HB3066

LRB098 07778 EFG 37857 b

98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3066

by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

See Index

Amends the Budget Stabilization Act. Makes changes concerning transfers from the General Revenue Fund to the Pension Stabilization Fund. Amends the State Universities and Downstate Teachers Articles of the Illinois Pension Code. Requires the Teachers' Retirement System to establish and maintain a self-managed plan one. Authorizes participants to irrevocably elect to participate in such a plan. Provides that, for the purpose of calculating traditional benefit package benefits and contributions, the annual salary of a participant may not, except under certain circumstances, exceed certain limits. Requires participation in the self-managed plan to the extent that a participant's salary exceeds the salary cap. Revises the schedule of contributions for participants. Shifts a portion of the employer contributions for downstate teachers and university employees from the State to the actual employer. Authorizes the boards of trustees of each of these retirement systems to triennially recalculate the normal cost of benefit plans that they offer. Defines "traditional benefit package" and "self-managed plan". Changes the formula for calculating the minimum required State contribution to these systems. Provides that the State is contractually obligated to pay the annual required State contribution to these retirement systems. Contains provisions requiring these retirement systems to bring a mandamus action to compel payment of the required State contribution. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

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FISCAL NOTE ACT MAY APPLY	PENSION IMPACT NOTE ACT MAY APPLY	STATE MANDATES ACT MAY REQUIRE REIMBURSEMENT

A BILL FOR

AN ACT concerning public employee benefits.

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

Section 3. The Budget Stabilization Act is amended by changing Sections 20 and 25 as follows:

(30 ILCS 122/20)

Sec. 20. Pension Stabilization Fund.

(a) The Pension Stabilization Fund is hereby created as a special fund in the State treasury. Moneys in the fund shall be used for the sole purpose of making payments to the designated retirement systems as provided in Section 25.

(b) For each fiscal year when the General Assembly's appropriations and transfers or diversions as required by law from general funds do not exceed 99% of the estimated general funds revenues pursuant to subsection (a) of Section 10, the Comptroller shall transfer from the General Revenue Fund as provided by this Section a total amount equal to 0.5% of the estimated general funds revenues to the Pension Stabilization Fund.

(c) For each fiscal year through Fiscal Year 2013, when the General Assembly's appropriations and transfers or diversions as required by law from general funds do not exceed 98% of the estimated general funds revenues pursuant to subsection (b) of

Section 10, the Comptroller shall transfer from the General Revenue Fund as provided by this Section a total amount equal to 1.0% of the estimated general funds revenues to the Pension Stabilization Fund.

(c-5) In Fiscal Year 2014, the State Comptroller shall order transferred and the State Treasurer shall transfer $3,400,000,000 from the General Revenue Fund to the Pension Stabilization Fund. In each fiscal year thereafter, the State Comptroller shall order transferred and the State Treasurer shall transfer from the General Revenue Fund to the Pension Stabilization Fund the amount transferred under this subsection (c-5) in the previous fiscal year increased by 1.5%.

(c-10) In addition, in Fiscal Year 2016 and each fiscal year thereafter, the State Comptroller shall order transferred and the State Treasurer shall transfer $693,500,000 from the General Revenue Fund to the Pension Stabilization Fund.

(c-15) In addition, in Fiscal Year 2020 and each fiscal year thereafter, the State Comptroller shall order transferred and the State Treasurer shall transfer $900,000,000 from the General Revenue Fund to the Pension Stabilization Fund.

(c-20) In addition, in Fiscal Year 2034 and each fiscal year thereafter, the State Comptroller shall order transferred and the State Treasurer shall transfer $1,100,000,000 from the General Revenue Fund to the Pension Stabilization Fund.

(c-25) The transfers made pursuant to subsections (c-5) through (c-20) of this Section shall continue until Fiscal Year

<u>2045 or until each of the designated retirement systems, as defined in Section 25, has achieved a funding ratio of at least 100%, whichever occurs first.</u>

(d) The Comptroller shall transfer 1/12 of the total amount to be transferred each fiscal year under this Section into the Pension Stabilization Fund on the first day of each month of that fiscal year or as soon thereafter as possible; except that the final transfer of the fiscal year shall be made as soon as practical after the August 31 following the end of the fiscal year.

<u>Until Fiscal Year 2014, before</u> ~~Before~~ the final transfer for a fiscal year is made, the Comptroller shall reconcile the estimated general funds revenues used in calculating the other transfers under this Section for that fiscal year with the actual general funds revenues for that fiscal year. The final transfer for the fiscal year shall be adjusted so that the total amount transferred under this Section for that fiscal year is equal to the percentage specified in subsection (b) or (c) of this Section, whichever is applicable, of the actual general funds revenues for that fiscal year. The actual general funds revenues for the fiscal year shall be calculated in a manner consistent with subsection (c) of Section 10 of this Act.

(Source: P.A. 94-839, eff. 6-6-06.)

(30 ILCS 122/25)

Sec. 25. Transfers from the Pension Stabilization Fund.

(a) As used in this Section, "designated retirement systems" means:

(1) the State Employees' Retirement System of Illinois;

(2) the Teachers' Retirement System of the State of Illinois;

(3) the State Universities Retirement System;

(4) the Judges Retirement System of Illinois; and

(5) the General Assembly Retirement System.

(b) As soon as may be practical after any money is deposited into the Pension Stabilization Fund, the State Comptroller shall apportion the deposited amount among the designated retirement systems and the State Comptroller and State Treasurer shall pay the apportioned amounts to the designated retirement systems. The amount deposited shall be apportioned among the designated retirement systems in proportion to their respective certified State contributions for the State fiscal year in which the payment is made to those systems ~~in the same proportion as their respective portions of the total actuarial reserve deficiency of the designated retirement systems, as most recently determined by the Governor's Office of Management and Budget~~. Amounts received by a designated retirement system under this Section shall be used for funding the unfunded liabilities of the retirement system. Payments under this Section are authorized by the continuing appropriation under Section 1.7 of the State Pension Funds Continuing Appropriation Act. The total amount transferred to the designated retirement systems in Fiscal Year 2014 shall not be less than $3,400,000,000. In each Fiscal Year thereafter, the total amount transferred to the designated retirement systems shall not be less than the total amount transferred in the previous fiscal year.

(c) At the request of the State Comptroller, the Governor's Office of Management and Budget shall determine the individual and total actuarial reserve deficiencies of the designated retirement systems. For this purpose, the Governor's Office of Management and Budget shall consider the latest available audit and actuarial reports of each of the retirement systems and the relevant reports and statistics of the Public Pension Division of the Department of Financial and Professional Regulation.

(d) Payments to the designated retirement systems under this Section shall be in addition to, and not in lieu of, any State contributions required under Section 2-124, 14-131, 15-155, 16-158, or 18-131 of the Illinois Pension Code.

(Source: P.A. 94-839, eff. 6-6-06.)

Section 5. The Illinois Pension Code is amended by adding Sections 15-112.1, 15-165.1, 16-121.1, 16-122.2, 16-122.3, 16-158.2, and 16-181.4, and by changing Sections 15-111, 15-155, 15-157, 15-158.2, 16-121, 16-152, and 16-158 as follows:

(40 ILCS 5/15-111) (from Ch. 108 1/2, par. 15-111)

Sec. 15-111. Earnings. "Earnings": An amount paid for personal services equal to the sum of the basic compensation plus extra compensation for summer teaching, overtime or other extra service. For periods for which an employee receives service credit under subsection (c) of Section 15-113.1 or Section 15-113.2, earnings are equal to the basic compensation on which contributions are paid by the employee during such periods. Compensation for employment which is irregular, intermittent and temporary shall not be considered earnings, unless the participant is also receiving earnings from the employer as an employee under Section 15-107.

With respect to transition pay paid by the University of Illinois to a person who was a participating employee employed in the fire department of the University of Illinois's Champaign-Urbana campus immediately prior to the elimination of that fire department:

(1) "Earnings" includes transition pay paid to the employee on or after the effective date of this amendatory Act of the 91st General Assembly.

(2) "Earnings" includes transition pay paid to the employee before the effective date of this amendatory Act of the 91st General Assembly only if (i) employee contributions under Section 15-157 have been withheld from that transition pay or (ii) the employee pays to the System

before January 1, 2001 an amount representing employee contributions under Section 15-157 on that transition pay. Employee contributions under item (ii) may be paid in a lump sum, by withholding from additional transition pay accruing before January 1, 2001, or in any other manner approved by the System. Upon payment of the employee contributions on transition pay, the corresponding employer contributions become an obligation of the State.

<u>Notwithstanding any other provision of this Section, "earnings", except as used in Section 15-158.2, does not include any future increase in income due to a provision in a collectively bargained contract that grants an increase in earnings based on an employee's expected date of retirement. The changes made to this Section by this amendatory Act of the 98th General Assembly do not apply to an employee who is covered by a collective bargaining agreement or employment contract that is in effect on the effective date of this amendatory Act of the 98th General Assembly and that provides for such increases, until that agreement or contract expires or is amended or renewed.</u>

(Source: P.A. 91-887, eff. 7-6-00.)

(40 ILCS 5/15-112.1 new)

<u>Sec. 15-112.1. Limitation on earnings and required participation in the self-managed plan.</u>

<u>(a) For the purpose of calculating traditional benefit</u>

package benefits and contributions, the annual earnings, salary, or wages of a participant shall not exceed the greater of (i) the amount specified under subsection (b-5) of Section 1-160 or (ii) the annual earnings of the participant during the 365 days immediately before the effective date of this Section. If, however, an employment contract that is in place on or before the effective date of this Section authorizes an increase in earnings, salary, or wages on or after the effective date of this Section, then the annual earnings, salary, or wages of the participant during the 365 days that immediately precede the date that the contract expires may be used in lieu of the amount specified in item (ii) of this Section.

(b) Notwithstanding any other provision of this Code, (i) for a participant who does not make an election under Section 15-134.5, any portion of his or her earnings that exceeds the limit specified in subsection (a) of this Section for that year shall be subject to the self-managed plan and (ii) for a participant who makes an election under Section 15-134.5, the entirety of the participant's earnings shall, after the date of the election, be subject to the self-managed plan created under this Section, as is provided in Section 15-158.2.

(40 ILCS 5/15-155) (from Ch. 108 1/2, par. 15-155)

Sec. 15-155. Employer contributions.

(a) The State of Illinois shall make contributions by appropriations of amounts which, together with the other employer contributions from trust, federal, and other funds, employee contributions, income from investments, and other income of this System, will be sufficient to meet the cost of maintaining and administering the System on a 100% ~~90%~~ funded basis in accordance with actuarial recommendations.

The Board shall determine the amount of State contributions required for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board and the recommendations of the actuary, using the formula in subsection (a-1).

(a-1) For State fiscal years 2012 through 2045, the minimum contribution to the System to be made by the State for each fiscal year shall be an amount determined by the System to be sufficient to bring the total assets of the System up to 100% ~~90%~~ of the total actuarial liabilities of the System by the end of State fiscal year 2045.

Pursuant to Article XIII of the 1970 Constitution of the State of Illinois, beginning on July 1, 2013, the State shall, as a retirement benefit to each participant and annuitant of the System be contractually obligated to the System (as a fiduciary and trustee of the participants and annuitants) to pay the Annual Required State Contribution, as determined by the Board of the System using generally accepted actuarial principles, as is necessary to bring the total assets of the System up to 100% of the total actuarial liabilities of the

System by the end of State fiscal year 2045. As a further retirement benefit and contractual obligation, each fiscal year, the State shall pay to each designated retirement system the Annual Required State Contribution certified by the Board for that fiscal year. Payments of the Annual Required State Contribution for each fiscal year shall be made in equal monthly installments. This Section, and the security it provides to participants and annuitants is intended to be, and is, a contractual right that is part of the pension benefits provided to the participants and annuitants. Notwithstanding anything to the contrary in the Court of Claims Act or any other law, a designated retirement system has the exclusive right to and shall bring a Mandamus action in the Circuit Court of Champaign County against the State to compel the State to make any installment of the Annual Required State Contribution required by this Section, irrespective of other remedies that may be available to the System. Each member or annuitant of the System has the right to bring a Mandamus action against the System in the Circuit Court in any judicial district in which the System maintains an office if the System fails to bring an action specified in this Section, irrespective of other remedies that may be available to the member or annuitant. ~~In making these determinations, the required State contribution shall be calculated each year as a level percentage of payroll over the years remaining to and including fiscal year 2045 and shall be determined under the projected unit credit actuarial~~

~~cost method.~~

For State fiscal years 1996 through 2005, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments so that by State fiscal year 2011, the State is contributing at the rate required under this Section.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2006 is $166,641,900.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2007 is $252,064,100.

For each of State fiscal years 2008 through 2009, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments from the required State contribution for State fiscal year 2007, so that by State fiscal year 2011, the State is contributing at the rate otherwise required under this Section.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2010 is $702,514,000 and shall be made from the State Pensions Fund and proceeds of bonds sold in fiscal year 2010 pursuant to Section 7.2 of the General Obligation Bond Act, less (i) the pro rata share of bond sale expenses determined by the System's share of total bond proceeds, (ii) any amounts received from the General Revenue Fund in fiscal year 2010, (iii) any reduction in bond proceeds due to the issuance of discounted bonds, if applicable.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2011 is the amount recertified by the System on or before April 1, 2011 pursuant to Section 15-165 and shall be made from the State Pensions Fund and proceeds of bonds sold in fiscal year 2011 pursuant to Section 7.2 of the General Obligation Bond Act, less (i) the pro rata share of bond sale expenses determined by the System's share of total bond proceeds, (ii) any amounts received from the General Revenue Fund in fiscal year 2011, and (iii) any reduction in bond proceeds due to the issuance of discounted bonds, if applicable.

Beginning in State fiscal year 2046, the minimum State contribution for each fiscal year shall be the amount needed to maintain the total assets of the System at 100% ~~90%~~ of the total actuarial liabilities of the System.

Amounts received by the System pursuant to Section 25 of the Budget Stabilization Act or Section 8.12 of the State Finance Act in any fiscal year do not reduce and do not constitute payment of any portion of the minimum State contribution required under this Article in that fiscal year. Such amounts shall not reduce, and shall not be included in the calculation of, the required State contributions under this Article in any future year until the System has reached a funding ratio of at least 90%. A reference in this Article to the "required State contribution" or any substantially similar term does not include or apply to any amounts payable to the System under Section 25 of the Budget Stabilization Act.

Notwithstanding any other provision of this Section, the required State contribution for State fiscal year 2005 and for fiscal year 2008 and each fiscal year thereafter, as calculated under this Section and certified under Section 15-165, shall not exceed an amount equal to (i) the amount of the required State contribution that would have been calculated under this Section for that fiscal year if the System had not received any payments under subsection (d) of Section 7.2 of the General Obligation Bond Act, minus (ii) the portion of the State's total debt service payments for that fiscal year on the bonds issued in fiscal year 2003 for the purposes of that Section 7.2, as determined and certified by the Comptroller, that is the same as the System's portion of the total moneys distributed under subsection (d) of Section 7.2 of the General Obligation Bond Act. In determining this maximum for State fiscal years 2008 through 2010, however, the amount referred to in item (i) shall be increased, as a percentage of the applicable employee payroll, in equal increments calculated from the sum of the required State contribution for State fiscal year 2007 plus the applicable portion of the State's total debt service payments for fiscal year 2007 on the bonds issued in fiscal year 2003 for the purposes of Section 7.2 of the General Obligation Bond Act, so that, by State fiscal year

2011, the State is contributing at the rate otherwise required under this Section.

(b) If an employee is paid from trust or federal funds, the employer shall pay to the Board contributions from those funds which are sufficient to cover the accruing normal costs on behalf of the employee. However, universities having employees who are compensated out of local auxiliary funds, income funds, or service enterprise funds are not required to pay such contributions on behalf of those employees. The local auxiliary funds, income funds, and service enterprise funds of universities shall not be considered trust funds for the purpose of this Article, but funds of alumni associations, foundations, and athletic associations which are affiliated with the universities included as employers under this Article and other employers which do not receive State appropriations are considered to be trust funds for the purpose of this Article.

(b-1) The City of Urbana and the City of Champaign shall each make employer contributions to this System for their respective firefighter employees who participate in this System pursuant to subsection (h) of Section 15-107. The rate of contributions to be made by those municipalities shall be determined annually by the Board on the basis of the actuarial assumptions adopted by the Board and the recommendations of the actuary, and shall be expressed as a percentage of salary for each such employee. The Board shall certify the rate to the affected municipalities as soon as may be practical. The employer contributions required under this subsection shall be remitted by the municipality to the System at the same time and in the same manner as employee contributions.

(c) Through State fiscal year 1995: The total employer contribution shall be apportioned among the various funds of the State and other employers, whether trust, federal, or other funds, in accordance with actuarial procedures approved by the Board. State of Illinois contributions for employers receiving State appropriations for personal services shall be payable from appropriations made to the employers or to the System. The contributions for Class I community colleges covering earnings other than those paid from trust and federal funds, shall be payable solely from appropriations to the Illinois Community College Board or the System for employer contributions.

(d) Beginning in State fiscal year 1996, the required State contributions to the System shall be appropriated directly to the System and shall be payable through vouchers issued in accordance with subsection (c) of Section 15-165, except as provided in subsection (g).

(e) The State Comptroller shall draw warrants payable to the System upon proper certification by the System or by the employer in accordance with the appropriation laws and this Code.

(f) Normal costs under this Section means liability for pensions and other benefits which accrues to the System because of the credits earned for service rendered by the participants during the fiscal year and expenses of administering the System, but shall not include the principal of or any redemption premium or interest on any bonds issued by the Board or any expenses incurred or deposits required in connection therewith.

(g) If the amount of a participant's earnings for any academic year used to determine the final rate of earnings, determined on a full-time equivalent basis, exceeds the amount of his or her earnings with the same employer for the previous academic year, determined on a full-time equivalent basis, by more than 6%, the participant's employer shall pay to the System, in addition to all other payments required under this Section and in accordance with guidelines established by the System, the present value of the increase in benefits resulting from the portion of the increase in earnings that is in excess of 6%. This present value shall be computed by the System on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the System that is available at the time of the computation. The System may require the employer to provide any pertinent information or documentation.

Whenever it determines that a payment is or may be required under this subsection (g), the System shall calculate the amount of the payment and bill the employer for that amount. The bill shall specify the calculations used to determine the amount due. If the employer disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to the System in writing for a recalculation. The application must specify in detail the grounds of the dispute and, if the employer asserts that the calculation is subject to subsection (h) or (i) of this Section, must include an affidavit setting forth and attesting to all facts within the employer's knowledge that are pertinent to the applicability of subsection (h) or (i). Upon receiving a timely application for recalculation, the System shall review the application and, if appropriate, recalculate the amount due.

The employer contributions required under this subsection (f) may be paid in the form of a lump sum within 90 days after receipt of the bill. If the employer contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to the System's annual actuarially assumed rate of return on investment compounded annually from the 91st day after receipt of the bill. Payments must be concluded within 3 years after the employer's receipt of the bill.

(h) This subsection (h) applies only to payments made or salary increases given on or after June 1, 2005 but before July 1, 2011. The changes made by Public Act 94-1057 shall not require the System to refund any payments received before July 31, 2006 (the effective date of Public Act 94-1057).

When assessing payment for any amount due under subsection (g), the System shall exclude earnings increases paid to participants under contracts or collective bargaining agreements entered into, amended, or renewed before June 1, 2005.

When assessing payment for any amount due under subsection (g), the System shall exclude earnings increases paid to a participant at a time when the participant is 10 or more years from retirement eligibility under Section 15-135.

When assessing payment for any amount due under subsection (g), the System shall exclude earnings increases resulting from overload work, including a contract for summer teaching, or overtime when the employer has certified to the System, and the System has approved the certification, that: (i) in the case of overloads (A) the overload work is for the sole purpose of academic instruction in excess of the standard number of instruction hours for a full-time employee occurring during the academic year that the overload is paid and (B) the earnings increases are equal to or less than the rate of pay for academic instruction computed using the participant's current salary rate and work schedule; and (ii) in the case of overtime, the overtime was necessary for the educational mission.

When assessing payment for any amount due under subsection (g), the System shall exclude any earnings increase resulting from (i) a promotion for which the employee moves from one classification to a higher classification under the State

Universities Civil Service System, (ii) a promotion in academic rank for a tenured or tenure-track faculty position, or (iii) a promotion that the Illinois Community College Board has recommended in accordance with subsection (k) of this Section. These earnings increases shall be excluded only if the promotion is to a position that has existed and been filled by a member for no less than one complete academic year and the earnings increase as a result of the promotion is an increase that results in an amount no greater than the average salary paid for other similar positions.

(i) When assessing payment for any amount due under subsection (g), the System shall exclude any salary increase described in subsection (h) of this Section given on or after July 1, 2011 but before July 1, 2014 under a contract or collective bargaining agreement entered into, amended, or renewed on or after June 1, 2005 but before July 1, 2011. Notwithstanding any other provision of this Section, any payments made or salary increases given after June 30, 2014 shall be used in assessing payment for any amount due under subsection (g) of this Section.

(j) The System shall prepare a report and file copies of the report with the Governor and the General Assembly by January 1, 2007 that contains all of the following information:

(1) The number of recalculations required by the changes made to this Section by Public Act 94-1057 for each employer.

(2) The dollar amount by which each employer's contribution to the System was changed due to recalculations required by Public Act 94-1057.

(3) The total amount the System received from each employer as a result of the changes made to this Section by Public Act 94-4.

(4) The increase in the required State contribution resulting from the changes made to this Section by Public Act 94-1057.

(k) The Illinois Community College Board shall adopt rules for recommending lists of promotional positions submitted to the Board by community colleges and for reviewing the promotional lists on an annual basis. When recommending promotional lists, the Board shall consider the similarity of the positions submitted to those positions recognized for State universities by the State Universities Civil Service System. The Illinois Community College Board shall file a copy of its findings with the System. The System shall consider the findings of the Illinois Community College Board when making determinations under this Section. The System shall not exclude any earnings increases resulting from a promotion when the promotion was not submitted by a community college. Nothing in this subsection (k) shall require any community college to submit any information to the Community College Board.

(l) For purposes of determining the required State contribution to the System, the value of the System's assets shall be equal to the actuarial value of the System's assets, which shall be calculated as follows:

As of June 30, 2008, the actuarial value of the System's assets shall be equal to the market value of the assets as of that date. In determining the actuarial value of the System's assets for fiscal years after June 30, 2008, any actuarial gains or losses from investment return incurred in a fiscal year shall be recognized in equal annual amounts over the 5-year period following that fiscal year.

(m) For purposes of determining the required State contribution to the system for a particular year, the actuarial value of assets shall be assumed to earn a rate of return equal to the system's actuarially assumed rate of return.

(Source: P.A. 96-43, eff. 7-15-09; 96-1497, eff. 1-14-11; 96-1511, eff. 1-27-11; 96-1554, eff. 3-18-11; 97-813, eff. 7-13-12.)

(40 ILCS 5/15-157) (from Ch. 108 1/2, par. 15-157)

Sec. 15-157. Employee Contributions.

(a) Each participating employee shall make contributions towards the retirement benefits payable under the retirement program applicable to the employee from each payment of earnings applicable to employment under this system on and after the date of becoming a participant as follows: Prior to September 1, 1949, 3 1/2% of earnings; from September 1, 1949 to August 31, 1955, 5%; from September 1, 1955 to August 31, 1969, 6%; from September 1, 1969, 6 1/2%. These contributions are to be considered as normal contributions for purposes of this Article.

Each participant who is a police officer or firefighter shall make normal contributions of 8% of each payment of earnings applicable to employment as a police officer or firefighter under this system on or after September 1, 1981, unless he or she files with the board within 60 days after the effective date of this amendatory Act of 1991 or 60 days after the board receives notice that he or she is employed as a police officer or firefighter, whichever is later, a written notice waiving the retirement formula provided by Rule 4 of Section 15-136. This waiver shall be irrevocable. If a participant had met the conditions set forth in Section 15-132.1 prior to the effective date of this amendatory Act of 1991 but failed to make the additional normal contributions required by this paragraph, he or she may elect to pay the additional contributions plus compound interest at the effective rate. If such payment is received by the board, the service shall be considered as police officer service in calculating the retirement annuity under Rule 4 of Section 15-136. While performing service described in clause (i) or (ii) of Rule 4 of Section 15-136, a participating employee shall be deemed to be employed as a firefighter for the purpose of determining the rate of employee contributions under this Section.

(b) Starting September 1, 1969, each participating employee shall make additional contributions of 1/2 of 1% of earnings to finance a portion of the cost of the annual increases in retirement annuity provided under Section 15-136, except that with respect to participants in the self-managed plan this additional contribution shall be used to finance the benefits obtained under that retirement program.

(c) In addition to the amounts described in subsections (a) and (b) of this Section, each participating employee shall make contributions of 1% of earnings applicable under this system on and after August 1, 1959. The contributions made under this subsection (c) shall be considered as survivor's insurance contributions for purposes of this Article if the employee is covered under the traditional benefit package, and such contributions shall be considered as additional contributions for purposes of this Article if the employee is participating in the self-managed plan or has elected to participate in the portable benefit package and has completed the applicable one-year waiting period. Contributions in excess of $80 during any fiscal year beginning before August 31, 1969 and in excess of $120 during any fiscal year thereafter until September 1, 1971 shall be considered as additional contributions for purposes of this Article.

(d) If the board by board rule so permits and subject to such conditions and limitations as may be specified in its rules, a participant may make other additional contributions of such percentage of earnings or amounts as the participant shall elect in a written notice thereof received by the board.

(e) That fraction of a participant's total accumulated normal contributions, the numerator of which is equal to the number of years of service in excess of that which is required to qualify for the maximum retirement annuity, and the denominator of which is equal to the total service of the participant, shall be considered as accumulated additional contributions. The determination of the applicable maximum annuity and the adjustment in contributions required by this provision shall be made as of the date of the participant's retirement.

(f) Notwithstanding the foregoing, a participating employee shall not be required to make contributions under this Section after the date upon which continuance of such contributions would otherwise cause his or her retirement annuity to exceed the maximum retirement annuity as specified in clause (1) of subsection (c) of Section 15-136.

(g) A participating employee may make contributions for the purchase of service credit under this Article.

(h) Notwithstanding any provision of this Code to the contrary, (i) for a member who does not file an election under subsection (e) of Section 15-158.2, any contributions on amounts of earnings in excess of the limit specified in Section 15-112.1 for that year shall instead be used to finance self-managed plan benefits and (ii) for a member who files an election under subsection (e) of Section 15-158.2, any contributions made after the date of the election, including the contributions for a survivor's annuity, shall be used to finance the benefits under Section 15-158.2. Notwithstanding any provision of this Code to the contrary, a member who does not file an election under subsection (a-5) of Section 15-158.2 shall contribute towards the traditional benefit package a percentage of earnings equal to the greater of (i) one-half of the normal cost of the traditional benefit package or (ii) 6% of earnings.

(Source: P.A. 90-32, eff. 6-27-97; 90-65, eff. 7-7-97; 90-448, eff. 8-16-97; 90-511, eff. 8-22-97; 90-576, eff. 3-31-98; 90-655, eff. 7-30-98; 90-766, eff. 8-14-98.)

(40 ILCS 5/15-158.2)

Sec. 15-158.2. Self-managed plan.

(a) Purpose. The General Assembly finds that it is important for colleges and universities to be able to attract and retain the most qualified employees and that in order to attract and retain these employees, colleges and universities should have the flexibility to provide a defined contribution plan as an alternative for eligible employees who elect not to participate in a defined benefit retirement program provided under this Article. Accordingly, the State Universities Retirement System is hereby authorized to establish and administer a self-managed plan, which shall offer participating employees the opportunity to accumulate assets for retirement through a combination of employee and employer contributions that may be invested in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts, either fixed or variable or a combination thereof. The plan must be qualified under the Internal Revenue Code of 1986.

(b) Adoption by employers. Each employer subject to this Article may elect to adopt the self-managed plan established under this Section; this election is irrevocable. An employer's election to adopt the self-managed plan makes available to the eligible employees of that employer the elections described in Section 15-134.5.

The State Universities Retirement System shall be the plan sponsor for the self-managed plan and shall prepare a plan document and prescribe such rules and procedures as are considered necessary or desirable for the administration of the self-managed plan. Consistent with its fiduciary duty to the participants and beneficiaries of the self-managed plan, the Board of Trustees of the System may delegate aspects of plan administration as it sees fit to companies authorized to do business in this State, to the employers, or to a combination of both.

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

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

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

(3) the suitability of the benefits to the needs and interests of the participating employees and the employer;

(4) the ability of the company to provide benefits under the contract and the financial stability of the company; and

(5) the efficacy of the contract in the recruitment and retention of employees.

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

(d) Employee Direction. Employees who are participating in the program must be allowed to direct the transfer of their account balances among the various investment options offered, subject to applicable contractual provisions. The participant shall not be deemed a fiduciary by reason of providing such investment direction. A person who is a fiduciary shall not be liable for any loss resulting from such investment direction and shall not be deemed to have breached any fiduciary duty by acting in accordance with that direction. Neither the System nor the employer guarantees any of the investments in the employee's account balances.

(e) Participation. An employee eligible to participate in the self-managed plan must make a written election in accordance with the provisions of Section 15-134.5 and the procedures established by the System or become subject to the limitation specified in Section 15-112.1. Participation in the self-managed plan by an ~~electing~~ employee shall begin on the first day of the first pay period following the later of the date the employee's election is filed with the System, ~~or~~ the effective date as of which the employee's employer begins to offer participation in the self-managed plan, or the date the participant's annual earnings exceeds the limitation specified in Section 15-112.1. Employers may not make the self-managed plan available earlier than January 1, 1998. An employee's participation in any other retirement program administered by the System under this Article shall terminate on the date that participation in the self-managed plan begins.

An employee who participates ~~has elected to participate~~ in the self-managed plan under this Section must continue participation while employed in an eligible position, and may not participate in any other retirement program administered by the System under this Article while employed by that employer or any other employer that has adopted the self-managed plan, unless the self-managed plan is terminated in accordance with subsection (i).

Participation in the self-managed plan under this Section shall constitute membership in the State Universities Retirement System.

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

(f) Establishment of Initial Account Balance. If at the time an employee elects to participate in the self-managed plan he or she has rights and credits in the System due to previous participation in the traditional benefit package, the System shall establish for the employee an opening account balance in the self-managed plan, equal to the amount of contribution refund that the employee would be eligible to receive under Section 15-154 if the employee terminated employment on that date and elected a refund of contributions, except that this hypothetical refund shall include interest at the effective rate for the respective years. The System shall transfer assets from the defined benefit retirement program to the self-managed plan, as a tax free transfer in accordance with Internal Revenue Service guidelines, for purposes of funding the employee's opening account balance.

(g) No Duplication of Service Credit. Notwithstanding any other provision of this Article, an employee may not purchase or receive service or service credit applicable to any other retirement program administered by the System under this Article for any period during which the employee was a participant in the self-managed plan established under this Section.

(h) Contributions.

(1) The self-managed plan shall be funded by contributions from employees participating in the self-managed plan and employer contributions as provided in this Section.

(A) Before the effective date of this amendatory Act of the 98th General Assembly, the ~~The~~ contribution rate for employees participating in the self-managed plan under this Section shall be equal to the employee contribution rate for other participants in the System, as provided in Section 15-157. This required contribution shall be made as an "employer pick-up" under Section 414(h) of the Internal Revenue Code of 1986 or any successor Section thereof. Any employee participating in the System's traditional benefit package prior to his or her election to participate in the self-managed plan shall continue to have the employer pick up the contributions required under Section 15-157. However, the amounts picked up after the election of the self-managed plan shall be remitted to and treated as assets of the self-managed plan. In no event shall an employee have an option of receiving these amounts in cash. Employees may make additional contributions to the self-managed plan in accordance with procedures prescribed by the System, to the extent permitted under rules prescribed by the System.

(B) On and after the effective date of this amendatory Act of the 98th General Assembly, the contribution rate for participants in the self-managed plan shall be, (i) for a participant who does not file an election under subsection (e) of this Section, 6% of the amount of earnings in excess of the limit specified in 15-112.1 for that year, in addition to the amount specified under subsection (h) of Section 15-157 for that year and (ii) for a participant who files an election under subsection (e) of this Section, 8% of any amount of earnings up to and including the limit specified in Section 15-112.1 for that year and 6% of any amount of earnings in excess of that limit for that year. This required contribution shall be made as an employer pick-up under Section 414(h) of the Internal Revenue Code of 1986 or any successor Section thereof. Any participant in the System's traditional benefit package prior to his or her election to participate in the self-managed plan shall continue to have the employer pick up the contributions required under Section 15-157. However, the amounts picked up after the election of the self-managed plan shall be remitted to and treated as assets of the self-managed plan. In no event shall a participant have the option of receiving these amounts in cash. Participants may make additional contributions to the self-managed plan in accordance with procedures prescribed by the System, to the extent permitted under rules adopted by the System.

(2) The program shall provide for employer and State contributions to the self-managed plan in the following amounts: (i) for a member who does not file an election under subsection (e) of this Section, 3% of the amount of earnings in excess of the limit specified in Section 15-112.1 for that year, to be paid by the actual employer, and (ii) for a member who files an election under subsection (e) of this Section, 7.1% of any amount of earnings up to and including the limit specified in Section 15-112.1 for that year, to be paid by the State, and 3% of any amount of earnings in excess of that limit for that year, to be paid by the actual employer.

The program shall provide for these employer and State contributions to be credited to each self-managed plan participant ~~at a rate of 7.6% of the participating employee's salary~~, less the amount used by the System to provide disability benefits for the employee. The amounts so credited shall be paid into the participant's self-managed plan accounts in a manner to be prescribed by the System.

(3) An amount of employer contribution, not exceeding 1% of the participating employee's salary, shall be used for the purpose of providing the disability benefits of the System to the employee. Prior to the beginning of each plan year under the self-managed plan, the Board of Trustees shall determine, as a percentage of salary, the amount of employer contributions to be allocated during that plan year for providing disability benefits for employees in the self-managed plan.

(4) The State of Illinois shall make contributions by appropriations to the System of the employer contributions required for employees who participate in the self-managed plan under this Section. The amount required shall be certified by the Board of Trustees of the System and paid by the State in accordance with Section 15-165. The System shall not be obligated to remit the required employer contributions to any of the insurance and annuity companies, mutual fund companies, banks, trust companies, financial institutions, or other sponsors of any of the funding vehicles offered under the self-managed plan until it has received the required employer contributions from the State. In the event of a deficiency in the amount of

State contributions, the System shall implement those procedures described in subsection (c) of Section 15-165 to obtain the required funding from the General Revenue Fund.

(i) Termination. The self-managed plan authorized under this Section may be terminated by the System, subject to the terms of any relevant contracts, and the System shall have no obligation to reestablish the self-managed plan under this Section. This Section does not create a right to continued participation in any self-managed plan set up by the System under this Section. If the self-managed plan is terminated, the participants shall have the right to participate in one of the other retirement programs offered by the System and receive service credit in such other retirement program for any years of employment following the termination.

(j) Vesting; Withdrawal; Return to Service. A participant in the self-managed plan becomes vested in the employer contributions credited to his or her accounts in the self-managed plan on the earliest to occur of the following: (1) completion of 5 years of service with an employer described in Section 15-106; (2) the death of the participating employee while employed by an employer described in Section 15-106, if the participant has completed at least 1 1/2 years of service; or (3) the participant's election to retire and apply the reciprocal provisions of Article 20 of this Code.

A participant in the self-managed plan who receives a distribution of his or her vested amounts from the self-managed plan while not yet eligible for retirement under this Article (and Article 20, if applicable) shall forfeit all service credit and accrued rights in the System; if subsequently re-employed, the participant shall be considered a new employee. If a former participant again becomes a participating employee (or becomes employed by a participating system under Article 20 of this Code) and continues as such for at least 2 years, all such rights, service credits, and previous status as a participant shall be restored upon repayment of the amount of the distribution, without interest.

(k) Benefit amounts. If an employee who is vested in employer contributions terminates employment, the employee shall be entitled to a benefit which is based on the account values attributable to both employer and employee contributions and any investment return thereon.

If an employee who is not vested in employer contributions terminates employment, the employee shall be entitled to a benefit based solely on the account values attributable to the employee's contributions and any investment return thereon, and the employer contributions and any investment return thereon shall be forfeited. Any employer contributions which are forfeited shall be held in escrow by the company investing those contributions and shall be used as directed by the System for future allocations of employer contributions or for the restoration of amounts previously forfeited by former participants who again become participating employees.

(Source: P.A. 93-347, eff. 7-24-03.)

(40 ILCS 5/15-165.1 new)

Sec. 15-165.1. To calculate the normal cost of benefits. To calculate the normal cost of each plan offered by the system as a percentage of earnings and to update those amounts at least every 3 years.

(40 ILCS 5/16-121) (from Ch. 108 1/2, par. 16-121)

Sec. 16-121. Salary. "Salary": The actual compensation received by a teacher during any school year and recognized by the system in accordance with rules of the board. For purposes of this Section, "school year" includes the regular school term plus any additional period for which a teacher is compensated and such compensation is recognized by the rules of the board. Notwithstanding any other provision of this Section, "salary", except as used in Section 16-158.2, does not include any future increase in income due to a provision in a collectively bargained contract that grants an increase in salary based on a teacher's expected date of retirement. The changes made to this Section by this amendatory Act of the 98th General Assembly do not apply to a teacher who is covered by a collective bargaining agreement or employment contract that is in effect on the effective date of this amendatory Act of the 98th General Assembly and that provides for such increases, until that agreement or contract expires or is amended or renewed.

(Source: P.A. 84-1028.)

(40 ILCS 5/16-121.1 new)

Sec. 16-121.1. Limitation on salary. For the purpose of calculating traditional benefit package benefits and contributions, the annual earnings, salary, or wages of a member shall not exceed the greater of (i) the amount specified under subsection (b-5) of Section 1-160 or (ii) the annual salary of the member during the 365 days immediately before the effective date of this Section. If, however, an employment contract that is in place on or before the effective date of this Section authorizes an increase in earnings, salary, or wages on or after the effective date of this Section, then the annual earnings, salary, or wages of the member during the 365 days that immediately precede the date that the contract expires may be used in lieu of the amount specified in item (ii) of this Section.

(40 ILCS 5/16-122.2 new)

Sec. 16-122.2. Traditional benefit package. "Traditional benefit package" means the defined benefit retirement program maintained by the System, which includes retirement annuities payable directly from the System, as provided in Sections 16-132, 16-133, 16-133.1, and 16-136; survivor's annuities payable directly from the System, as provided in Sections 16-140, 16-141, 16-142, 16-142.1, 16-142.2, 16-142.3, 16-143,

<u>and 16-143.1; and contribution refunds, as provided in Section 16-151.</u>

(40 ILCS 5/16-122.3 new)

<u>Sec. 16-122.3. Self-managed plan. "Self-managed plan" means the defined contribution retirement program maintained by the System, as described in Section 16-158.2. The self-managed plan does not include retirement annuities or survivor's benefits payable directly from the System, as provided in Sections 16-132, 16-133, 16-133.1, 16-136, 16-140, 16-141, 16-142, 16-142.1, 16-142.2, 16-142.3, 16-143, and 16-143.1 or refunds determined under Section 16-151.</u>

(40 ILCS 5/16-152) (from Ch. 108 1/2, par. 16-152)

Sec. 16-152. Contributions by members.

(a) Each member shall make contributions for membership service to this System as follows:

(1) Effective July 1, 1998, contributions of 7.50% of salary towards the cost of the retirement annuity. Such contributions shall be deemed "normal contributions".

(2) Effective July 1, 1969, contributions of 1/2 of 1% of salary toward the cost of the automatic annual increase in retirement annuity provided under Section 16-133.1.

(3) Effective July 24, 1959, contributions of 1% of salary towards the cost of survivor benefits. Such contributions shall not be credited to the individual

account of the member and shall not be subject to refund except as provided under Section 16-143.2.

(4) Effective July 1, 2005, contributions of 0.40% of salary toward the cost of the early retirement without discount option provided under Section 16-133.2. This contribution shall cease upon termination of the early retirement without discount option as provided in Section 16-176.

(b) The minimum required contribution for any year of full-time teaching service shall be $192.

(c) Contributions shall not be required of any annuitant receiving a retirement annuity who is given employment as permitted under Section 16-118 or 16-150.1.

(d) A person who (i) was a member before July 1, 1998, (ii) retires with more than 34 years of creditable service, and (iii) does not elect to qualify for the augmented rate under Section 16-129.1 shall be entitled, at the time of retirement, to receive a partial refund of contributions made under this Section for service occurring after the later of June 30, 1998 or attainment of 34 years of creditable service, in an amount equal to 1.00% of the salary upon which those contributions were based.

(e) A member's contributions toward the cost of early retirement without discount made under item (a)(4) of this Section shall not be refunded if the member has elected early retirement without discount under Section 16-133.2 and has begun to receive a retirement annuity under this Article calculated in accordance with that election. Otherwise, a member's contributions toward the cost of early retirement without discount made under item (a)(4) of this Section shall be refunded according to whichever one of the following circumstances occurs first:

(1) The contributions shall be refunded to the member, without interest, within 120 days after the member's retirement annuity commences, if the member does not elect early retirement without discount under Section 16-133.2.

(2) The contributions shall be included, without interest, in any refund claimed by the member under Section 16-151.

(3) The contributions shall be refunded to the member's designated beneficiary (or if there is no beneficiary, to the member's estate), without interest, if the member dies without having begun to receive a retirement annuity under this Article.

(4) The contributions shall be refunded to the member, without interest, within 120 days after the early retirement without discount option provided under Section 16-133.2 is terminated under Section 16-176.

<u>(f) Notwithstanding any provision of this Code to the contrary, (i) for a member who does not file an election under subsection (a-5) of Section 16-158.2, any contributions on amounts of salary in excess of the limit specified in Section</u>

<u>16-121.1 for that year shall instead be used to finance self-managed plan benefits and (ii) for a member who files an election under subsection (a-5) of Section 16-158.2, any contributions made after the date of the election, including the contributions for a survivor's annuity, shall be used to finance the benefits under Section 16-158.2. Notwithstanding any provision of this Code to the contrary, a member who does not file an election under subsection (a-5) of Section 16-158.2 shall contribute towards the traditional benefit package a percentage of salary equal to the greater of (i) one-half of the normal cost of the traditional benefit package or (ii) 6% of salary.</u>

(Source: P.A. 93-320, eff. 7-23-03; 94-4, eff. 6-1-05.)

(40 ILCS 5/16-158) (from Ch. 108 1/2, par. 16-158)

Sec. 16-158. Contributions by State and other employing units.

(a) The State shall make contributions to the System by means of appropriations from the Common School Fund and other State funds of amounts which, together with other employer contributions, employee contributions, investment income, and other income, will be sufficient to meet the cost of maintaining and administering the System on a <u>100%</u> ~~90%~~ funded basis in accordance with actuarial recommendations.

The Board shall determine the amount of State contributions required for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board and the recommendations of the actuary, using the formula in subsection (b-3).

(a-1) Annually, on or before November 15 until November 15, 2011, the Board shall certify to the Governor the amount of the required State contribution for the coming fiscal year. The certification under this subsection (a-1) shall include a copy of the actuarial recommendations upon which it is based and shall specifically identify the System's projected State normal cost for that fiscal year.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

On or before July 1, 2005, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2006, taking into account the changes in required State contributions made by this amendatory Act of the 94th General Assembly.

On or before April 1, 2011, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2011, applying the changes made by Public Act 96-889 to the System's assets and liabilities as of June 30, 2009 as though Public Act 96-889 was approved on that date.

(a-5) On or before November 1 of each year, beginning November 1, 2012, the Board shall submit to the State Actuary, the Governor, and the General Assembly a proposed certification of the amount of the required State contribution to the System for the next fiscal year, along with all of the actuarial assumptions, calculations, and data upon which that proposed certification is based. On or before January 1 of each year, beginning January 1, 2013, the State Actuary shall issue a preliminary report concerning the proposed certification and identifying, if necessary, recommended changes in actuarial assumptions that the Board must consider before finalizing its certification of the required State contributions. On or before January 15, 2013 and each January 15 thereafter, the Board shall certify to the Governor and the General Assembly the amount of the required State contribution for the next fiscal year. The Board's certification must note any deviations from the State Actuary's recommended changes, the reason or reasons for not following the State Actuary's recommended changes, and the fiscal impact of not following the State Actuary's recommended changes on the required State contribution.

(b) Through State fiscal year 1995, the State contributions shall be paid to the System in accordance with Section 18-7 of the School Code.

(b-1) Beginning in State fiscal year 1996, on the 15th day of each month, or as soon thereafter as may be practicable, the

Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a-1). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (a) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year.

If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this subsection, the difference shall be paid from the Common School Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(b-2) Allocations from the Common School Fund apportioned to school districts not coming under this System shall not be diminished or affected by the provisions of this Article.

(b-3) For State fiscal years 2012 through 2045, the minimum contribution to the System to be made by the State for each fiscal year shall be an amount determined by the System to be sufficient to bring the total assets of the System up to 100% ~~90%~~ of the total actuarial liabilities of the System by the end of State fiscal year 2045.

Pursuant to Article XIII of the 1970 Constitution of the State of Illinois, beginning on July 1, 2013, the State shall, as a retirement benefit to each participant and annuitant of the System be contractually obligated to the System (as a fiduciary and trustee of the participants and annuitants) to pay the Annual Required State Contribution, as determined by the Board of the System using generally accepted actuarial principles, as is necessary to bring the total assets of the System up to 100% of the total actuarial liabilities of the System by the end of State fiscal year 2045. As a further retirement benefit and contractual obligation, each fiscal year, the State shall pay to each designated retirement system the Annual Required State Contribution certified by the Board for that fiscal year. Payments of the Annual Required State Contribution for each fiscal year shall be made in equal monthly installments. This Section, and the security it provides to participants and annuitants is intended to be, and is, a contractual right that is part of the pension benefits provided to the participants and annuitants. Notwithstanding anything to the contrary in the Court of Claims Act or any other law, a designated retirement system has the exclusive right to and shall bring a Mandamus action in the Circuit Court of Champaign County against the State to compel the State to make any installment of the Annual Required State Contribution required by this Section, irrespective of other remedies that may be available to the System. Each member or annuitant of the System has the right to bring a Mandamus action against the System in the Circuit Court in any judicial district in which the System maintains an office if the System fails to bring an action specified in this Section, irrespective of other remedies that may be available to the member or annuitant. ~~In making these determinations, the required State contribution shall be calculated each year as a level percentage of payroll over the years remaining to and including fiscal year 2045 and shall be determined under the projected unit credit actuarial cost method.~~

For State fiscal years 1996 through 2005, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments so that by State fiscal year 2011, the State is contributing at the rate required under this Section; except that in the following specified State fiscal years, the State contribution to the System shall not be less than the following indicated percentages of the applicable employee payroll, even if the indicated percentage will produce a State contribution in excess of the amount otherwise required under this subsection and subsection (a), and notwithstanding any contrary certification made under subsection (a-1) before the effective date of this amendatory Act of 1998: 10.02% in FY 1999; 10.77% in FY 2000; 11.47% in FY 2001; 12.16% in FY 2002; 12.86% in FY 2003; and 13.56% in FY 2004.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2006 is $534,627,700.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2007 is $738,014,500.

For each of State fiscal years 2008 through 2009, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments from the required State contribution for State fiscal year 2007, so that by State fiscal year 2011, the State is contributing at the rate otherwise required under this Section.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2010 is $2,089,268,000 and shall be made from the proceeds of bonds sold in fiscal year 2010 pursuant to Section 7.2 of the General Obligation Bond Act, less (i) the pro rata share of bond sale expenses determined by the System's share of total bond proceeds, (ii) any amounts received from the Common School Fund in fiscal year 2010, and (iii) any reduction in bond proceeds due to the issuance of discounted bonds, if applicable.

Notwithstanding any other provision of this Article, the total required State contribution for State fiscal year 2011 is the amount recertified by the System on or before April 1, 2011 pursuant to subsection (a-1) of this Section and shall be made from the proceeds of bonds sold in fiscal year 2011 pursuant to Section 7.2 of the General Obligation Bond Act, less (i) the pro rata share of bond sale expenses determined by the System's share of total bond proceeds, (ii) any amounts received from the Common School Fund in fiscal year 2011, and (iii) any reduction in bond proceeds due to the issuance of discounted bonds, if applicable. This amount shall include, in addition to the amount certified by the System, an amount necessary to meet employer contributions required by the State as an employer under paragraph (e) of this Section, which may also be used by the System for contributions required by paragraph (a) of Section 16-127.

Beginning in State fiscal year 2046, the minimum State contribution for each fiscal year shall be the amount needed to maintain the total assets of the System at 100% ~~90%~~ of the total actuarial liabilities of the System.

Amounts received by the System pursuant to Section 25 of the Budget Stabilization Act or Section 8.12 of the State Finance Act in any fiscal year do not reduce and do not constitute payment of any portion of the minimum State contribution required under this Article in that fiscal year. Such amounts shall not reduce, and shall not be included in the calculation of, the required State contributions under this Article in any future year until the System has reached a funding ratio of at least 90%. A reference in this Article to the "required State contribution" or any substantially similar term does not include or apply to any amounts payable to the System under Section 25 of the Budget Stabilization Act.

Notwithstanding any other provision of this Section, the required State contribution for State fiscal year 2005 and for fiscal year 2008 and each fiscal year thereafter, as calculated under this Section and certified under subsection (a-1), shall not exceed an amount equal to (i) the amount of the required State contribution that would have been calculated under this Section for that fiscal year if the System had not received any payments under subsection (d) of Section 7.2 of the General Obligation Bond Act, minus (ii) the portion of the State's total debt service payments for that fiscal year on the bonds issued in fiscal year 2003 for the purposes of that Section 7.2, as determined and certified by the Comptroller, that is the same as the System's portion of the total moneys distributed under subsection (d) of Section 7.2 of the General Obligation Bond Act. In determining this maximum for State fiscal years 2008 through 2010, however, the amount referred to in item (i) shall be increased, as a percentage of the applicable employee payroll, in equal increments calculated from the sum of the required State contribution for State fiscal year 2007 plus the applicable portion of the State's total debt service payments for fiscal year 2007 on the bonds issued in fiscal year 2003 for the purposes of Section 7.2 of the General Obligation Bond Act, so that, by State fiscal year 2011, the State is contributing at the rate otherwise required under this Section.

(c) Payment of the required State contributions and of all pensions, retirement annuities, death benefits, refunds, and other benefits granted under or assumed by this System, and all expenses in connection with the administration and operation thereof, are obligations of the State.

If members are paid from special trust or federal funds which are administered by the employing unit, whether school district or other unit, the employing unit shall pay to the System from such funds the full accruing retirement costs based upon that service, as determined by the System. Employer contributions, based on salary paid to members from federal funds, may be forwarded by the distributing agency of the State of Illinois to the System prior to allocation, in an amount determined in accordance with guidelines established by such agency and the System.

(d) Effective July 1, 1986, any employer of a teacher as defined in paragraph (8) of Section 16-106 shall pay the employer's normal cost of benefits based upon the teacher's service, in addition to employee contributions, as determined by the System. Such employer contributions shall be forwarded monthly in accordance with guidelines established by the System.

However, with respect to benefits granted under Section

16-133.4 or 16-133.5 to a teacher as defined in paragraph (8) of Section 16-106, the employer's contribution shall be 12% (rather than 20%) of the member's highest annual salary rate for each year of creditable service granted, and the employer shall also pay the required employee contribution on behalf of the teacher. For the purposes of Sections 16-133.4 and 16-133.5, a teacher as defined in paragraph (8) of Section 16-106 who is serving in that capacity while on leave of absence from another employer under this Article shall not be considered an employee of the employer from which the teacher is on leave.

(e) Beginning July 1, 1998, every employer of a teacher shall pay to the System an employer contribution computed as follows:

(1) Beginning July 1, 1998 through June 30, 1999, the employer contribution shall be equal to 0.3% of each teacher's salary.

(2) Beginning July 1, 1999 and thereafter, the employer contribution shall be equal to 0.58% of each teacher's salary.

The school district or other employing unit may pay these employer contributions out of any source of funding available for that purpose and shall forward the contributions to the System on the schedule established for the payment of member contributions.

These employer contributions are intended to offset a portion of the cost to the System of the increases in retirement benefits resulting from this amendatory Act of 1998.

Each employer of teachers is entitled to a credit against the contributions required under this subsection (e) with respect to salaries paid to teachers for the period January 1, 2002 through June 30, 2003, equal to the amount paid by that employer under subsection (a-5) of Section 6.6 of the State Employees Group Insurance Act of 1971 with respect to salaries paid to teachers for that period.

The additional 1% employee contribution required under Section 16-152 by this amendatory Act of 1998 is the responsibility of the teacher and not the teacher's employer, unless the employer agrees, through collective bargaining or otherwise, to make the contribution on behalf of the teacher.

If an employer is required by a contract in effect on May 1, 1998 between the employer and an employee organization to pay, on behalf of all its full-time employees covered by this Article, all mandatory employee contributions required under this Article, then the employer shall be excused from paying the employer contribution required under this subsection (e) for the balance of the term of that contract. The employer and the employee organization shall jointly certify to the System the existence of the contractual requirement, in such form as the System may prescribe. This exclusion shall cease upon the termination, extension, or renewal of the contract at any time after May 1, 1998.

(f) If the amount of a teacher's salary for any school year used to determine final average salary exceeds the member's annual full-time salary rate with the same employer for the previous school year by more than 6%, the teacher's employer shall pay to the System, in addition to all other payments required under this Section and in accordance with guidelines established by the System, the present value of the increase in benefits resulting from the portion of the increase in salary that is in excess of 6%. This present value shall be computed by the System on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the System that is available at the time of the computation. If a teacher's salary for the 2005-2006 school year is used to determine final average salary under this subsection (f), then the changes made to this subsection (f) by Public Act 94-1057 shall apply in calculating whether the increase in his or her salary is in excess of 6%. For the purposes of this Section, change in employment under Section 10-21.12 of the School Code on or after June 1, 2005 shall constitute a change in employer. The System may require the employer to provide any pertinent information or documentation. The changes made to this subsection (f) by this amendatory Act of the 94th General Assembly apply without regard to whether the teacher was in service on or after its effective date.

Whenever it determines that a payment is or may be required under this subsection, the System shall calculate the amount of the payment and bill the employer for that amount. The bill shall specify the calculations used to determine the amount due. If the employer disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to the System in writing for a recalculation. The application must specify in detail the grounds of the dispute and, if the employer asserts that the calculation is subject to subsection (g) or (h) of this Section, must include an affidavit setting forth and attesting to all facts within the employer's knowledge that are pertinent to the applicability of that subsection. Upon receiving a timely application for recalculation, the System shall review the application and, if appropriate, recalculate the amount due.

The employer contributions required under this subsection (f) may be paid in the form of a lump sum within 90 days after receipt of the bill. If the employer contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to the System's annual actuarially assumed rate of return on investment compounded annually from the 91st day after receipt of the bill. Payments must be concluded within 3 years after the employer's receipt of the bill.

(g) This subsection (g) applies only to payments made or salary increases given on or after June 1, 2005 but before July 1, 2011. The changes made by Public Act 94-1057 shall not require the System to refund any payments received before July

31, 2006 (the effective date of Public Act 94-1057).

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases paid to teachers under contracts or collective bargaining agreements entered into, amended, or renewed before June 1, 2005.

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases paid to a teacher at a time when the teacher is 10 or more years from retirement eligibility under Section 16-132 or 16-133.2.

When assessing payment for any amount due under subsection (f), the System shall exclude salary increases resulting from overload work, including summer school, when the school district has certified to the System, and the System has approved the certification, that (i) the overload work is for the sole purpose of classroom instruction in excess of the standard number of classes for a full-time teacher in a school district during a school year and (ii) the salary increases are equal to or less than the rate of pay for classroom instruction computed on the teacher's current salary and work schedule.

When assessing payment for any amount due under subsection (f), the System shall exclude a salary increase resulting from a promotion (i) for which the employee is required to hold a certificate or supervisory endorsement issued by the State Teacher Certification Board that is a different certification or supervisory endorsement than is required for the teacher's previous position and (ii) to a position that has existed and been filled by a member for no less than one complete academic year and the salary increase from the promotion is an increase that results in an amount no greater than the lesser of the average salary paid for other similar positions in the district requiring the same certification or the amount stipulated in the collective bargaining agreement for a similar position requiring the same certification.

When assessing payment for any amount due under subsection (f), the System shall exclude any payment to the teacher from the State of Illinois or the State Board of Education over which the employer does not have discretion, notwithstanding that the payment is included in the computation of final average salary.

(h) When assessing payment for any amount due under subsection (f), the System shall exclude any salary increase described in subsection (g) of this Section given on or after July 1, 2011 but before July 1, 2014 under a contract or collective bargaining agreement entered into, amended, or renewed on or after June 1, 2005 but before July 1, 2011. Notwithstanding any other provision of this Section, any payments made or salary increases given after June 30, 2014 shall be used in assessing payment for any amount due under subsection (f) of this Section.

(i) The System shall prepare a report and file copies of the report with the Governor and the General Assembly by January 1, 2007 that contains all of the following information:

(1) The number of recalculations required by the changes made to this Section by Public Act 94-1057 for each employer.

(2) The dollar amount by which each employer's contribution to the System was changed due to recalculations required by Public Act 94-1057.

(3) The total amount the System received from each employer as a result of the changes made to this Section by Public Act 94-4.

(4) The increase in the required State contribution resulting from the changes made to this Section by Public Act 94-1057.

(j) For purposes of determining the required State contribution to the System, the value of the System's assets shall be equal to the actuarial value of the System's assets, which shall be calculated as follows:

As of June 30, 2008, the actuarial value of the System's assets shall be equal to the market value of the assets as of that date. In determining the actuarial value of the System's assets for fiscal years after June 30, 2008, any actuarial gains or losses from investment return incurred in a fiscal year shall be recognized in equal annual amounts over the 5-year period following that fiscal year.

(k) For purposes of determining the required State contribution to the system for a particular year, the actuarial value of assets shall be assumed to earn a rate of return equal

to the system's actuarially assumed rate of return.
(Source: P.A. 96-43, eff. 7-15-09; 96-1497, eff. 1-14-11; 96-1511, eff. 1-27-11; 96-1554, eff. 3-18-11; 97-694, eff. 6-18-12; 97-813, eff. 7-13-12.)

(40 ILCS 5/16-158.2 new)

Sec. 16-158.2. Self-managed plan.

(a) The Teachers' Retirement System of the State of Illinois must establish and administer a self-managed plan that shall offer member the opportunity to accumulate assets for retirement through a combination of member and State contributions that may be invested in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts, that are fixed, variable, or a combination of fixed and variable. The plan must be qualified under the Internal Revenue Code of 1986.

The Teachers' Retirement System of the State of Illinois shall be the plan sponsor for the self-managed plan and shall prepare a plan document and adopt any rules and procedures that are considered necessary or desirable for the administration of the self-managed plan. Consistent with its fiduciary duty to the members and beneficiaries of the self-managed plan, the Board of Trustees of the System may delegate aspects of plan administration as it sees fit to companies authorized to do business in this State.

(a-5) A member may file an irrevocable election to transfer amounts equal to the member's total contributions under the traditional benefit package, with interest, to the self-managed plan under this Section. By filing the election, a member forfeits all accrued rights and benefits under the traditional benefit package.

(b) Notwithstanding any other provision of this Code, (i) for a member who does not file an election under subsection (a-5) of this Section, any portion of his or her salary that exceeds the limit specified in Section 16-121.1 for that year shall be subject to the self-managed plan and (ii) for a member who files an election under subsection (a-5) of this Section, the entirety of the member's salary shall, after the date of the election, be subject to the self-managed plan created under this Section.

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

(1) the nature and extent of the benefits that would be provided to the members;

(2) the reasonableness of the benefits in relation to

the premium charged;

(3) the suitability of the benefits to the needs and interests of the members and the State; and

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

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

In addition to the companies approved by the System under this subsection (c), the System may offer its members an investment fund managed by the Illinois State Board of Investment.

(d) Members in the program must be allowed to direct the transfer of their account balances among the various investment options offered, subject to applicable contractual provisions. The member shall not be deemed a fiduciary by reason of providing such investment direction. A person who is a fiduciary shall not be liable for any loss resulting from that investment direction and shall not be deemed to have breached any fiduciary duty by acting in accordance with that direction. Neither the System nor the State shall guarantee any of the investments in the member's account balances.

(e) Participation in the self-managed plan under this

Section shall constitute participation in the Teachers' Retirement System of the State of Illinois.

(f) The self-managed plan shall be funded by contributions from members in the self-managed plan and State contributions as provided in this Section.

The contribution rate for members in the self-managed plan shall be, (i) for a member who does not file an election under subsection (a-5) of this Section, 6% of the amount of salary in excess of the limit specified in Section 16-121.1 for that year, in addition to the amount specified under subsection (f) of Section 16-152 for that year and (ii) for a member who files an election under subsection (a-5) of this Section, 8% of any amount of salary up to and including the limit specified in Section 16-121.1 for that year and 6% of any amount of salary in excess of that limit for that year. This required contribution shall be made as an employer pick-up under Section 414(h) of the Internal Revenue Code of 1986 or any successor Section thereof. Any member in the System's traditional benefit package prior to his or her election to participate in the self-managed plan shall continue to have the employer pick up the contributions required under Section 16-152. However, the amounts picked up after the election of the self-managed plan shall be remitted to and treated as assets of the self-managed plan. In no event shall a member have the option of receiving these amounts in cash. Members may make additional contributions to the self-managed plan in accordance with procedures prescribed by the System, to the extent permitted under rules adopted by the System.

The program shall provide for employer and State contributions to the self-managed plan in the following amounts: (i) for a member who does not file an election under subsection (a-5) of this Section, 3% of the amount of salary in excess of the limit specified in Section 16-121.1 for that year, to be paid by the actual employer, and (ii) for a member who files an election under subsection (a-5) of this Section, 7.1% of any amount of salary up to and including the limit specified in Section 16-121.1 for that year, to be paid by the State, and 3% of any amount of salary in excess of that limit for that year, to be paid by the actual employer.

The State of Illinois shall make contributions by appropriations to the System for members in the self-managed plan under this Section. The amount required shall be certified by the Board of Trustees of the System and paid by the State in accordance with Section 16-158. The System shall not be obligated to remit the required State contributions to any of the insurance and annuity companies, mutual fund companies, banks, trust companies, financial institutions, or other sponsors of any of the funding vehicles offered under the self-managed plan until it has received the required State contributions from the State.

(g) If a member in the self-managed plan who is otherwise vested under this Article terminates employment, the member shall be entitled to a benefit that is based on the account values attributable to both State and member contributions and any investment return thereon.

If a member in the self-managed plan who is not otherwise vested under this Article terminates employment, the member shall be entitled to a benefit based solely on the account values attributable to the member's contributions and any investment return thereon, and the State contributions and any investment return thereon shall be forfeited. Any State contributions that are forfeited shall be held in escrow by the company investing those contributions and shall be used, as directed by the System, for future allocations of State contributions.

(40 ILCS 5/16-181.4 new)

Sec. 16-181.4. To calculate the normal cost of benefits. To calculate the normal cost of each plan offered by the system as a percentage of salary and to update those amounts at least every 3 years.

Section 90. The State Mandates Act is amended by adding Section 8.37 as follows:

(30 ILCS 805/8.37 new)

Sec. 8.37. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 98th General Assembly.

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

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Statutes amended in order of appearance