



Rep. Mike Fortner

**Filed: 3/4/2011**

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LRB097 08653 JDS 52145 a

1 AMENDMENT TO HOUSE BILL 3370

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3370 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by adding  
5 Sections 7-130.1, 7-130.2, 7-140.5, and 7-173.3 and changing  
6 Section 7-173 as follows:

7 (40 ILCS 5/7-130.1 new)

8 Sec. 7-130.1. Reformed benefit package. "Reformed benefit  
9 package" means the benefit retirement program maintained by the  
10 Fund for persons who first become participants of the Fund on  
11 or after January 1, 2011. It includes the following benefits  
12 for those persons: retirement annuities payable directly from  
13 the Fund; surviving spouse annuities payable directly from the  
14 Fund; child annuities payable directly from the Fund;  
15 contribution refunds; and separation benefits.

1 (40 ILCS 5/7-130.2 new)

2 Sec. 7-130.2. Self-managed plan. "Self-managed plan" means  
3 the defined contribution retirement program maintained by the  
4 Fund, as described in Section 7-173.3. The self-managed plan  
5 does not include retirement, surviving spouse, or child  
6 annuities payable directly from the Fund, contribution  
7 refunds, or separation benefits.

8 (40 ILCS 5/7-140.5 new)

9 Sec. 7-140.5. Retirement program elections.

10 (a) For the purposes of this Article:

11 "Currently eligible participant" means a person who first  
12 became or becomes a participant under this Article on or after  
13 January 1, 2011 and is a participant under this Article before  
14 the day on which the Fund first offers the self-managed plan as  
15 an alternative to the reformed benefit package.

16 "Eligible participant" means either a currently eligible  
17 participant or a newly eligible participant of the Fund

18 "Newly eligible participant" means a person who first  
19 becomes a participant under this Article on or after the date  
20 on which the Fund first offers the self-managed plan as an  
21 alternative to the reformed benefit package.

22 (b) When the Fund offers to participants under this Article  
23 a self-managed plan as an alternative to the reformed benefit  
24 package, each eligible participant shall be given the choice to  
25 elect which retirement program he or she wishes to participate

1 in with respect to all periods of covered employment occurring  
2 on, before, and after the effective date of the participant's  
3 election. The retirement program election made by an eligible  
4 participant must be made in writing, in the manner prescribed  
5 by the Fund, and within the time period described in this  
6 Section.

7 If an eligible participant elects the self-managed plan,  
8 then that election is irrevocable. If an eligible participant  
9 who elected to participate or participated by default in the  
10 reformed benefit plan terminates employment under this  
11 Article, then the participant, upon his or her subsequent  
12 re-employment under this Article, may make an election under  
13 this Section.

14 An eligible participant who fails to make an election under  
15 this Section shall, by default, participate in the reformed  
16 benefit package.

17 (c) An eligible participant may elect to participate in the  
18 reformed benefit package or the self-managed plan. An eligible  
19 participant must make this election within one year after the  
20 effective date of the adoption of the self-managed plan under  
21 Section 7-173.3 or 60 days after first becoming a participant  
22 under this Article, whichever is later, or, in the case of a  
23 currently eligible participant who terminates employment under  
24 this Article, within one year after his or her re-employment  
25 under this Article.

26 (d) If the eligible participant elects to participate in

1 the self-managed plan, the Fund shall fund his or her account  
2 as stated in subsection (f) of Section 7-173.3.

3 (e) An eligible participant shall be provided with written  
4 information prepared or prescribed by the Fund that describes  
5 the participant's retirement program choices. The eligible  
6 participant shall be offered an opportunity to receive  
7 counseling from the Fund before making his or her election.  
8 This counseling may consist of videotaped materials, group  
9 presentations, individual consultation with an employee or  
10 authorized representative of the Fund in person or by telephone  
11 or other electronic means, or any combination of these methods.

12 (40 ILCS 5/7-173) (from Ch. 108 1/2, par. 7-173)

13 Sec. 7-173. Contributions by employees.

14 (a) Each participating employee shall make contributions  
15 to the fund as follows:

16 1. For retirement annuity purposes, normal  
17 contributions of 3 3/4% of earnings.

18 2. Additional contributions of such percentages of  
19 each payment of earnings, as shall be elected by the  
20 employee for retirement annuity purposes, but not in excess  
21 of 10%. The selected rate shall be applicable to all  
22 earnings paid following receipt by the Board of written  
23 notice of election to make such contributions. Additional  
24 contributions at the selected rate shall be made  
25 concurrently with normal contributions.

1           3. Survivor contributions, by each participating  
2 employee, of 3/4% of each payment of earnings.  
3 Notwithstanding this item 3, in the case of an employee who  
4 participates in the self-managed plan under Section  
5 7-173.3, contributions for a survivor's annuity shall  
6 instead be used to finance the benefits available under  
7 Section 1-173.3.

8           (b) Each employee shall make contributions for Federal  
9 Social Security taxes, for periods during which he is a covered  
10 employee, as required by the Social Security Enabling Act and  
11 State and federal law. For participating employees, such  
12 contributions shall be in addition to those required under  
13 paragraph (a) of this Section.

14           (c) Contributions shall be deducted from each  
15 corresponding payment of earnings paid to each employee and  
16 shall be remitted to the board by the participating  
17 municipality or participating instrumentality making such  
18 payment. The remittance, together with a report of the earnings  
19 and contributions shall be made as directed by the board. For  
20 township treasurers and employees of township treasurers  
21 qualifying as employees hereunder, the contributions herein  
22 required as deductions from salary shall be withheld by the  
23 school township trustees from funds available for the payment  
24 of the compensation of such treasurers and employees as  
25 provided in the School Code and remitted to the board.

26           (d) An employee who has made additional contributions under

1 paragraph (a)2 of this Section may upon retirement or at any  
2 time prior thereto, elect to withdraw the total of such  
3 additional contributions including interest credited thereon  
4 to the end of the preceding calendar year.

5 (e) Failure to make the deductions for employee  
6 contributions provided in paragraph (c) of this Section shall  
7 not relieve the employee from liability for such contributions.  
8 The amount of such liability may be deducted, with interest  
9 charged under Section 7-209, from any annuities or benefits  
10 payable hereunder to the employee or any other person receiving  
11 an annuity or benefit by reason of such employee's  
12 participation.

13 (f) A participating employee who has at least 40 years of  
14 creditable service in the Fund may elect to cease making the  
15 contributions required under this Section. The status of the  
16 employee under this Article shall be unaffected by this  
17 election, except that the employee shall not receive any  
18 additional creditable service for the periods of employment  
19 following the election. An election under this subsection  
20 relieves the employer from making additional employer  
21 contributions in relation to that employee.

22 (Source: P.A. 96-1084, eff. 7-16-10; 96-1258, eff. 7-23-10;  
23 revised 9-2-10.)

24 (40 ILCS 5/7-173.3 new)

25 Sec. 7-173.3. Self-managed plan.

1       (a) The General Assembly finds that the Illinois Municipal  
2 Retirement Fund should have the flexibility to provide a  
3 defined contribution (self-managed) plan for eligible  
4 participants. Accordingly, the Illinois Municipal Retirement  
5 Fund is hereby authorized to establish and administer a  
6 self-managed plan, which shall offer participants the  
7 opportunity to accumulate assets for retirement through a  
8 combination of participant and employer contributions that may  
9 be invested in mutual funds, collective investment funds, or  
10 other investment products and used to purchase annuity  
11 contracts that are fixed, variable, or a combination of fixed  
12 and variable. The plan must be qualified under the Internal  
13 Revenue Code of 1986.

14       (b) The Board shall adopt the self-managed plan established  
15 under this Section for eligible participants under this  
16 Article. The adoption of the self-managed plan makes available  
17 to the eligible participants under this Article the elections  
18 described in Section 7-140.5.

19       The Illinois Municipal Retirement Fund shall be the plan  
20 sponsor for the self-managed plan and shall prepare a plan  
21 document and adopt any rules and procedures that are considered  
22 necessary or desirable for the administration of the  
23 self-managed plan. Consistent with its fiduciary duty to the  
24 participants and beneficiaries of the self-managed plan, the  
25 Board of Trustees of the Fund may delegate aspects of plan  
26 administration as it sees fit to companies authorized to do

1 business in this State.

2 (c) The Fund shall solicit proposals to provide  
3 administrative services and funding vehicles for the  
4 self-managed plan from insurance and annuity companies and  
5 mutual fund companies, banks, trust companies, or other  
6 financial institutions authorized to do business in this State.  
7 In reviewing the proposals received and approving and  
8 contracting with no fewer than 2 and no more than 7 companies,  
9 the Board of Trustees of the Fund shall consider, among other  
10 things, the following criteria:

11 (1) the nature and extent of the benefits that would be  
12 provided to the participants;

13 (2) the reasonableness of the benefits in relation to  
14 the premium charged;

15 (3) the suitability of the benefits to the needs and  
16 interests of the participants and the employers; and

17 (4) the ability of the company to provide benefits  
18 under the contract and the financial stability of the  
19 company.

20 The System shall periodically review each approved  
21 company. A company may continue to provide administrative  
22 services and funding vehicles for the self-managed plan only so  
23 long as it continues to be an approved company under contract  
24 with the Board.

25 In addition to the companies approved by the Fund under  
26 this subsection (c), the Fund may offer its participants an



1 investment fund managed by the Illinois State Board of  
2 Investment.

3 (d) Participants in the program must be allowed to direct  
4 the transfer of their account balances among the various  
5 investment options offered, subject to applicable contractual  
6 provisions. The participant shall not be deemed a fiduciary by  
7 reason of providing such investment direction. A person who is  
8 a fiduciary shall not be liable for any loss resulting from  
9 that investment direction and shall not be deemed to have  
10 breached any fiduciary duty by acting in accordance with that  
11 direction. Neither the Fund nor the employer shall guarantee  
12 any of the investments in the participant's account balances.

13 (e) Eligible participants, as defined in Section 7-140.5,  
14 must make a written election to participate in the self-managed  
15 plan in accordance with the provisions of Section 7-140.5 and  
16 the procedures established by the Fund. Participation in the  
17 self-managed plan shall begin on the first day of the month  
18 immediately following the month in which the participant's  
19 election is filed with the Fund, but not sooner than the  
20 effective date of the self-managed plan. The Fund shall make  
21 the self-managed plan available under this Article within 6  
22 months after the effective date of this amendatory Act of the  
23 97th General Assembly. A member's participation in the reformed  
24 benefit package under this Article shall terminate on the date  
25 that participation in the self-managed plan begins.

26 A member who has elected to participate in the self-managed

1 plan under this Section must continue participation while he or  
2 she remains a participant under this Article, and may not  
3 participate in the reformed benefit package.

4 Participation in the self-managed plan under this Section  
5 shall constitute participation in the Illinois Municipal  
6 Retirement Fund.

7 A participant under this Section shall be entitled to the  
8 benefits of Article 20 of this Code.

9 (f) If, at the time a participant elects to participate in  
10 the self-managed plan, the participant has rights and credits  
11 in the Fund due to previous participation in the reformed  
12 benefit package, the Fund shall establish for the participant  
13 an opening account balance in the self-managed plan, equal to  
14 (1) the amount of the separation benefit that the participant  
15 would be eligible to receive if the participant terminated  
16 employment on that date and elected a separation benefit and  
17 (2) an amount, representing employer contributions, equal to  
18 the amount of employee contributions, plus interest. The  
19 interest used in this subsection (f) shall be calculated using  
20 the actual annual rates of return that the Fund has earned  
21 during the time period corresponding to the actual investment  
22 of the contributions being transferred. The Fund shall transfer  
23 assets from the reformed benefit package to the self-managed  
24 plan, as a tax-free transfer in accordance with Internal  
25 Revenue Service guidelines, for purposes of funding the  
26 participant's opening account balance.

1       (g) Notwithstanding any other provision of this Article, a  
2 participant may not purchase or receive service or service  
3 credit applicable to the reformed benefit package under this  
4 Article for any period during which the employee was a  
5 participant in the self-managed plan established under this  
6 Section.

7       (h) The self-managed plan shall be funded by contributions  
8 from participants in the self-managed plan and employer  
9 contributions as provided in this Section.

10       The contribution rate for participants in the self-managed  
11 plan under this Section shall be equal to the member  
12 contribution rate for other participants in the Fund, as  
13 provided in Section 7-173. This required contribution shall be  
14 made as an employer pick-up under Section 414(h) of the  
15 Internal Revenue Code of 1986 or any successor Section thereof.  
16 Any participant in the Fund's reformed benefit package before  
17 his or her election to participate in the self-managed plan  
18 shall continue to have the employer pick up the contributions  
19 required under Section 7-173. However, the amounts picked up  
20 after the election of the self-managed plan shall be remitted  
21 to and treated as assets of the self-managed plan. In no event  
22 shall a participant have the option of receiving these amounts  
23 in cash. Participants may make additional contributions to the  
24 self-managed plan in accordance with procedures prescribed by  
25 the Fund, to the extent permitted under rules adopted by the  
26 Fund.

1       The program shall provide for employer contributions to be  
2 credited to each self-managed plan participant in an amount  
3 equal to the employee contributions, notwithstanding Section  
4 7-172.

5       Each employer shall make contributions by appropriations  
6 to the Fund for participants in the self-managed plan under  
7 this Section. The amount required shall be certified by the  
8 Board of Trustees of the Fund and paid by the employer in  
9 accordance with Section 7-172. The Fund shall not be obligated  
10 to remit the required employer contributions to any of the  
11 insurance and annuity companies, mutual fund companies, banks,  
12 trust companies, financial institutions, or other sponsors of  
13 any of the funding vehicles offered under the self-managed plan  
14 until it has received the required employer contributions from  
15 the employer

16       (i) A participant in the self-managed plan becomes vested  
17 in the employer contributions credited to his or her accounts  
18 in the self-managed plan on the earliest to occur of the  
19 following: (1) attainment of 5 years of service credit; (2) the  
20 death of the participating member while employed under this  
21 Article, if the member has completed at least 1.5 years of  
22 service; or (3) the member's election to retire and apply the  
23 reciprocal provisions of Article 20 of this Code.

24       A participant in the self-managed plan who receives a  
25 distribution of his or her vested amounts from the self-managed  
26 plan while not yet eligible for retirement under this Article

1 (and Article 20, if applicable) shall forfeit all service  
2 credit and accrued rights in the Fund; if he or she  
3 subsequently becomes a participant under this Article again, he  
4 or she shall be considered a new participant. If a former  
5 participant again becomes a participant (or becomes employed by  
6 a participating system under Article 20 of this Code) and  
7 continues as such for at least 2 years, all rights, service  
8 credits, and previous status as a participant shall be restored  
9 upon repayment of the amount of the distribution, with interest  
10 at the actuarially assumed rate from the date of distribution  
11 until the date of payment.

12 (j) If a participant in the self-managed plan who is vested  
13 in employer contributions terminates employment, the  
14 participant shall be entitled to a benefit that is based on the  
15 account values attributable to both employer and employee  
16 contributions and any investment return thereon.

17 If a participant in the self-managed plan who is not vested  
18 in employer contributions terminates employment, the  
19 participant shall be entitled to a benefit based solely on the  
20 account values attributable to the participant's contributions  
21 and any investment return thereon, and the employer  
22 contributions and any investment return thereon shall be  
23 forfeited. Any employer contributions that are forfeited shall  
24 be held in escrow by the company investing those contributions  
25 and shall be used, as directed by the Fund, for future  
26 allocations of employer contributions or for the restoration of

1 amounts previously forfeited by former participants who again  
2 become participating members.

3 Section 90. The State Mandates Act is amended by adding  
4 Section 8.35 as follows:

5 (30 ILCS 805/8.35 new)

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

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