HB3757

LRB09909735EFG29945b

99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3757

by Rep. Jaime M. Andrade, Jr.

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-144	from Ch. 108 1/2, par. 7-144
40 ILCS 5/7-172	from Ch. 108 1/2, par. 7-172
30 ILCS 805/8.39 new	

Amends the Illinois Municipal Retirement Fund (IMRF) Article of the Illinois Pension Code. Provides that if an employer fails to notify the Board to suspend the annuity of an annuitant who returns to service as a participating employee, the employer may be required to reimburse the Fund for an amount up to the total of any annuity payments made to the annuitant after the date the annuity should have been suspended, as determined by the Board, less any amount actually repaid by the annuitant. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

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FISCAL NOTE ACT MAY APPLY	PENSION IMPACT NOTE ACT MAY APPLY	STATE MANDATES ACT MAY REQUIRE REIMBURSEMENT

A BILL FOR

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 7-144 and 7-172 as follows:

(40 ILCS 5/7-144) (from Ch. 108 1/2, par. 7-144)

Sec. 7-144. Retirement annuities - Suspended during employment.

(a) If any person receiving any annuity again becomes an employee and receives earnings from employment in a position requiring him, or entitling him to elect, to become a participating employee, then the annuity payable to such employee shall be suspended as of the 1st day of the month coincidental with or next following the date upon which such person becomes such an employee, unless the person is authorized under subsection (b) of Section 7-137.1 of this Code to continue receiving a retirement annuity during that period. Upon proper qualification of the participating employee payment of such annuity may be resumed on the 1st day of the month following such qualification and upon proper application therefor. The participating employee in such case shall be entitled to a supplemental annuity arising from service and credits earned subsequent to such re-entry as a participating employee.

Notwithstanding any other provision of this Article, an annuitant shall be considered a participating employee if he or she returns to work as an employee with a participating employer and works more than 599 hours annually (or 999 hours annually with a participating employer that has adopted a resolution pursuant to subsection (e) of Section 7-137 of this Code). Each of these annual periods shall commence on the month and day upon which the annuitant is first employed with the participating employer following the effective date of the annuity.

<u>(a-5) If any annuitant under this Article must be considered a participating employee per the provisions of subsection (a) of this Section, and the participating municipality or participating instrumentality that employs or re-employs that annuitant fails to notify the Board to suspend the annuity, the participating municipality or participating instrumentality may be required to reimburse the Fund for an amount up to the total of any annuity payments made to the annuitant after the date the annuity should have been suspended, as determined by the Board, less any amount actually repaid by the annuitant.</u>

(b) Supplemental annuities to persons who return to service for less than 48 months shall be computed under the provisions of Sections 7-141, 7-142 and 7-143. In determining whether an employee is eligible for an annuity which requires a minimum period of service, his entire period of service shall be taken into consideration but the supplemental annuity shall be based on earnings and service in the supplemental period only. The effective date of the suspended and supplemental annuity for the purpose of increases after retirement shall be considered to be the effective date of the suspended annuity.

(c) Supplemental annuities to persons who return to service for 48 months or more shall be a monthly amount determined as follows:

(1) An amount shall be computed under subparagraph b of paragraph (1) of subsection (a) of Section 7-142, considering all of the service credits of the employee;

(2) The actuarial value in monthly payments for life of the annuity payments made before suspension shall be determined and subtracted from the amount determined in (1) above;

(3) The monthly amount of the suspended annuity, with any applicable increases after retirement computed from the effective date to the date of reinstatement, shall be subtracted from the amount determined in (2) above and the remainder shall be the amount of the supplemental annuity provided that this amount shall not be less than the amount computed under subsection (b) of this Section.

(4) The suspended annuity shall be reinstated at an amount including any increases after retirement from the effective date to date of reinstatement.

(5) The effective date of the combined suspended and supplemental annuities for the purposes of increases after retirement shall be considered to be the effective date of the supplemental annuity.

(Source: P.A. 97-328, eff. 8-12-11; 97-609, eff. 1-1-12; 98-389, eff. 8-16-13.)

(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 this amendatory Act of the 94th General Assembly shall be amortized over a period of 30 years beginning on January 1 of the second calendar year following the calendar year in which this amendatory Act 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 this amendatory Act 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 salary 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 also exclude earnings increases attributable to standard employment promotions resulting in increased responsibility and workload.

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).

(Source: P.A. 97-333, eff. 8-12-11; 97-609, eff. 1-1-12; 97-933, eff. 8-10-12; 98-218, eff. 8-9-13.)

Section 90. The State Mandates Act is amended by adding Section 8.39 as follows:

(30 ILCS 805/8.39 new)

Sec. 8.39. 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 99th General Assembly.

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