

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding the  
5 heading of Div. 6-35 and Section 6-35000 as follows:

6 (55 ILCS 5/Div. 6-35 heading new)

7 Division 6-35. Application of the Prudent Investor Rule  
8 to Eligible Deferred Compensation Plans

9 (55 ILCS 5/6-35000 new)

10 Sec. 6-35000. Application of the prudent investor rule to  
11 457(b) plans.

12 (a) If a county offers a 457(b) plan to its officers,  
13 employees, or both, or makes contributions to such a plan on  
14 behalf of its officers, employees, or both, then the county  
15 board and those persons acting under its authority must act in  
16 accordance with the prudent investor rule when making  
17 plan-related decisions.

18 (b) For the purposes of this Section, a person acts in  
19 accordance with the prudent investor rule if he or she acts in  
20 good faith and with the care, skill, prudence, diligence, and  
21 degree of judgment that an investor of prudence, discretion,  
22 and good judgment would exercise in the management of his or

1 her own affairs, taking into account the probable safety of the  
2 plan capital as well as the probable investment return to be  
3 derived from the invested assets.

4 (c) A home rule unit may not regulate a county board's or  
5 its agents' plan-related fiduciary obligations in a manner that  
6 is less restrictive than the regulation by the State of those  
7 obligations under subsection (a). This subsection (c) is a  
8 limitation under subsection (i) of Section 6 of Article VII of  
9 the Illinois Constitution on the concurrent exercise by home  
10 rule units of powers and functions exercised by the State.

11 (d) This Section does not apply to any plan authorized or  
12 created under the Illinois Pension Code.

13 Section 10. The Illinois Municipal Code is amended by  
14 adding Section 8-1-20 as follows:

15 (65 ILCS 5/8-1-20 new)

16 Sec. 8-1-20. Application of the prudent investor rule to  
17 457(b) plans.

18 (a) If a municipality offers a 457(b) plan to its officers,  
19 employees, or both, or makes contributions to such a plan on  
20 behalf of its officers, employees, or both, then the corporate  
21 authorities of the municipality and those persons acting under  
22 their authority must act in accordance with the prudent  
23 investor rule when making plan-related decisions.

24 (b) For the purposes of this Section, a person acts in

1 accordance with the prudent investor rule if he or she acts in  
2 good faith and with the care, skill, prudence, diligence, and  
3 degree of judgment that an investor of prudence, discretion,  
4 and sound judgment would exercise in the management of his or  
5 her own affairs, taking into account the probable safety of the  
6 plan capital as well as the probable investment return to be  
7 derived from the invested assets.

8 (c) A home rule unit may not regulate a municipal corporate  
9 authority's or its agents' plan-related fiduciary obligations  
10 in a manner that is less restrictive than the regulation by the  
11 State of those obligations under subsection (a). This  
12 subsection (c) is a limitation under subsection (i) of Section  
13 6 of Article VII of the Illinois Constitution on the concurrent  
14 exercise by home rule units of powers and functions exercised  
15 by the State.

16 (d) This Section does not apply to any plan authorized or  
17 created under the Illinois Pension Code.

18 Section 15. The School Code is amended by adding Section  
19 10-20.53 as follows:

20 (105 ILCS 5/10-20.53 new)

21 Sec. 10-20.53. Application of the prudent investor rule to  
22 403(b) and 457(b) plans.

23 (a) If a school board other than the Chicago Board of  
24 Schools offers a 403(b) or 457(b) plan to its officers,

1 employees, or both, or makes contributions to such a plan on  
2 behalf of its officers, employees, or both, then the board and  
3 those persons acting under its authority must act in accordance  
4 with the prudent investor rule when making plan-related  
5 decisions.

6 (b) For the purposes of this Section, a person acts in  
7 accordance with the prudent investor rule if he or she acts in  
8 good faith and with the care, skill, prudence, diligence, and  
9 degree of judgment that an investor of prudence, discretion,  
10 and sound judgment would exercise in the management of his or  
11 her own affairs, taking into account the probable safety of the  
12 plan capital as well as the probable investment return to be  
13 derived from the invested assets.

14 (c) This Section does not apply to any plan authorized or  
15 created under the Illinois Pension Code.

16 Section 90. The State Mandates Act is amended by adding  
17 Section 8.35 as follows:

18 (30 ILCS 805/8.35 new)

19 Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8  
20 of this Act, no reimbursement by the State is required for the  
21 implementation of any mandate created by this amendatory Act of  
22 the 97th General Assembly.