

SB3720



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3720

Introduced 2/10/2012, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-132

from Ch. 108 1/2, par. 7-132

30 ILCS 805/8.36 new

Amends the Illinois Municipal Retirement Fund (IMRF) Article of the Illinois Pension Code. Provides for the Philip J. Rock Center and School to participate in the Fund as a participating instrumentality. Includes provisions relating to prior service and inability to pay the required employer contributions. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB097 19677 EFG 64933 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

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 Section 7-132 as follows:

6 (40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

7 Sec. 7-132. Municipalities, instrumentalities and
8 participating instrumentalities included and effective dates.

9 (A) Municipalities and their instrumentalities.

10 (a) The following described municipalities, but not
11 including any with more than 1,000,000 inhabitants, and the
12 instrumentalities thereof, shall be included within and be
13 subject to this Article beginning upon the effective dates
14 specified by the Board:

15 (1) Except as to the municipalities and
16 instrumentalities thereof specifically excluded under this
17 Article, every county shall be subject to this Article, and
18 all cities, villages and incorporated towns having a
19 population in excess of 5,000 inhabitants as determined by
20 the last preceding decennial or subsequent federal census,
21 shall be subject to this Article following publication of
22 the census by the Bureau of the Census. Within 90 days

1 after publication of the census, the Board shall notify any
2 municipality that has become subject to this Article as a
3 result of that census, and shall provide information to the
4 corporate authorities of the municipality explaining the
5 duties and consequences of participation. The notification
6 shall also include a proposed date upon which participation
7 by the municipality will commence.

8 However, for any city, village or incorporated town
9 that attains a population over 5,000 inhabitants after
10 having provided social security coverage for its employees
11 under the Social Security Enabling Act, participation
12 under this Article shall not be mandatory but may be
13 elected in accordance with subparagraph (3) or (4) of this
14 paragraph (a), whichever is applicable.

15 (2) School districts, other than those specifically
16 excluded under this Article, shall be subject to this
17 Article, without election, with respect to all employees
18 thereof.

19 (3) Towns and all other bodies politic and corporate
20 which are formed by vote of, or are subject to control by,
21 the electors in towns and are located in towns which are
22 not participating municipalities on the effective date of
23 this Act, may become subject to this Article by election
24 pursuant to Section 7-132.1.

25 (4) Any other municipality (together with its
26 instrumentalities), other than those specifically excluded

1 from participation and those described in paragraph (3)
2 above, may elect to be included either by referendum under
3 Section 7-134 or by the adoption of a resolution or
4 ordinance by its governing body. A copy of such resolution
5 or ordinance duly authenticated and certified by the clerk
6 of the municipality or other appropriate official of its
7 governing body shall constitute the required notice to the
8 board of such action.

9 (b) A municipality that is about to begin participation
10 shall submit to the Board an application to participate, in a
11 form acceptable to the Board, not later than 90 days prior to
12 the proposed effective date of participation. The Board shall
13 act upon the application within 90 days, and if it finds that
14 the application is in conformity with its requirements and the
15 requirements of this Article, participation by the applicant
16 shall commence on a date acceptable to the municipality and
17 specified by the Board, but in no event more than one year from
18 the date of application.

19 (c) A participating municipality which succeeds to the
20 functions of a participating municipality which is dissolved or
21 terminates its existence shall assume and be transferred the
22 net accumulation balance in the municipality reserve and the
23 municipality account receivable balance of the terminated
24 municipality.

25 (d) In the case of a Veterans Assistance Commission whose
26 employees were being treated by the Fund on January 1, 1990 as

1 employees of the county served by the Commission, the Fund may
2 continue to treat the employees of the Veterans Assistance
3 Commission as county employees for the purposes of this
4 Article, unless the Commission becomes a participating
5 instrumentality in accordance with subsection (B) of this
6 Section.

7 (B) Participating instrumentalities.

8 (a) The participating instrumentalities designated in
9 paragraph (b) of this subsection shall be included within and
10 be subject to this Article if:

11 (1) an application to participate, in a form acceptable
12 to the Board and adopted by a two-thirds vote of the
13 governing body, is presented to the Board not later than 90
14 days prior to the proposed effective date; and

15 (2) the Board finds that the application is in
16 conformity with its requirements, that the applicant has
17 reasonable expectation to continue as a political entity
18 for a period of at least 10 years and has the prospective
19 financial capacity to meet its current and future
20 obligations to the Fund, and that the actuarial soundness
21 of the Fund may be reasonably expected to be unimpaired by
22 approval of participation by the applicant.

23 The Board shall notify the applicant of its findings within
24 90 days after receiving the application, and if the Board
25 approves the application, participation by the applicant shall

1 commence on the effective date specified by the Board.

2 (b) The following participating instrumentalities, so long
3 as they meet the requirements of Section 7-108 and the area
4 served by them or within their jurisdiction is not located
5 entirely within a municipality having more than one million
6 inhabitants, may be included hereunder:

7 i. Township School District Trustees.

8 ii. Multiple County and Consolidated Health
9 Departments created under Division 5-25 of the Counties
10 Code or its predecessor law.

11 iii. Public Building Commissions created under the
12 Public Building Commission Act, and located in counties of
13 less than 1,000,000 inhabitants.

14 iv. A multitype, consolidated or cooperative library
15 system created under the Illinois Library System Act. Any
16 library system created under the Illinois Library System
17 Act that has one or more predecessors that participated in
18 the Fund may participate in the Fund upon application. The
19 Board shall establish procedures for implementing the
20 transfer of rights and obligations from the predecessor
21 system to the successor system.

22 v. Regional Planning Commissions created under
23 Division 5-14 of the Counties Code or its predecessor law.

24 vi. Local Public Housing Authorities created under the
25 Housing Authorities Act, located in counties of less than
26 1,000,000 inhabitants.

- 1 vii. Illinois Municipal League.
- 2 viii. Northeastern Illinois Metropolitan Area Planning
3 Commission.
- 4 ix. Southwestern Illinois Metropolitan Area Planning
5 Commission.
- 6 x. Illinois Association of Park Districts.
- 7 xi. Illinois Supervisors, County Commissioners and
8 Superintendents of Highways Association.
- 9 xii. Tri-City Regional Port District.
- 10 xiii. An association, or not-for-profit corporation,
11 membership in which is authorized under Section 85-15 of
12 the Township Code.
- 13 xiv. Drainage Districts operating under the Illinois
14 Drainage Code.
- 15 xv. Local mass transit districts created under the
16 Local Mass Transit District Act.
- 17 xvi. Soil and water conservation districts created
18 under the Soil and Water Conservation Districts Law.
- 19 xvii. Commissions created to provide water supply or
20 sewer services or both under Division 135 or Division 136
21 of Article 11 of the Illinois Municipal Code.
- 22 xviii. Public water districts created under the Public
23 Water District Act.
- 24 xix. Veterans Assistance Commissions established under
25 Section 9 of the Military Veterans Assistance Act that
26 serve counties with a population of less than 1,000,000.

1 xx. The governing body of an entity, other than a
2 vocational education cooperative, created under an
3 intergovernmental cooperative agreement established
4 between participating municipalities under the
5 Intergovernmental Cooperation Act, which by the terms of
6 the agreement is the employer of the persons performing
7 services under the agreement under the usual common law
8 rules determining the employer-employee relationship. The
9 governing body of such an intergovernmental cooperative
10 entity established prior to July 1, 1988 may make
11 participation retroactive to the effective date of the
12 agreement and, if so, the effective date of participation
13 shall be the date the required application is filed with
14 the fund. If any such entity is unable to pay the required
15 employer contributions to the fund, then the participating
16 municipalities shall make payment of the required
17 contributions and the payments shall be allocated as
18 provided in the agreement or, if not so provided, equally
19 among them.

20 xxi. The Illinois Municipal Electric Agency.

21 xxii. The Waukegan Port District.

22 xxiii. The Fox Waterway Agency created under the Fox
23 Waterway Agency Act.

24 xxiv. The Illinois Municipal Gas Agency.

25 xxv. The Kaskaskia Regional Port District.

26 xxvi. The Southwestern Illinois Development Authority.

1 xxvii. The Cairo Public Utility Company.

2 xxviii. Except with respect to employees who elect to
3 participate in the State Employees' Retirement System of
4 Illinois under Section 14-104.13 of this Code, the Chicago
5 Metropolitan Agency for Planning created under the
6 Regional Planning Act, provided that, with respect to the
7 benefits payable pursuant to Sections 7-146, 7-150, and
8 7-164 and the requirement that eligibility for such
9 benefits is conditional upon satisfying a minimum period of
10 service or a minimum contribution, any employee of the
11 Chicago Metropolitan Agency for Planning that was
12 immediately prior to such employment an employee of the
13 Chicago Area Transportation Study or the Northeastern
14 Illinois Planning Commission, such employee's service at
15 the Chicago Area Transportation Study or the Northeastern
16 Illinois Planning Commission and contributions to the
17 State Employees' Retirement System of Illinois established
18 under Article 14 and the Illinois Municipal Retirement Fund
19 shall count towards the satisfaction of such requirements.

20 xxix. United Counties Council (formerly the Urban
21 Counties Council), but only if the Council has a ruling
22 from the United States Internal Revenue Service that it is
23 a governmental entity.

24 xxx. The Will County Governmental League, but only if
25 the League has a ruling from the United States Internal
26 Revenue Service that it is a governmental entity.

1 (c) The governing boards of special education joint
2 agreements created under Section 10-22.31 of the School Code
3 without designation of an administrative district shall be
4 included within and be subject to this Article as participating
5 instrumentalities when the joint agreement becomes effective.
6 However, the governing board of any such special education
7 joint agreement in effect before September 5, 1975 shall not be
8 subject to this Article unless the joint agreement is modified
9 by the school districts to provide that the governing board is
10 subject to this Article, except as otherwise provided by this
11 Section.

12 The governing board of the Special Education District of
13 Lake County shall become subject to this Article as a
14 participating instrumentality on July 1, 1997. Notwithstanding
15 subdivision (a)1 of Section 7-139, on the effective date of
16 participation, employees of the governing board of the Special
17 Education District of Lake County shall receive creditable
18 service for their prior service with that employer, up to a
19 maximum of 5 years, without any employee contribution.
20 Employees may establish creditable service for the remainder of
21 their prior service with that employer, if any, by applying in
22 writing and paying an employee contribution in an amount
23 determined by the Fund, based on the employee contribution
24 rates in effect at the time of application for the creditable
25 service and the employee's salary rate on the effective date of
26 participation for that employer, plus interest at the effective

1 rate from the date of the prior service to the date of payment.
2 Application for this creditable service must be made before
3 July 1, 1998; the payment may be made at any time while the
4 employee is still in service. The employer may elect to make
5 the required contribution on behalf of the employee.

6 The governing board of a special education joint agreement
7 created under Section 10-22.31 of the School Code for which an
8 administrative district has been designated, if there are
9 employees of the cooperative educational entity who are not
10 employees of the administrative district, may elect to
11 participate in the Fund and be included within this Article as
12 a participating instrumentality, subject to such application
13 procedures and rules as the Board may prescribe.

14 The Boards of Control of cooperative or joint educational
15 programs or projects created and administered under Section
16 3-15.14 of the School Code, whether or not the Boards act as
17 their own administrative district, shall be included within and
18 be subject to this Article as participating instrumentalities
19 when the agreement establishing the cooperative or joint
20 educational program or project becomes effective.

21 The governing board of a special education joint agreement
22 entered into after June 30, 1984 and prior to September 17,
23 1985 which provides for representation on the governing board
24 by less than all the participating districts shall be included
25 within and subject to this Article as a participating
26 instrumentality. Such participation shall be effective as of

1 the date the joint agreement becomes effective.

2 The governing boards of educational service centers
3 established under Section 2-3.62 of the School Code shall be
4 included within and subject to this Article as participating
5 instrumentalities. The governing boards of vocational
6 education cooperative agreements created under the
7 Intergovernmental Cooperation Act and approved by the State
8 Board of Education shall be included within and be subject to
9 this Article as participating instrumentalities. If any such
10 governing boards or boards of control are unable to pay the
11 required employer contributions to the fund, then the school
12 districts served by such boards shall make payment of required
13 contributions as provided in Section 7-172. The payments shall
14 be allocated among the several school districts in proportion
15 to the number of students in average daily attendance for the
16 last full school year for each district in relation to the
17 total number of students in average attendance for such period
18 for all districts served. If such educational service centers,
19 vocational education cooperatives or cooperative or joint
20 educational programs or projects created and administered
21 under Section 3-15.14 of the School Code are dissolved, the
22 assets and obligations shall be distributed among the districts
23 in the same proportions unless otherwise provided.

24 The governing board of Paris Cooperative High School shall
25 be included within and be subject to this Article as a
26 participating instrumentality on the effective date of this

1 amendatory Act of the 96th General Assembly. If the governing
2 board of Paris Cooperative High School is unable to pay the
3 required employer contributions to the fund, then the school
4 districts served shall make payment of required contributions
5 as provided in Section 7-172. The payments shall be allocated
6 among the several school districts in proportion to the number
7 of students in average daily attendance for the last full
8 school year for each district in relation to the total number
9 of students in average attendance for such period for all
10 districts served. If Paris Cooperative High School is
11 dissolved, then the assets and obligations shall be distributed
12 among the districts in the same proportions unless otherwise
13 provided.

14 The Philip J. Rock Center and School shall be included
15 within and be subject to this Article as a participating
16 instrumentality on the effective date of this amendatory Act of
17 the 97th General Assembly. The Philip J. Rock Center and School
18 shall certify to the Fund the dates of service of all employees
19 within 90 days of the effective date of this amendatory Act of
20 the 97th General Assembly. The Fund shall transfer to the IMRF
21 account of the Philip J. Rock Center and School all creditable
22 service and all employer contributions made on behalf of the
23 employees for service at the Philip J. Rock Center and School
24 that were reported and paid to IMRF by another employer prior
25 to this date. If the Philip J. Rock Center and School is unable
26 to pay the required employer contributions to the Fund, then

1 the amount due will be paid by all employers as defined in item
2 (2) of paragraph (a) of subsection (A) of this Section. The
3 payments shall be allocated among these employers in proportion
4 to the number of students in average daily attendance for the
5 last full school year for each district in relation to the
6 total number of students in average attendance for such period
7 for all districts. If the Philip J. Rock Center and School is
8 dissolved, then its IMRF assets and obligations shall be
9 distributed in the same proportions unless otherwise provided.

10 Financial Oversight Panels established under Article 1H of
11 the School Code shall be included within and be subject to this
12 Article as a participating instrumentality on the effective
13 date of this amendatory Act of the 97th General Assembly. If
14 the Financial Oversight Panel is unable to pay the required
15 employer contributions to the fund, then the school districts
16 served shall make payment of required contributions as provided
17 in Section 7-172. If the Financial Oversight Panel is
18 dissolved, then the assets and obligations shall be distributed
19 to the district served.

20 (d) The governing boards of special recreation joint
21 agreements created under Section 8-10b of the Park District
22 Code, operating without designation of an administrative
23 district or an administrative municipality appointed to
24 administer the program operating under the authority of such
25 joint agreement shall be included within and be subject to this
26 Article as participating instrumentalities when the joint

1 agreement becomes effective. However, the governing board of
2 any such special recreation joint agreement in effect before
3 January 1, 1980 shall not be subject to this Article unless the
4 joint agreement is modified, by the districts and
5 municipalities which are parties to the agreement, to provide
6 that the governing board is subject to this Article.

7 If the Board returns any employer and employee
8 contributions to any employer which erroneously submitted such
9 contributions on behalf of a special recreation joint
10 agreement, the Board shall include interest computed from the
11 end of each year to the date of payment, not compounded, at the
12 rate of 7% per annum.

13 (e) Each multi-township assessment district, the board of
14 trustees of which has adopted this Article by ordinance prior
15 to April 1, 1982, shall be a participating instrumentality
16 included within and subject to this Article effective December
17 1, 1981. The contributions required under Section 7-172 shall
18 be included in the budget prepared under and allocated in
19 accordance with Section 2-30 of the Property Tax Code.

20 (f) The Illinois Medical District Commission created under
21 the Illinois Medical District Act may be included within and
22 subject to this Article as a participating instrumentality,
23 notwithstanding that the location of the District is entirely
24 within the City of Chicago. To become a participating
25 instrumentality, the Commission must apply to the Board in the
26 manner set forth in paragraph (a) of this subsection (B). If

1 the Board approves the application, under the criteria and
2 procedures set forth in paragraph (a) and any other applicable
3 rules, criteria, and procedures of the Board, participation by
4 the Commission shall commence on the effective date specified
5 by the Board.

6 (C) Prospective participants.

7 Beginning January 1, 1992, each prospective participating
8 municipality or participating instrumentality shall pay to the
9 Fund the cost, as determined by the Board, of a study prepared
10 by the Fund or its actuary, detailing the prospective costs of
11 participation in the Fund to be expected by the municipality or
12 instrumentality.

13 (Source: P.A. 96-211, eff. 8-10-09; 96-551, eff. 8-17-09;
14 96-1000, eff. 7-2-10; 96-1046, eff. 7-14-10; 97-429, eff.
15 8-16-11.)

16 Section 90. The State Mandates Act is amended by adding
17 Section 8.36 as follows:

18 (30 ILCS 805/8.36 new)

19 Sec. 8.36. 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.

23 Section 99. Effective date. This Act takes effect upon

1 becoming law.