



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1089

Introduced 02/08/05, by Rep. Randall M. Hultgren

SYNOPSIS AS INTRODUCED:

40 ILCS 5/14-103.40 new
40 ILCS 5/14-103.41 new
40 ILCS 5/14-105.8 new
40 ILCS 5/14-133 from Ch. 108 1/2, par. 14-133
40 ILCS 5/14-133.2 new

Amends the State Employee Article of the Illinois Pension Code. Provides that the System may offer to employees the option to participate in a self-managed program of retirement benefits instead of the program of retirement benefits currently offered. Provides that a self-managed plan shall authorize a participating employee to accumulate assets for retirement through a combination of employer and employee contributions that may be invested at the employee's direction in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts. Effective immediately.

LRB094 09895 EFG 40153 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 14-103.40, 14-103.41, 14-105.8 and 14-133.2 and changing
6 Section 14-133 as follows:

7 (40 ILCS 5/14-103.40 new)

8 Sec. 14-103.40. Traditional Benefit Package. "Traditional
9 benefit package": The defined benefit retirement program
10 maintained by the System, which includes retirement annuities
11 payable directly from the System as provided in Sections
12 14-107, 14-108, 14-108.3, 14-108.4, 14-109, 14-110, 14-112,
13 14-113, 14-114, and 14-115; disability benefits payable under
14 Sections 14-123, 14-123.1, 14-124, 14-125, 14-125.1, and
15 14-126; death benefits payable directly from the System as
16 provided in Sections 14-116, 14-117, and 14-128; widow's
17 annuities and survivor's benefits payable directly from the
18 System as provided in Sections 14-118, 14-119, 14-120, 14-121,
19 14-121.1, and 14-122; and contribution refunds as provided in
20 Section 14-130.

21 (40 ILCS 5/14-103.41 new)

22 Sec. 14-103.41. Self-Managed Plan. "Self-managed plan":
23 The defined contribution retirement program maintained under
24 the System as described in Section 14-133.2. The self-managed
25 plan also includes disability benefits as provided in Sections
26 14-123, 14-123.1, 14-124, 14-125, 14-125.1, and 14-126. The
27 self-managed plan does not include retirement annuities, death
28 benefits, or widow's or survivor's benefits payable directly
29 from the System as provided in Sections 14-107, 14-108,
30 14-108.3, 14-108.4, 14-109, 14-110, 14-112, 14-113, 14-114,
31 14-115, 14-116, 14-117, 14-118, 14-119, 14-120, 14-121,

1 14-121.1, 14-122, and 14-128 or refunds determined under
2 Section 14-130.

3 (40 ILCS 5/14-105.8 new)

4 Sec. 14-105.8. Retirement program elections.

5 (a) All participating employees are participants under the
6 traditional benefit package prior to January 1, 2006.

7 If the System offers to employees under this Article the
8 self-managed plan as an alternative to the traditional benefit
9 package, each eligible employee (as defined in subsection (b))
10 shall be given the choice to elect which retirement program he
11 or she wishes to participate in with respect to all periods of
12 covered employment occurring on and after the effective date of
13 the employee's election. The retirement program election made
14 by an eligible employee must be made in writing, in the manner
15 prescribed by the System, and within the time period described
16 in subsection (d).

17 The employee election authorized by this Section is a
18 one-time, irrevocable election. If an employee terminates
19 employment after making the election provided under this
20 subsection (a), then upon his or her subsequent re-employment
21 under this Article the original election shall automatically
22 apply to him or her, provided that the System is then offering
23 the self-managed plan under Section 14-133.2.

24 An eligible employee who fails to make this election shall,
25 by default, participate in the traditional benefit package.

26 (b) "Eligible employee" means an employee who does not have
27 sufficient age and service to qualify for a retirement annuity
28 under Section 14-107. An eligible employee is either a
29 currently eligible employee or a newly eligible employee. For
30 purposes of this Section, a "currently eligible employee" is an
31 employee who is employed by the State on the date on which the
32 System first offers the self-managed plan as an alternative to
33 the traditional benefit package. A "newly eligible employee" is
34 an employee who first becomes employed under this Article after
35 the date on which the System first offers the self-managed plan

1 as an alternative to the traditional benefit package. A newly
2 eligible employee participates in the traditional benefit
3 package until he or she makes an election to participate in the
4 self-managed plan. If an employee does not elect to participate
5 in the self-managed plan, he or she shall continue to
6 participate in the traditional benefit package by default.

7 (c) An eligible employee may elect to participate in the
8 traditional benefit package or the self-managed plan.

9 A currently eligible employee must make this election
10 within one year after the effective date of the adoption of the
11 self-managed plan under Section 14-133.2.

12 A newly eligible employee must make this election within 6
13 months after the date on which the System receives the report
14 of status certification from the State.

15 (d) If an employee elects to participate in the
16 self-managed plan, no State contributions shall be remitted to
17 the self-managed plan when the employee's account balance
18 transfer is made. Employer contributions to the self-managed
19 plan shall commence as of the first pay period that begins
20 after the System receives the employee's election.

21 (e) An eligible employee shall be provided with written
22 information prepared or prescribed by the System that describes
23 the employee's retirement program choices. Each eligible
24 employee shall be offered an opportunity to receive counseling
25 from the System prior to making his or her election. This
26 counseling may consist of videotaped materials, group
27 presentations, individual consultation with an employee or
28 authorized representative of the System in person or by
29 telephone or other electronic means, or any combination of
30 these methods.

31 (40 ILCS 5/14-133) (from Ch. 108 1/2, par. 14-133)

32 Sec. 14-133. Contributions on behalf of members.

33 (a) Each participating employee shall make contributions
34 to the System, based on the employee's compensation, as
35 follows:

1 (1) Covered employees, except as indicated below, 3.5%
2 for retirement annuity, and 0.5% for a widow or survivors
3 annuity;

4 (2) Noncovered employees, except as indicated below,
5 7% for retirement annuity and 1% for a widow or survivors
6 annuity;

7 (3) Noncovered employees serving in a position in which
8 "eligible creditable service" as defined in Section 14-110
9 may be earned, 1% for a widow or survivors annuity plus the
10 following amount for retirement annuity: 8.5% through
11 December 31, 2001; 9.5% in 2002; 10.5% in 2003; and 11.5%
12 in 2004 and thereafter;

13 (4) Covered employees serving in a position in which
14 "eligible creditable service" as defined in Section 14-110
15 may be earned, 0.5% for a widow or survivors annuity plus
16 the following amount for retirement annuity: 5% through
17 December 31, 2001; 6% in 2002; 7% in 2003; and 8% in 2004
18 and thereafter;

19 (5) Each security employee of the Department of
20 Corrections or of the Department of Human Services who is a
21 covered employee, 0.5% for a widow or survivors annuity
22 plus the following amount for retirement annuity: 5%
23 through December 31, 2001; 6% in 2002; 7% in 2003; and 8%
24 in 2004 and thereafter;

25 (6) Each security employee of the Department of
26 Corrections or of the Department of Human Services who is
27 not a covered employee, 1% for a widow or survivors annuity
28 plus the following amount for retirement annuity: 8.5%
29 through December 31, 2001; 9.5% in 2002; 10.5% in 2003; and
30 11.5% in 2004 and thereafter.

31 (a-1) Notwithstanding any provision in subsection (a) to
32 the contrary, in the case of an employee who participates in
33 the self-managed plan under Section 14-133.2, contributions
34 for widow or survivors annuity shall instead be used to finance
35 the benefits available under Section 14-133.2.

36 (b) Contributions shall be in the form of a deduction from

1 compensation and shall be made notwithstanding that the
2 compensation paid in cash to the employee shall be reduced
3 thereby below the minimum prescribed by law or regulation. Each
4 member is deemed to consent and agree to the deductions from
5 compensation provided for in this Article, and shall receipt in
6 full for salary or compensation.

7 (Source: P.A. 92-14, eff. 6-28-01.)

8 (40 ILCS 5/14-133.2 new)

9 Sec. 14-133.2. Self-managed plan.

10 (a) Purpose. The General Assembly finds that it is
11 important for Illinois to be able to attract and retain the
12 most qualified employees and that in order to attract and
13 retain these employees, the State of Illinois should have the
14 flexibility to provide the defined contribution plan as an
15 alternative for eligible employees who elect not to participate
16 in a defined benefit retirement program provided under this
17 Article. Accordingly, the State Employees Retirement System of
18 Illinois is hereby authorized to establish and administer a
19 self-managed plan, which shall offer participating employees
20 the opportunity to accumulate assets for retirement through a
21 combination of employee and employer contributions that may be
22 invested in mutual funds, collective investment funds, or other
23 investment products and used to purchase annuity contracts,
24 either fixed or variable or a combination thereof. The plan
25 must be qualified under the Internal Revenue Code of 1986.

26 (b) Adoption of Plan. The Board may adopt the self-managed
27 plan established under this Section for members under this
28 Article. The State's election to adopt the self-managed plan
29 makes available to the eligible employees of the State of
30 Illinois the elections described in Section 14-105.8.

31 The State Employees Retirement System of Illinois shall be
32 the plan sponsor for the self-managed plan and shall prepare a
33 plan document and prescribe such rules and procedures as are
34 considered necessary or desirable for the administration of the
35 self-managed plan. Consistent with its fiduciary duty to the

1 participants and beneficiaries of the self-managed plan, the
2 Board of Trustees of the System may delegate aspects of plan
3 administration as it sees fit to companies authorized to do
4 business in this State.

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

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

17 (2) the reasonableness of the benefits in relation to
18 the premium charged;

19 (3) the suitability of the benefits to the needs and
20 interests of the participating employees and the State;

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

24 (5) the efficacy of the contract in the recruitment and
25 retention of employees.

26 The System shall periodically review each approved
27 company. A company may continue to provide administrative
28 services and funding vehicles for the self-managed plan only so
29 long as it continues to be an approved company under contract
30 with the Board.

31 (d) Employee Direction. Employees who are participating in
32 the program must be allowed to direct the transfer of their
33 account balances among the various investment options offered,
34 subject to applicable contractual provisions. The participant
35 shall not be deemed a fiduciary by reason of providing such
36 investment direction. A person who is a fiduciary shall not be

1 liable for any loss resulting from such investment direction
2 and shall not be deemed to have breached any fiduciary duty by
3 acting in accordance with that direction. Neither the System
4 nor the employer guarantees any of the investments in the
5 employee's account balances.

6 (e) Participation. An employee eligible to participate in
7 the self-managed plan must make a written election in
8 accordance with the provisions of Section 14-105.8 and the
9 procedures established by the System. Participation in the
10 self-managed plan by an electing employee shall begin on the
11 first day of the first pay period following the later of the
12 date the employee's election is filed with the System or the
13 effective date of the self-managed plan. The System shall not
14 make the self-managed plan available earlier than January 1,
15 2006. An employee's participation in the traditional benefit
16 package under this Article shall terminate on the date that
17 participation in the self-managed plan begins.

18 An employee who has elected to participate in the
19 self-managed plan under this Section must continue
20 participation while employed in an eligible position, and may
21 not participate in the traditional benefit package
22 administered by the System under this Article while employed by
23 the State under this Article, unless the self-managed plan is
24 terminated in accordance with subsection (i).

25 Participation in the self-managed plan under this Section
26 shall constitute membership in the State Employees' Retirement
27 System of Illinois.

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

30 (f) Establishment of Initial Account Balance. If at the
31 time an employee elects to participate in the self-managed plan
32 he or she has rights and credits in the System due to previous
33 participation in the traditional benefit package, the System
34 shall establish for the employee an opening account balance in
35 the self-managed plan, equal to the amount of contribution
36 refund that the employee would be eligible to receive under

1 Section 14-130 if the employee terminated employment on that
2 date and elected a refund of contributions, except that this
3 hypothetical refund shall include interest at the effective
4 rate for the respective years. The System shall transfer assets
5 from the defined benefit retirement program to the self-managed
6 plan, as a tax free transfer in accordance with Internal
7 Revenue Service guidelines, for purposes of funding the
8 employee's opening account balance.

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

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

18 The contribution rate for employees participating in the
19 self-managed plan under this Section shall be equal to the
20 employee contribution rate applicable to participants of the
21 same class under Section 14-133. This required contribution
22 shall be made as an "employer pick-up" under Section 414(h) of
23 the Internal Revenue Code of 1986 or any successor Section
24 thereof. Any employee participating in the System's
25 traditional benefit package prior to his or her election to
26 participate in the self-managed plan shall continue to have the
27 employer pick up the contributions required under Section
28 14-133. However, the amounts picked up after the election of
29 the self-managed plan shall be remitted to and treated as
30 assets of the self-managed plan. In no event shall an employee
31 have an option of receiving these amounts in cash. Employees
32 may make additional contributions to the self-managed plan in
33 accordance with procedures prescribed by the System, to the
34 extent permitted under rules prescribed by the System.

35 Employers shall make employer contributions to the System
36 for employees who participate in the self-managed plan in the

1 same manner as for employees who participate in the traditional
2 benefit package.

3 The program shall provide for a portion of employer
4 contributions to be credited to each self-managed plan
5 participant at a rate to be determined by the Board, based on
6 the amount of employer contribution received, less the amount
7 used by the System to provide disability benefits for the
8 employee and less the amount allocable to amortization of
9 unfunded liability. The amounts so credited shall be paid into
10 the participant's self-managed plan accounts in a manner to be
11 prescribed by the System.

12 The System shall not be obligated to remit the required
13 employer contributions to any of the insurance and annuity
14 companies, mutual fund companies, banks, trust companies,
15 financial institutions, or other sponsors of any of the funding
16 vehicles offered under the self-managed plan until it has
17 received the required employer contributions from the State. In
18 the event of a deficiency in the amount of State contributions,
19 the System shall implement any procedures to obtain the
20 required funding from the General Revenue Fund.

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

29 (i) Termination. The self-managed plan authorized under
30 this Section may be terminated by the System, subject to the
31 terms of any relevant contracts, and the System shall have no
32 obligation to reestablish the self-managed plan under this
33 Section. This Section does not create a right to continued
34 participation in any self-managed plan set up by the System
35 under this Section. If the self-managed plan is terminated, the
36 participants shall have the right to participate in the

1 traditional benefit package and receive service credit in the
2 traditional benefit package for any years of employment
3 following the termination.

4 (j) 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 8 years of service credit under this Article;
9 (2) the death of the participating employee while employed by
10 an employer under this Article, if the participant has
11 completed at least 1.5 years of service; or (3) the
12 participant's election to retire and apply the reciprocal
13 provisions of Article 20 of this Code.

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

26 (k) Benefit amounts. If an employee participating in the
27 self-managed plan who is vested in employer contributions
28 terminates employment, the employee shall be entitled to a
29 benefit which is based on the account values attributable to
30 both employer and employee contributions and any investment
31 return thereon.

32 If an employee participating in the self-managed plan who
33 is not vested in employer contributions terminates employment,
34 the employee shall be entitled to a benefit based solely on the
35 account values attributable to the employee's contributions
36 and any investment return thereon, and the employer

1 contributions and any investment return thereon shall be
2 forfeited. Any employer contributions which are forfeited
3 shall be held in escrow by the company investing those
4 contributions and shall be used as directed by the System for
5 future allocations of employer contributions or for the
6 restoration of amounts previously forfeited by former
7 participants who again become participating employees.

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