



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3870

Introduced 2/26/2009, by Rep. Jehan A. Gordon

SYNOPSIS AS INTRODUCED:

40 ILCS 5/3-109 from Ch. 108 1/2, par. 3-109
40 ILCS 5/7-141.1
30 ILCS 805/8.33 new

Amends the Downstate Police Article of the Illinois Pension Code. Excludes from participation under the Downstate Police Article a person who has entered into a personal services contract to perform police duties for the Village of Bartonville on or before the effective date of the amendatory Act and who may be appointed as an officer in the Village of Bartonville within 6 months after the effective date of the amendatory Act. Amends the IMRF Article of the Illinois Pension Code to provide that such an officer does not forfeit certain early retirement incentives. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 11648 AMC 22221 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 Sections 3-109 and 7-141.1 as follows:

6 (40 ILCS 5/3-109) (from Ch. 108 1/2, par. 3-109)
7 Sec. 3-109. Persons excluded.

8 (a) The following persons shall not be eligible to
9 participate in a fund created under this Article:

10 (1) part-time police officers, special police
11 officers, night watchmen, temporary employees, traffic
12 guards or so-called auxiliary police officers specially
13 appointed to aid or direct traffic at or near schools or
14 public functions, or to aid in civil defense, municipal
15 parking lot attendants, clerks or other civilian employees
16 of a police department who perform clerical duties
17 exclusively;

18 (2) any police officer who fails to pay the
19 contributions required under Section 3-125.1, computed (i)
20 for funds established prior to August 5, 1963, from the
21 date the municipality established the fund or the date of a
22 police officer's first appointment (including an
23 appointment on probation), whichever is later, or (ii) for

1 funds established after August 5, 1963, from the date, as
2 determined from the statistics or census provided in
3 Section 3-103, the municipality became subject to this
4 Article by attaining the minimum population or by
5 referendum, or the date of a police officer's first
6 appointment (including an appointment on probation),
7 whichever is later, and continuing during his or her entire
8 service as a police officer; and

9 (3) any person who has elected under Section 3-109.1 to
10 participate in the Illinois Municipal Retirement Fund
11 rather than in a fund established under this Article,
12 without regard to whether the person continues to be
13 employed as chief of police or is employed in some other
14 rank or capacity within the police department, unless the
15 person has lawfully rescinded that election.

16 (b) A police officer who is reappointed shall, before being
17 declared eligible to participate in the pension fund, repay to
18 the fund as required by Section 3-124 any refund received
19 thereunder.

20 (c) Any person otherwise qualified to participate who was
21 excluded from participation by reason of the age restriction
22 removed by Public Act 79-1165 may elect to participate by
23 making a written application to the Board before January 1,
24 1990. Persons so electing shall begin participation on the
25 first day of the month following the date of application. Such
26 persons may also elect to establish creditable service for

1 periods of employment as a police officer during which they did
2 not participate by paying into the police pension fund, before
3 January 1, 1990, the amount that the person would have
4 contributed had deductions from salary been made for such
5 purpose at the time such service was rendered, together with
6 interest thereon at 6% per annum from the time such service was
7 rendered until the date the payment is made.

8 (d) A person otherwise qualified to participate who was
9 excluded from participation by reason of the fitness
10 requirement removed by this amendatory Act of 1995 may elect to
11 participate by making a written application to the Board before
12 July 1, 1996. Persons so electing shall begin participation on
13 the first day of the month following the month in which the
14 application is received by the Board. These persons may also
15 elect to establish creditable service for periods of employment
16 as a police officer during which they did not participate by
17 paying into the police pension fund, before January 1, 1997,
18 the amount that the person would have contributed had
19 deductions from salary been made for this purpose at the time
20 the service was rendered, together with interest thereon at 6%
21 per annum, compounded annually, from the time the service was
22 rendered until the date of payment.

23 (e) A person employed by the Village of Shiloh who is
24 otherwise qualified to participate and was excluded from
25 participation by reason of his or her failure to make written
26 application to the Board within 3 months after receiving his or

1 her first appointment or reappointment as required under
2 Section 3-106 may elect to participate by making a written
3 application to the Board before July 1, 2008. Persons so
4 electing shall begin participation on the first day of the
5 month following the month in which the application is received
6 by the Board. These persons may also elect to establish
7 creditable service for periods of employment as a police
8 officer during which they did not participate by paying into
9 the police pension fund, before January 1, 2009, the amount
10 that the person would have contributed had deductions from
11 salary been made for this purpose at the time the service was
12 rendered, together with interest thereon at 6% per annum,
13 compounded annually, from the time the service was rendered
14 until the date of payment. The Village of Shiloh must pay to
15 the System the corresponding employer contributions, plus
16 interest.

17 (f) A person who has entered into a personal services
18 contract to perform police duties for the Village of
19 Bartonville on or before the effective date of this amendatory
20 Act of the 96th General Assembly may be appointed as an officer
21 in the Village of Bartonville within 6 months after the
22 effective date of this amendatory Act, but shall be excluded
23 from participating under this Article.

24 (Source: P.A. 95-483, eff. 8-28-07.)

1 Sec. 7-141.1. Early retirement incentive.

2 (a) The General Assembly finds and declares that:

3 (1) Units of local government across the State have
4 been functioning under a financial crisis.

5 (2) This financial crisis is expected to continue.

6 (3) Units of local government must depend on additional
7 sources of revenue and, when those sources are not
8 forthcoming, must establish cost-saving programs.

9 (4) An early retirement incentive designed
10 specifically to target highly-paid senior employees could
11 result in significant annual cost savings.

12 (5) The early retirement incentive should be made
13 available only to those units of local government that
14 determine that an early retirement incentive is in their
15 best interest.

16 (6) A unit of local government adopting a program of
17 early retirement incentives under this Section is
18 encouraged to implement personnel procedures to prohibit,
19 for at least 5 years, the rehiring (whether on payroll or
20 by independent contract) of employees who receive early
21 retirement incentives.

22 (7) A unit of local government adopting a program of
23 early retirement incentives under this Section is also
24 encouraged to replace as few of the participating employees
25 as possible and to hire replacement employees for salaries
26 totaling no more than 80% of the total salaries formerly

1 paid to the employees who participate in the early
2 retirement program.

3 It is the primary purpose of this Section to encourage
4 units of local government that can realize true cost savings,
5 or have determined that an early retirement program is in their
6 best interest, to implement an early retirement program.

7 (b) Until the effective date of this amendatory Act of
8 1997, this Section does not apply to any employer that is a
9 city, village, or incorporated town, nor to the employees of
10 any such employer. Beginning on the effective date of this
11 amendatory Act of 1997, any employer under this Article,
12 including an employer that is a city, village, or incorporated
13 town, may establish an early retirement incentive program for
14 its employees under this Section. The decision of a city,
15 village, or incorporated town to consider or establish an early
16 retirement program is at the sole discretion of that city,
17 village, or incorporated town, and nothing in this amendatory
18 Act of 1997 limits or otherwise diminishes this discretion.
19 Nothing contained in this Section shall be construed to require
20 a city, village, or incorporated town to establish an early
21 retirement program and no city, village, or incorporated town
22 may be compelled to implement such a program.

23 The benefits provided in this Section are available only to
24 members employed by a participating employer that has filed
25 with the Board of the Fund a resolution or ordinance expressly
26 providing for the creation of an early retirement incentive

1 program under this Section for its employees and specifying the
2 effective date of the early retirement incentive program.
3 Subject to the limitation in subsection (h), an employer may
4 adopt a resolution or ordinance providing a program of early
5 retirement incentives under this Section at any time.

6 The resolution or ordinance shall be in substantially the
7 following form:

8 RESOLUTION (ORDINANCE) NO.

9 A RESOLUTION (ORDINANCE) ADOPTING AN EARLY
10 RETIREMENT INCENTIVE PROGRAM FOR EMPLOYEES
11 IN THE ILLINOIS MUNICIPAL RETIREMENT FUND

12 WHEREAS, Section 7-141.1 of the Illinois Pension Code
13 provides that a participating employer may elect to adopt an
14 early retirement incentive program offered by the Illinois
15 Municipal Retirement Fund by adopting a resolution or
16 ordinance; and

17 WHEREAS, The goal of adopting an early retirement program
18 is to realize a substantial savings in personnel costs by
19 offering early retirement incentives to employees who have
20 accumulated many years of service credit; and

21 WHEREAS, Implementation of the early retirement program
22 will provide a budgeting tool to aid in controlling payroll
23 costs; and

24 WHEREAS, The (name of governing body) has determined that
25 the adoption of an early retirement incentive program is in the

1 best interests of the (name of participating employer);
2 therefore be it

3 RESOLVED (ORDAINED) by the (name of governing body) of
4 (name of participating employer) that:

5 (1) The (name of participating employer) does hereby adopt
6 the Illinois Municipal Retirement Fund early retirement
7 incentive program as provided in Section 7-141.1 of the
8 Illinois Pension Code. The early retirement incentive program
9 shall take effect on (date).

10 (2) In order to help achieve a true cost savings, a person
11 who retires under the early retirement incentive program shall
12 lose those incentives if he or she later accepts employment
13 with any IMRF employer in a position for which participation in
14 IMRF is required or is elected by the employee.

15 (3) In order to utilize an early retirement incentive as a
16 budgeting tool, the (name of participating employer) will use
17 its best efforts either to limit the number of employees who
18 replace the employees who retire under the early retirement
19 program or to limit the salaries paid to the employees who
20 replace the employees who retire under the early retirement
21 program.

22 (4) The effective date of each employee's retirement under
23 this early retirement program shall be set by (name of
24 employer) and shall be no earlier than the effective date of
25 the program and no later than one year after that effective
26 date; except that the employee may require that the retirement

1 date set by the employer be no later than the June 30 next
2 occurring after the effective date of the program and no
3 earlier than the date upon which the employee qualifies for
4 retirement.

5 (5) To be eligible for the early retirement incentive under
6 this Section, the employee must have attained age 50 and have
7 at least 20 years of creditable service by his or her
8 retirement date.

9 (6) The (clerk or secretary) shall promptly file a
10 certified copy of this resolution (ordinance) with the Board of
11 Trustees of the Illinois Municipal Retirement Fund.

12 CERTIFICATION

13 I, (name), the (clerk or secretary) of the (name of
14 participating employer) of the County of (name), State of
15 Illinois, do hereby certify that I am the keeper of the books
16 and records of the (name of employer) and that the foregoing is
17 a true and correct copy of a resolution (ordinance) duly
18 adopted by the (governing body) at a meeting duly convened and
19 held on (date).

20 SEAL

21 (Signature of clerk or secretary)

22 (c) To be eligible for the benefits provided under an early
23 retirement incentive program adopted under this Section, a
24 member must:

25 (1) be a participating employee of this Fund who, on

1 the effective date of the program, (i) is in active payroll
2 status as an employee of a participating employer that has
3 filed the required ordinance or resolution with the Board,
4 (ii) is on layoff status from such a position with a right
5 of re-employment or recall to service, (iii) is on a leave
6 of absence from such a position, or (iv) is on disability
7 but has not been receiving benefits under Section 7-146 or
8 7-150 for a period of more than 2 years from the date of
9 application;

10 (2) have never previously received a retirement
11 annuity under this Article or under the Retirement Systems
12 Reciprocal Act using service credit established under this
13 Article;

14 (3) (blank);

15 (4) have at least 20 years of creditable service in the
16 Fund by the date of retirement, without the use of any
17 creditable service established under this Section;

18 (5) have attained age 50 by the date of retirement,
19 without the use of any age enhancement received under this
20 Section; and

21 (6) be eligible to receive a retirement annuity under
22 this Article by the date of retirement, for which purpose
23 the age enhancement and creditable service established
24 under this Section may be considered.

25 (d) The employer shall determine the retirement date for
26 each employee participating in the early retirement program

1 adopted under this Section. The retirement date shall be no
2 earlier than the effective date of the program and no later
3 than one year after that effective date, except that the
4 employee may require that the retirement date set by the
5 employer be no later than the June 30 next occurring after the
6 effective date of the program and no earlier than the date upon
7 which the employee qualifies for retirement. The employer shall
8 give each employee participating in the early retirement
9 program at least 30 days written notice of the employee's
10 designated retirement date, unless the employee waives this
11 notice requirement.

12 (e) An eligible person may establish up to 5 years of
13 creditable service under this Section. In addition, for each
14 period of creditable service established under this Section, a
15 person shall have his or her age at retirement deemed enhanced
16 by an equivalent period.

17 The creditable service established under this Section may
18 be used for all purposes under this Article and the Retirement
19 Systems Reciprocal Act, except for the computation of final
20 rate of earnings and the determination of earnings, salary, or
21 compensation under this or any other Article of the Code.

22 The age enhancement established under this Section may be
23 used for all purposes under this Article (including calculation
24 of the reduction imposed under subdivision (a)1b(iv) of Section
25 7-142), except for purposes of a reversionary annuity under
26 Section 7-145 and any distributions required because of age.

1 The age enhancement established under this Section may be used
2 in calculating a proportionate annuity payable by this Fund
3 under the Retirement Systems Reciprocal Act, but shall not be
4 used in determining benefits payable under other Articles of
5 this Code under the Retirement Systems Reciprocal Act.

6 (f) For all creditable service established under this
7 Section, the member must pay to the Fund an employee
8 contribution consisting of 4.5% of the member's highest annual
9 salary rate used in the determination of the final rate of
10 earnings for retirement annuity purposes for each year of
11 creditable service granted under this Section. For creditable
12 service established under this Section by a person who is a
13 sheriff's law enforcement employee to be deemed service as a
14 sheriff's law enforcement employee, the employee contribution
15 shall be at the rate of 6.5% of highest annual salary per year
16 of creditable service granted. Contributions for fractions of a
17 year of service shall be prorated. Any amounts that are
18 disregarded in determining the final rate of earnings under
19 subdivision (d) (5) of Section 7-116 (the 125% rule) shall also
20 be disregarded in determining the required contribution under
21 this subsection (f).

22 The employee contribution shall be paid to the Fund as
23 follows: If the member is entitled to a lump sum payment for
24 accumulated vacation, sick leave, or personal leave upon
25 withdrawal from service, the employer shall deduct the employee
26 contribution from that lump sum and pay the deducted amount

1 directly to the Fund. If there is no such lump sum payment or
2 the required employee contribution exceeds the net amount of
3 the lump sum payment, then the remaining amount due, at the
4 option of the employee, may either be paid to the Fund before
5 the annuity commences or deducted from the retirement annuity
6 in 24 equal monthly installments.

7 (g) An annuitant who has received any age enhancement or
8 creditable service under this Section and thereafter accepts
9 employment with or enters into a personal services contract
10 with an employer under this Article thereby forfeits that age
11 enhancement and creditable service; except that this
12 restriction does not apply to (1) service in an elective
13 office, so long as the annuitant does not participate in this
14 Fund with respect to that office and (2) a person appointed as
15 an officer under subsection (f) of Section 3-109 of this Code.

16 A person forfeiting early retirement incentives under this
17 subsection (i) must repay to the Fund that portion of the
18 retirement annuity already received which is attributable to
19 the early retirement incentives that are being forfeited, (ii)
20 shall not be eligible to participate in any future early
21 retirement program adopted under this Section, and (iii) is
22 entitled to a refund of the employee contribution paid under
23 subsection (f). The Board shall deduct the required repayment
24 from the refund and may impose a reasonable payment schedule
25 for repaying the amount, if any, by which the required
26 repayment exceeds the refund amount.

1 (h) The additional unfunded liability accruing as a result
2 of the adoption of a program of early retirement incentives
3 under this Section by an employer shall be amortized over a
4 period of 10 years beginning on January 1 of the second
5 calendar year following the calendar year in which the latest
6 date for beginning to receive a retirement annuity under the
7 program (as determined by the employer under subsection (d) of
8 this Section) occurs; except that the employer may provide for
9 a shorter amortization period (of no less than 5 years) by
10 adopting an ordinance or resolution specifying the length of
11 the amortization period and submitting a certified copy of the
12 ordinance or resolution to the Fund no later than 6 months
13 after the effective date of the program. An employer, at its
14 discretion, may accelerate payments to the Fund.

15 An employer may provide more than one early retirement
16 incentive program for its employees under this Section.
17 However, an employer that has provided an early retirement
18 incentive program for its employees under this Section may not
19 provide another early retirement incentive program under this
20 Section until the liability arising from the earlier program
21 has been fully paid to the Fund.

22 (Source: P.A. 94-456, eff. 8-4-05.)

23 Section 90. The State Mandates Act is amended by adding
24 Section 8.33 as follows:

1 (30 ILCS 805/8.33 new)

2 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
3 of this Act, no reimbursement by the State is required for the
4 implementation of any mandate created by this amendatory Act of
5 the 96th General Assembly.

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