

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
5 changing Sections 1-109, 7-105, 7-135, 7-172, and 7-174 as
6 follows:

7 (40 ILCS 5/1-109) (from Ch. 108 1/2, par. 1-109)

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

13 (a) for the exclusive purpose of:

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

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

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

23 (c) by diversifying the investments of the retirement

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

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

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

8 (40 ILCS 5/7-105) (from Ch. 108 1/2, par. 7-105)

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

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

21 (40 ILCS 5/7-135) (from Ch. 108 1/2, par. 7-135)

22 Sec. 7-135. Authorized agents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (Source: P.A. 97-328, eff. 8-12-11; 97-609, eff. 1-1-12;
26 98-218, eff. 8-9-13.)

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

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

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

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

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

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

17 4. if it has no participating employees with current
18 earnings, an amount payable which, over a closed period of
19 20 years for participating municipalities and 10 years for
20 participating instrumentalities, will amortize, at the
21 effective rate for that year, any unfunded obligation. The
22 unfunded obligation shall be computed as provided in
23 paragraph 2 of subsection (b);

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

1 of (A) an amount payable that, over a period of 20 years,
2 will amortize at the effective rate for that year any
3 unfunded obligation, computed as provided in paragraph 2
4 of subsection (b) or (B) the amount required by paragraph
5 1 of this subsection (a).

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

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

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

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

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

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

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

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

1 instrumentality for its sheriff's law enforcement employees.

2 A separate municipality contribution rate shall be
3 computed for the sheriff's law enforcement employees of each
4 forest preserve district that elects to have such employees.
5 For the period from January 1, 1986 to December 31, 1986, such
6 rate shall be the forest preserve district's regular rate plus
7 2%.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (j) Notwithstanding the other provisions of this Section,
11 the additional unfunded liability accruing as a result of
12 Public Act 94-712 shall be amortized over a period of 30 years
13 beginning on January 1 of the second calendar year following
14 the calendar year in which Public Act 94-712 takes effect,
15 except that the employer may provide for a longer amortization
16 period by adopting a resolution or ordinance specifying a
17 35-year or 40-year period and submitting a certified copy of
18 the ordinance or resolution to the fund no later than June 1 of
19 the calendar year following the calendar year in which Public
20 Act 94-712 takes effect.

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

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

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

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

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

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

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

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

26 This subsection (k) does not apply to earnings increases

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

6 This subsection (k) does not apply to earnings increases
7 paid to individuals under contracts or collective bargaining
8 agreements entered into, amended, or renewed before January 1,
9 2012 (the effective date of Public Act 97-609), earnings
10 increases paid to members who are 10 years or more from
11 retirement eligibility, or earnings increases resulting from
12 an increase in the number of hours required to be worked.

13 When assessing payment for any amount due under this
14 subsection (k), the fund shall also exclude earnings
15 attributable to personnel policies adopted before January 1,
16 2012 (the effective date of Public Act 97-609) as long as those
17 policies are not applicable to employees who begin service on
18 or after January 1, 2012 (the effective date of Public Act
19 97-609).

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

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

25 (40 ILCS 5/7-174) (from Ch. 108 1/2, par. 7-174)

1 Sec. 7-174. Board created.

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

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

11 1. 4 trustees shall be a chief executive officer,
12 chief finance officer, or other officer, executive or
13 department head of a participating municipality or
14 participating instrumentality, and each such trustee shall
15 be designated as an executive trustee.

16 2. 3 trustees shall be employees of a participating
17 municipality or participating instrumentality and each
18 such trustee shall be designated as an employee trustee. A
19 person who meets the criteria to be an executive trustee
20 may not serve as an employee trustee.

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

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

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

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

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

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

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

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

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

1 elected and qualified.

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

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

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

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