



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4960

Introduced 1/15/2010, by Rep. Raymond Poe

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-118	from Ch. 108 1/2, par. 7-118
40 ILCS 5/7-137	from Ch. 108 1/2, par. 7-137
40 ILCS 5/7-172	from Ch. 108 1/2, par. 7-172
40 ILCS 5/7-175.1	from Ch. 108 1/2, par. 7-175.1
40 ILCS 5/7-220	from Ch. 108 1/2, par. 7-220
30 ILCS 805/8.34 new	

Amends the IMRF Article of the Illinois Pension Code. Changes the provisions defining and specifying the manner of designating a beneficiary. Makes changes in provisions concerning elections to exclude certain employees from participation and eligibility for benefits and provisions concerning amortization of a participating municipality's or participating instrumentality's unfunded obligation. Removes language requiring the Board of Trustees to prepare and send ballot envelopes to the employees and annuitants eligible to vote for employee and annuitant trustees. Provides that the venue for actions brought under the Administrative Review Law shall be any county in which the Board maintains an office or the county in which the member's plaintiff's employing participating municipality or participating instrumentality has its main office. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 15968 AMC 31213 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 7-118, 7-137, 7-172, 7-175, 7-175.1 and 7-220 as
6 follows:

7 (40 ILCS 5/7-118) (from Ch. 108 1/2, par. 7-118)

8 Sec. 7-118. "Beneficiary" ~~.~~ ~~÷~~

9 (a) "Beneficiary" means:

10 (1) Any person or persons, trust, or charity designated
11 as a beneficiary by an employee, former employee who has
12 not yet received a retirement annuity or separation
13 benefit, or employee annuitant. If no designation is on
14 file or no beneficiary so designated survives, the estate
15 of the employee, former employee who has not yet received a
16 retirement annuity or separation benefit, or employee
17 annuitant.

18 (2) Any person or persons, trust, or charity designated
19 as a beneficiary by a beneficiary annuitant or, if no
20 designation is on file or no beneficiary so designated
21 survives, the estate of the beneficiary annuitant. ~~The~~
22 ~~surviving spouse of an employee or of an employee~~
23 ~~annuitant, or if no surviving spouse survives, the person~~

1 ~~or persons designated by a participating employee or~~
2 ~~employee annuitant, or if no person so designated survives,~~
3 ~~or if no designation is on file, the estate of the employee~~
4 ~~or employee annuitant. The person or persons designated by~~
5 ~~a beneficiary annuitant, or if no person designated~~
6 ~~survives, or if no designation is on file, the estate of~~
7 ~~the beneficiary annuitant.~~

8 (3) The estate of a surviving spouse annuitant where
9 the employee or employee annuitant filed no designation, or
10 no person designated survives at the death of a surviving
11 spouse annuitant.

12 (b) Designations of beneficiaries shall be in writing on
13 forms prescribed by the board and effective upon filing in the
14 fund offices. The designation forms shall provide for
15 contingent beneficiaries. Divorce, dissolution or annulment of
16 marriage revokes the designation of an employee's former spouse
17 as a beneficiary on a designation executed before entry of
18 judgment for divorce, dissolution or annulment of marriage.

19 ~~(b) Notwithstanding the foregoing, an employee, former~~
20 ~~employee who has not yet received a retirement annuity or~~
21 ~~separation benefit, or employee annuitant may elect to name any~~
22 ~~person, trust or charity to be the primary beneficiary of any~~
23 ~~death benefit payable by reason of his death. Such election~~
24 ~~shall state specifically whether it is his intention to exclude~~
25 ~~the spouse, shall be in writing, and may be revoked at any~~
26 ~~time. Such election or revocation shall take effect upon being~~

1 ~~filed in the fund offices.~~

2 ~~(c) If a surviving spouse annuity is payable to a former~~
3 ~~spouse upon the death of an employee annuitant, the former~~
4 ~~spouse, unless designated by the employee annuitant after~~
5 ~~dissolution of the marriage, shall not be the beneficiary for~~
6 ~~the purposes of the \$3,000 death benefit payable under~~
7 ~~subparagraph 6 of Section 7-164. This benefit shall be paid to~~
8 ~~the designated beneficiary of the employee annuitant or, if~~
9 ~~there is no designation, then to the estate of the employee~~
10 ~~annuitant.~~

11 (Source: P.A. 89-136, eff. 7-14-95; 90-448, eff. 8-16-97.)

12 (40 ILCS 5/7-137) (from Ch. 108 1/2, par. 7-137)

13 Sec. 7-137. Participating and covered employees.

14 (a) The persons described in this paragraph (a) shall be
15 included within and be subject to this Article and eligible to
16 benefits from this fund, beginning upon the dates hereinafter
17 specified:

18 1. Except as to the employees specifically excluded
19 under the provisions of this Article, all persons who are
20 employees of any municipality (or instrumentality thereof)
21 or participating instrumentality on the effective date of
22 participation of the municipality or participating
23 instrumentality beginning upon such effective date.

24 2. Except as to the employees specifically excluded
25 under the provisions of this Article, all persons, who

1 became employees of any participating municipality (or
2 instrumentality thereof) or participating instrumentality
3 after the effective date of participation of such
4 municipality or participating instrumentality, beginning
5 upon the date such person becomes an employee.

6 3. All persons who file notice with the board as
7 provided in paragraph (b) 2 and 3 of this Section,
8 beginning upon the date of filing such notice.

9 (b) The following described persons shall not be considered
10 participating employees eligible for benefits from this fund,
11 but shall be included within and be subject to this Article
12 (each of the descriptions is not exclusive but is cumulative):

13 1. Any person who occupies an office or is employed in
14 a position normally requiring performance of duty during
15 less than 600 hours a year for a municipality (including
16 all instrumentalities thereof) or a participating
17 instrumentality. If a school treasurer performs services
18 for more than one school district, the total number of
19 hours of service normally required for the several school
20 districts shall be considered to determine whether he
21 qualifies under this paragraph;

22 2. Any person who holds elective office unless he has
23 elected while in that office in a written notice on file
24 with the board to become a participating employee;

25 3. Any person working for a city hospital unless any
26 such person, while in active employment, has elected in a

1 written notice on file with the board to become a
2 participating employee and notification thereof is
3 received by the board;

4 4. Any person who becomes an employee after June 30,
5 1979 as a public service employment program participant
6 under the federal Comprehensive Employment and Training
7 Act and whose wages or fringe benefits are paid in whole or
8 in part by funds provided under such Act;

9 5. Any person who is actively employed by a
10 municipality on its effective date of participation in the
11 Fund if that municipality (i) has at least 35 employees on
12 its effective date of participation; (ii) is located in a
13 county with at least 2,000,000 inhabitants; and (iii)
14 maintains an independent defined benefit pension plan for
15 the benefit of its eligible employees, unless the person
16 files with the board within 90 days after the
17 municipality's effective date of participation an
18 irrevocable election to participate.

19 (c) Any person electing to be a participating employee,
20 pursuant to paragraph (b) of this Section may not change such
21 election, except as provided in Section 7-137.1.

22 (d) Any employee who occupied the position of school nurse
23 in any participating municipality on August 8, 1961 and
24 continuously thereafter until the effective date of the
25 exercise of the option authorized by this subparagraph, who on
26 August 7, 1961 was a member of the Teachers' Retirement System

1 of Illinois, by virtue of certification by the Department of
2 Registration and Education as a public health nurse, may elect
3 to terminate participation in this Fund in order to
4 re-establish membership in such System. The election may be
5 exercised by filing written notice thereof with the Board or
6 with the Board of Trustees of said Teachers' Retirement System,
7 not later than September 30, 1963, and shall be effective on
8 the first day of the calendar month next following the month in
9 which the notice was filed. If the written notice is filed with
10 such Teachers' Retirement System, that System shall
11 immediately notify this Fund, but neither failure nor delay in
12 notification shall affect the validity of the employee's
13 election. If the option is exercised, the Fund shall notify
14 such Teachers' Retirement System of such fact and transfer to
15 that system the amounts contributed by the employee to this
16 Fund, including interest at 3% per annum, but excluding
17 contributions applicable to social security coverage during
18 the period beginning August 8, 1961 to the effective date of
19 the employee's election. Participation in this Fund as to any
20 credits on or after August 8, 1961 and up to the effective date
21 of the employee's election shall terminate on such effective
22 date.

23 (e) Any participating municipality or participating
24 instrumentality, other than a school district or special
25 education joint agreement created under Section 10-22.31 of the
26 School Code, may, by a resolution or ordinance duly adopted by

1 its governing body, elect to exclude from participation and
2 eligibility for benefits all persons who are employed after the
3 effective date of such resolution or ordinance and who occupy
4 an office or are employed in a position normally requiring
5 performance of duty for less than 1000 hours per year for the
6 participating municipality (including all instrumentalities
7 thereof) or participating instrumentality except for persons
8 employed in a position normally requiring performance of duty
9 for 600 hours or more per year (i) by such participating
10 municipality or participating instrumentality prior to the
11 effective date of the resolution or ordinance and, (ii) ~~by any~~
12 ~~participating municipality or participating instrumentality~~
13 ~~prior to January 1, 1982 and (iii)~~ by a participating
14 municipality or participating instrumentality, which had not
15 adopted such a resolution when the person was employed, and the
16 function served by the employee's position is assumed by
17 another participating municipality or participating
18 instrumentality. A participating municipality or participating
19 instrumentality included in and subject to this Article after
20 January 1, 1982 may adopt such resolution or ordinance only
21 prior to the date it becomes included in and subject to this
22 Article. Notwithstanding the foregoing, a participating
23 municipality or participating instrumentality which is formed
24 solely to succeed to the functions of a participating
25 municipality or participating instrumentality shall be
26 considered to have adopted any such resolution or ordinance

1 which may have been applicable to the employees performing such
2 functions. The election made by the resolution or ordinance
3 shall take effect at the time specified in the resolution or
4 ordinance, and once effective shall be irrevocable.

5 (Source: P.A. 93-933, eff. 8-13-04.)

6 (40 ILCS 5/7-172) (from Ch. 108 1/2, par. 7-172)

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

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

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

15 2. an amount equal to the employee contributions
16 provided by paragraphs (a) and (b) of Section 7-173,
17 whether or not the employee contributions are withheld as
18 permitted by that Section;

19 3. all accounts receivable, together with interest
20 charged thereon, as provided in Section 7-209;

21 4. if it has no participating employees with current
22 earnings, an amount payable which, over a closed period of
23 20 years for participating municipalities and 10 years for
24 participating instrumentalities ~~beginning with the year~~
25 ~~following an award of benefit,~~ will amortize, at the

1 effective rate for that year, any unfunded obligation. The
2 unfunded obligation shall be computed as provided in
3 paragraph 2 of subsection (b) ~~negative balance in its~~
4 ~~municipality reserve resulting from the award. This amount~~
5 ~~when established will be payable as a separate contribution~~
6 ~~whether or not it later has participating employees.~~

7 5. if it has fewer than 7 participating employees or a
8 negative balance in its municipality reserve, the greater
9 of (A) an amount payable that, over a period of 20 years,
10 will amortize at the effective rate for that year any
11 unfunded obligation, computed as provided in paragraph 2 of
12 subsection (b) or (B) the amount required by paragraph 1 of
13 this subsection (a).

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

21 1. The percentage of earnings of all the participating
22 employees of all participating municipalities and
23 participating instrumentalities which, if paid over the
24 entire period of their service, will be sufficient when
25 combined with all employee contributions available for the
26 payment of benefits, to provide all annuities for

1 participating employees, and the \$3,000 death benefit
2 payable under Sections 7-158 and 7-164, such percentage to
3 be known as the normal cost rate.

4 2. The percentage of earnings of the participating
5 employees of each participating municipality and
6 participating instrumentalities necessary to adjust for
7 the difference between the present value of all benefits,
8 excluding temporary and total and permanent disability and
9 death benefits, to be provided for its participating
10 employees and the sum of its accumulated municipality
11 contributions and the accumulated employee contributions
12 and the present value of expected future employee and
13 municipality contributions pursuant to subparagraph 1 of
14 this paragraph (b). This adjustment shall be spread over
15 the remainder of the period that is allowable under
16 generally accepted accounting principles.

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

23 4. The percentage of earnings of the participating
24 employees of all participating municipalities and
25 participating instrumentalities necessary to provide the
26 present value of the net single sum death benefits expected

1 to become payable from the reserve established under
2 Section 7-206 during the year for which this rate is fixed.

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

5 (c) A separate municipality contribution rate shall be
6 computed for each participating municipality or participating
7 instrumentality for its sheriff's law enforcement employees.

8 A separate municipality contribution rate shall be
9 computed for the sheriff's law enforcement employees of each
10 forest preserve district that elects to have such employees.
11 For the period from January 1, 1986 to December 31, 1986, such
12 rate shall be the forest preserve district's regular rate plus
13 2%.

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

21 (d) The Board may establish a separate municipality
22 contribution rate for all employees who are program
23 participants employed under the federal Comprehensive
24 Employment Training Act by all of the participating
25 municipalities and instrumentalities. The Board may also
26 provide that, in lieu of a separate municipality rate for these

1 employees, a portion of the municipality contributions for such
2 program participants shall be refunded or an extra charge
3 assessed so that the amount of municipality contributions
4 retained or received by the fund for all CETA program
5 participants shall be an amount equal to that which would be
6 provided by the separate municipality contribution rate for all
7 such program participants. Refunds shall be made to prime
8 sponsors of programs upon submission of a claim therefor and
9 extra charges shall be assessed to participating
10 municipalities and instrumentalities. In establishing the
11 municipality contribution rate as provided in paragraph (b) of
12 this Section, the use of a separate municipality contribution
13 rate for program participants or the refund of a portion of the
14 municipality contributions, as the case may be, may be
15 considered.

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

24 (f) Any municipality which is the recipient of State
25 allocations representing that municipality's contributions for
26 retirement annuity purposes on behalf of its employees as

1 provided in Section 12-21.16 of the Illinois Public Aid Code
2 shall pay the allocations so received to the Board for such
3 purpose. Estimates of State allocations to be received during
4 any taxable year shall be considered in the determination of
5 the municipality's tax rate for that year under Section 7-171.
6 If a special tax is levied under Section 7-171, none of the
7 proceeds may be used to reimburse the municipality for the
8 amount of State allocations received and paid to the Board. Any
9 multiple-county or consolidated health department which
10 receives contributions from a county under Section 11.2 of "An
11 Act in relation to establishment and maintenance of county and
12 multiple-county health departments", approved July 9, 1943, as
13 amended, or distributions under Section 3 of the Department of
14 Public Health Act, shall use these only for municipality
15 contributions by the health department.

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

25 From the funds subject to allocation among districts and
26 parts of districts pursuant to the School Code, the trustees

1 shall withhold the proportionate share of the liability for
2 municipality contributions imposed upon such districts by this
3 Section, in respect to such township treasurers and employees
4 and remit the same to the Board.

5 The municipality contribution rate for an educational
6 service center shall initially be the same rate for each year
7 as the regional office of education or school district which
8 serves as its administrative agent. When actuarial data become
9 available, a separate rate shall be established as provided in
10 subparagraph (i) of this Section.

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

18 (h) Each participating municipality and participating
19 instrumentality shall make the contributions in the amounts
20 provided in this Section in the manner prescribed from time to
21 time by the Board and all such contributions shall be
22 obligations of the respective participating municipalities and
23 participating instrumentalities to this fund. The failure to
24 deduct any employee contributions shall not relieve the
25 participating municipality or participating instrumentality of
26 its obligation to this fund. Delinquent payments of

1 contributions due under this Section may, with interest, be
2 recovered by civil action against the participating
3 municipalities or participating instrumentalities.
4 Municipality contributions, other than the amount necessary
5 for employee contributions and Social Security contributions,
6 for periods of service by employees from whose earnings no
7 deductions were made for employee contributions to the fund,
8 may be charged to the municipality reserve for the municipality
9 or participating instrumentality.

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

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

1 (Source: P.A. 94-712, eff. 6-1-06.)

2 (40 ILCS 5/7-175.1) (from Ch. 108 1/2, par. 7-175.1)

3 Sec. 7-175.1. Election of employee and annuitant trustees.

4 (a) The board shall prepare and send ballots ~~and ballot~~
5 ~~envelopes~~ to the employees and annuitants eligible to vote as
6 of September of that year. The ballots shall contain the names
7 of all candidates in alphabetical order and an appropriate
8 place where a name may be written in on the ballot. The ballot
9 ~~envelope~~ shall have ~~on the outside~~ a form of certificate
10 stating that the person voting the ballot is a participating
11 employee or annuitant entitled to vote.

12 (b) Employees and annuitants, upon receipt of the ballot,
13 shall vote the ballot ~~and place it in the ballot envelope, seal~~
14 ~~the envelope~~, execute the certificate thereon, and return the
15 ballot to the Fund.

16 (c) The board shall set a final date for ballot return, and
17 ballots received prior to that date ~~in a ballot envelope~~ with a
18 properly executed certificate and properly voted, shall be
19 valid ballots.

20 (d) The board shall set a day for counting the ballots and
21 name judges and clerks of election to conduct the count of
22 ballots, and shall make any rules and regulations necessary for
23 the conduct of the count.

24 (Source: P.A. 89-136, eff. 7-14-95.)

1 (40 ILCS 5/7-220) (from Ch. 108 1/2, par. 7-220)

2 Sec. 7-220. Administrative review. The provisions of the
3 Administrative Review Law, and all amendments and
4 modifications thereof and the rules adopted pursuant thereto
5 shall apply to and govern all proceedings for the judicial
6 review of final administrative decisions of the retirement
7 board provided for under this Article. The term "administrative
8 decision" is as defined in Section 3-101 of the Code of Civil
9 Procedure. The venue for actions brought under the
10 Administrative Review Law shall be any county in which the
11 Board maintains an office or the county in which the member's
12 plaintiff's employing participating municipality or
13 participating instrumentality has its main office.

14 (Source: P.A. 82-783.)

15 Section 90. The State Mandates Act is amended by adding
16 Section 8.34 as follows:

17 (30 ILCS 805/8.34 new)

18 Sec. 8.34. Exempt mandate. Notwithstanding Sections 6 and 8
19 of this Act, no reimbursement by the State is required for the
20 implementation of any mandate created by this amendatory Act of
21 the 96th General Assembly.

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