf of the Fund and for the amount of any earnings withheld by any employing municipality or participating instrumentality because of attendance at any board meeting.

(h) Each trustee shall be entitled to one vote on any and all actions before the board. At least 5 concurring votes shall be necessary for every decision or action by the board at any of its meetings. No decision or action shall become effective unless presented and so approved at a regular or duly called special meeting of the board.

(Source: P.A. 102-479, eff. 8-20-21.)

Section 99. Effective date. This Act takes effect upon becoming law, except that the changes to Section 7-135 of the Illinois Pension Code take effect January 1, 2024.