



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB1568

by Rep. Jim Durkin

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Pension Code. Moves the investment power for eligible downstate police and downstate firefighter pension funds that have net assets in trust that exceed an amount equal to 3 months of current liabilities to the Board of Trustees of the Illinois Municipal Retirement Fund (IMRF). Provides that within 24 months after the effective date of the amendatory Act, the Department of Insurance shall audit the investment assets of each eligible pension fund to determine a certified investment asset list. Provides that upon receipt of the certified investment asset list, the Board of IMRF shall initiate the transfer of assets from the board of trustees of the eligible pension fund to the Board of IMRF. Makes conforming changes. Amends the State Mandates Act to require implementation without reimbursement.

LRB101 06696 RPS 51723 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing  
5 Sections 1-113.1, 1-113.2, 1-113.3, 1-113.4, 1-113.4a,  
6 1-113.5, 1-113.6, 1-113.7, 3-127, 3-132, 3-135, 4-120, 4-123,  
7 and 4-128 and by adding Sections 1-101.6, 1-101.7, 1-113.05,  
8 3-135.1, 3-135.2, 4-128.1, 4-128.2, 7-226, and 7-227 as  
9 follows:

10 (40 ILCS 5/1-101.6 new)

11 Sec. 1-101.6. Eligible pension fund. "Eligible pension  
12 fund" means a pension fund established pursuant to Article 3 or  
13 Article 4 of this Code that has net assets in trust that exceed  
14 the threshold amount defined in Section 1-101.7 of this Code.  
15 The status of "eligible pension fund", once established,  
16 continues in effect without regard to subsequent variations in  
17 the net assets of the pension fund. "Eligible pension fund"  
18 does not include a pension fund established pursuant to Article  
19 3 or Article 4 of this Code that has elected before the  
20 effective date of this amendatory Act of the 101st General  
21 Assembly to come under the authority of the Illinois State  
22 Board of Investment for the management of its investments and  
23 that continues to be under the authority of the Illinois State

1 Board of Investment for the management of its investments.

2 (40 ILCS 5/1-101.7 new)

3 Sec. 1-101.7. Threshold amount. "Threshold amount", when  
4 used in relation to the financial assets of a pension fund  
5 established under Article 3 or Article 4 of this Code, means an  
6 amount equal to 3 months of current liabilities of the pension  
7 fund, including benefit payments owed to annuitants and  
8 beneficiaries of the pension fund and reasonable operational  
9 expenses.

10 (40 ILCS 5/1-113.05 new)

11 Sec. 1-113.05. Transfer of investment authority of certain  
12 pension funds established under Article 3 or 4. Upon receiving  
13 a certified investment asset list from the Department of  
14 Insurance pursuant to Section 3-135.1 or Section 4-128.1 of  
15 this Code, the board of trustees of an eligible pension fund  
16 established under Article 3 or 4 of this Code shall cease  
17 investment activities and shall transfer all investment assets  
18 of the pension fund to the Board of Trustees of the Illinois  
19 Municipal Retirement Fund in the manner prescribed by rules  
20 adopted by the Board of Trustees of the Illinois Municipal  
21 Retirement Fund. Upon completion of that transfer, the  
22 investment authority of the board of trustees shall terminate.

23 (40 ILCS 5/1-113.1)

1           Sec. 1-113.1. Investment authority of certain pension  
2 funds established under Article 3 or 4.

3           (a) Beginning 24 months after the effective date of this  
4 amendatory Act of the 101st General Assembly, or when the  
5 transfer of investment authority is made pursuant to Section  
6 1-113.05, whichever occurs first, subsection (b) of this  
7 Section does not apply to any pension fund that is an eligible  
8 pension fund as defined in Section 1-101.6.

9           This Section continues to apply to any pension fund  
10 established under Article 3 or 4 that is not an eligible  
11 pension fund as defined in Section 1-101.6.

12           (b) The board of trustees of a police pension fund  
13 established under Article 3 of this Code or firefighter pension  
14 fund established under Article 4 of this Code shall draw  
15 pension funds from the treasurer of the municipality and,  
16 beginning January 1, 1998, invest any part thereof in the name  
17 of the board in the items listed in Sections 1-113.2 through  
18 1-113.4 according to the limitations and requirements of this  
19 Article. These investments shall be made with the care, skill,  
20 prudence, and diligence that a prudent person acting in like  
21 capacity and familiar with such matters would use in the  
22 conduct of an enterprise of like character with like aims.

23           Interest and any other income from the investments shall be  
24 credited to the pension fund.

25           For the purposes of Sections 1-113.2 through 1-113.11, the  
26 "net assets" of a pension fund include both the cash and

1 invested assets of the pension fund.

2 (Source: P.A. 90-507, eff. 8-22-97.)

3 (40 ILCS 5/1-113.2)

4 Sec. 1-113.2. List of permitted investments for certain ~~all~~  
5 Article 3 or 4 pension funds.

6 (a) Beginning 24 months after the effective date of this  
7 amendatory Act of the 101st General Assembly, or when the  
8 transfer of investment authority is made pursuant to Section  
9 1-113.05, whichever occurs first, subsection (b) of this  
10 Section does not apply to any pension fund that is an eligible  
11 pension fund as defined in Section 1-101.6.

12 (b) Except as provided in subsection (a), any ~~Any~~ pension  
13 fund established under Article 3 or 4 may invest in the  
14 following items:

15 (1) Interest bearing direct obligations of the United  
16 States of America.

17 (2) Interest bearing obligations to the extent that they  
18 are fully guaranteed or insured as to payment of principal and  
19 interest by the United States of America.

20 (3) Interest bearing bonds, notes, debentures, or other  
21 similar obligations of agencies of the United States of  
22 America. For the purposes of this Section, "agencies of the  
23 United States of America" includes: (i) the Federal National  
24 Mortgage Association and the Student Loan Marketing  
25 Association; (ii) federal land banks, federal intermediate

1 credit banks, federal farm credit banks, and any other entity  
2 authorized to issue direct debt obligations of the United  
3 States of America under the Farm Credit Act of 1971 or  
4 amendments to that Act; (iii) federal home loan banks and the  
5 Federal Home Loan Mortgage Corporation; and (iv) any agency  
6 created by Act of Congress that is authorized to issue direct  
7 debt obligations of the United States of America.

8 (4) Interest bearing savings accounts or certificates of  
9 deposit, issued by federally chartered banks or savings and  
10 loan associations, to the extent that the deposits are insured  
11 by agencies or instrumentalities of the federal government.

12 (5) Interest bearing savings accounts or certificates of  
13 deposit, issued by State of Illinois chartered banks or savings  
14 and loan associations, to the extent that the deposits are  
15 insured by agencies or instrumentalities of the federal  
16 government.

17 (6) Investments in credit unions, to the extent that the  
18 investments are insured by agencies or instrumentalities of the  
19 federal government.

20 (7) Interest bearing bonds of the State of Illinois.

21 (8) Pooled interest bearing accounts managed by the  
22 Illinois Public Treasurer's Investment Pool in accordance with  
23 the Deposit of State Moneys Act, interest bearing funds or  
24 pooled accounts of the Illinois Metropolitan Investment Funds,  
25 and interest bearing funds or pooled accounts managed,  
26 operated, and administered by banks, subsidiaries of banks, or

1 subsidiaries of bank holding companies in accordance with the  
2 laws of the State of Illinois.

3 (9) Interest bearing bonds or tax anticipation warrants of  
4 any county, township, or municipal corporation of the State of  
5 Illinois.

6 (10) Direct obligations of the State of Israel, subject to  
7 the conditions and limitations of item (5.1) of Section 1-113.

8 (11) Money market mutual funds managed by investment  
9 companies that are registered under the federal Investment  
10 Company Act of 1940 and the Illinois Securities Law of 1953 and  
11 are diversified, open-ended management investment companies;  
12 provided that the portfolio of the money market mutual fund is  
13 limited to the following:

14 (i) bonds, notes, certificates of indebtedness,  
15 treasury bills, or other securities that are guaranteed by  
16 the full faith and credit of the United States of America  
17 as to principal and interest;

18 (ii) bonds, notes, debentures, or other similar  
19 obligations of the United States of America or its  
20 agencies; and

21 (iii) short term obligations of corporations organized  
22 in the United States with assets exceeding \$400,000,000,  
23 provided that (A) the obligations mature no later than 180  
24 days from the date of purchase, (B) at the time of  
25 purchase, the obligations are rated by at least 2 standard  
26 national rating services at one of their 3 highest

1           classifications, and (C) the obligations held by the mutual  
2           fund do not exceed 10% of the corporation's outstanding  
3           obligations.

4           (12) General accounts of life insurance companies  
5           authorized to transact business in Illinois.

6           (13) Any combination of the following, not to exceed 10% of  
7           the pension fund's net assets:

8                   (i) separate accounts that are managed by life  
9                   insurance companies authorized to transact business in  
10                  Illinois and are comprised of diversified portfolios  
11                  consisting of common or preferred stocks, bonds, or money  
12                  market instruments;

13                   (ii) separate accounts that are managed by insurance  
14                   companies authorized to transact business in Illinois, and  
15                   are comprised of real estate or loans upon real estate  
16                   secured by first or second mortgages; and

17                   (iii) mutual funds that meet the following  
18                   requirements:

19                           (A) the mutual fund is managed by an investment  
20                           company as defined and registered under the federal  
21                           Investment Company Act of 1940 and registered under the  
22                           Illinois Securities Law of 1953;

23                           (B) the mutual fund has been in operation for at  
24                           least 5 years;

25                           (C) the mutual fund has total net assets of \$250  
26                           million or more; and



1 (D) the mutual fund is comprised of diversified  
2 portfolios of common or preferred stocks, bonds, or  
3 money market instruments.

4 (14) Corporate bonds managed through an investment advisor  
5 must meet all of the following requirements:

6 (1) The bonds must be rated as investment grade by one  
7 of the 2 largest rating services at the time of purchase.

8 (2) If subsequently downgraded below investment grade,  
9 the bonds must be liquidated from the portfolio within 90  
10 days after being downgraded by the manager.

11 (Source: P.A. 96-1495, eff. 1-1-11.)

12 (40 ILCS 5/1-113.3)

13 Sec. 1-113.3. List of additional permitted investments for  
14 certain pension funds with net assets of \$2,500,000 or more.

15 (a) Beginning 24 months after the effective date of this  
16 amendatory Act of the 101st General Assembly, or when the  
17 transfer of investment authority is made pursuant to Section  
18 1-113.05, whichever occurs first, subsection (a-5) of this  
19 Section does not apply to any pension fund that is an eligible  
20 pension fund as defined in Section 1-101.6.

21 (a-5) Except as provided in subsection (a), in ~~(a)~~ In  
22 addition to the items in Section 3-113.2, a pension fund  
23 established under Article 3 or 4 that has net assets of at  
24 least \$2,500,000 may invest a portion of its net assets in the  
25 following items:

1           (1) Separate accounts that are managed by life  
2 insurance companies authorized to transact business in  
3 Illinois and are comprised of diversified portfolios  
4 consisting of common or preferred stocks, bonds, or money  
5 market instruments.

6           (2) Mutual funds that meet the following requirements:

7           (i) the mutual fund is managed by an investment  
8 company as defined and registered under the federal  
9 Investment Company Act of 1940 and registered under the  
10 Illinois Securities Law of 1953;

11           (ii) the mutual fund has been in operation for at  
12 least 5 years;

13           (iii) the mutual fund has total net assets of \$250  
14 million or more; and

15           (iv) the mutual fund is comprised of diversified  
16 portfolios of common or preferred stocks, bonds, or  
17 money market instruments.

18           (b) A pension fund's total investment in the items  
19 authorized under this Section shall not exceed 35% of the  
20 market value of the pension fund's net present assets stated in  
21 its most recent annual report on file with the Illinois  
22 Department of Insurance.

23           (Source: P.A. 90-507, eff. 8-22-97.)

24           (40 ILCS 5/1-113.4)

25           Sec. 1-113.4. List of additional permitted investments for

1 certain pension funds with net assets of \$5,000,000 or more.

2 (a) Beginning 24 months after the effective date of this  
3 amendatory Act of the 101st General Assembly, or when the  
4 transfer of investment authority is made pursuant to Section  
5 1-113.05, whichever occurs first, subsection (a-5) of this  
6 Section does not apply to any pension fund that is an eligible  
7 pension fund as defined in Section 1-101.6.

8 (a-5) Except as provided in subsection (a), in ~~(a)~~ In  
9 addition to the items in Sections 1-113.2 and 1-113.3, a  
10 pension fund established under Article 3 or 4 that has net  
11 assets of at least \$5,000,000 and has appointed an investment  
12 adviser under Section 1-113.5 may, through that investment  
13 adviser, invest a portion of its assets in common and preferred  
14 stocks authorized for investments of trust funds under the laws  
15 of the State of Illinois. The stocks must meet all of the  
16 following requirements:

17 (1) The common stocks are listed on a national  
18 securities exchange or board of trade (as defined in the  
19 federal Securities Exchange Act of 1934 and set forth in  
20 subdivision G of Section 3 of the Illinois Securities Law  
21 of 1953) or quoted in the National Association of  
22 Securities Dealers Automated Quotation System National  
23 Market System (NASDAQ NMS).

24 (2) The securities are of a corporation created or  
25 existing under the laws of the United States or any state,  
26 district, or territory thereof and the corporation has been

1 in existence for at least 5 years.

2 (3) The corporation has not been in arrears on payment  
3 of dividends on its preferred stock during the preceding 5  
4 years.

5 (4) The market value of stock in any one corporation  
6 does not exceed 5% of the cash and invested assets of the  
7 pension fund, and the investments in the stock of any one  
8 corporation do not exceed 5% of the total outstanding stock  
9 of that corporation.

10 (5) The straight preferred stocks or convertible  
11 preferred stocks are issued or guaranteed by a corporation  
12 whose common stock qualifies for investment by the board.

13 (6) The issuer of the stocks has been subject to the  
14 requirements of Section 12 of the federal Securities  
15 Exchange Act of 1934 and has been current with the filing  
16 requirements of Sections 13 and 14 of that Act during the  
17 preceding 3 years.

18 (b) A pension fund's total investment in the items  
19 authorized under this Section and Section 1-113.3 shall not  
20 exceed 35% of the market value of the pension fund's net  
21 present assets stated in its most recent annual report on file  
22 with the Illinois Department of Insurance.

23 (c) A pension fund that invests funds under this Section  
24 shall electronically file with the Division any reports of its  
25 investment activities that the Division may require, at the  
26 times and in the format required by the Division.

1 (Source: P.A. 100-201, eff. 8-18-17.)

2 (40 ILCS 5/1-113.4a)

3 Sec. 1-113.4a. List of additional permitted investments  
4 for certain Article 3 and 4 pension funds with net assets of  
5 \$10,000,000 or more.

6 (a) Beginning 24 months after the effective date of this  
7 amendatory Act of the 101st General Assembly, or when the  
8 transfer of investment authority is made pursuant to Section  
9 1-113.05, whichever occurs first, subsection (a-5) of this  
10 Section does not apply to any pension fund that is an eligible  
11 pension fund as defined in Section 1-101.6.

12 (a-5) Except as provided in subsection (a), in ~~(a)~~ In  
13 addition to the items in Sections 1-113.2 and 1-113.3, a  
14 pension fund established under Article 3 or 4 that has net  
15 assets of at least \$10,000,000 and has appointed an investment  
16 adviser, as defined under Sections 1-101.4 and 1-113.5, may,  
17 through that investment adviser, invest an additional portion  
18 of its assets in common and preferred stocks and mutual funds.

19 (b) The stocks must meet all of the following requirements:

20 (1) The common stocks must be listed on a national  
21 securities exchange or board of trade (as defined in the  
22 Federal Securities Exchange Act of 1934 and set forth in  
23 paragraph G of Section 3 of the Illinois Securities Law of  
24 1953) or quoted in the National Association of Securities  
25 Dealers Automated Quotation System National Market System.

1           (2) The securities must be of a corporation in  
2 existence for at least 5 years.

3           (3) The market value of stock in any one corporation  
4 may not exceed 5% of the cash and invested assets of the  
5 pension fund, and the investments in the stock of any one  
6 corporation may not exceed 5% of the total outstanding  
7 stock of that corporation.

8           (4) The straight preferred stocks or convertible  
9 preferred stocks must be issued or guaranteed by a  
10 corporation whose common stock qualifies for investment by  
11 the board.

12           (c) The mutual funds must meet the following requirements:

13           (1) The mutual fund must be managed by an investment  
14 company registered under the Federal Investment Company  
15 Act of 1940 and registered under the Illinois Securities  
16 Law of 1953.

17           (2) The mutual fund must have been in operation for at  
18 least 5 years.

19           (3) The mutual fund must have total net assets of  
20 \$250,000,000 or more.

21           (4) The mutual fund must be comprised of a diversified  
22 portfolio of common or preferred stocks, bonds, or money  
23 market instruments.

24           (d) A pension fund's total investment in the items  
25 authorized under this Section and Section 1-113.3 shall not  
26 exceed 50% effective July 1, 2011 and 55% effective July 1,

1 2012 of the market value of the pension fund's net present  
2 assets stated in its most recent annual report on file with the  
3 Department of Insurance.

4 (e) A pension fund that invests funds under this Section  
5 shall electronically file with the Division any reports of its  
6 investment activities that the Division may require, at the  
7 time and in the format required by the Division.

8 (Source: P.A. 96-1495, eff. 1-1-11.)

9 (40 ILCS 5/1-113.5)

10 Sec. 1-113.5. Investment advisers and investment services  
11 for certain ~~all~~ Article 3 or 4 pension funds.

12 (a) Beginning 24 months after the effective date of this  
13 amendatory Act of the 101st General Assembly, or when the  
14 transfer of investment authority is made pursuant to Section  
15 1-113.05, whichever occurs first, subsection (a-1) of this  
16 Section does not apply to any pension fund that is an eligible  
17 pension fund as defined in Section 1-101.6.

18 (a-1) Except as provided in subsection (a), the ~~(a)~~ The  
19 board of trustees of a pension fund established under Article 3  
20 or 4 of this Code may appoint investment advisers as defined in  
21 Section 1-101.4. The board of any pension fund investing in  
22 common or preferred stock under Section 1-113.4 shall appoint  
23 an investment adviser before making such investments.

24 The investment adviser or consultant shall be a fiduciary,  
25 as defined in Section 1-101.2, with respect to the pension fund

1 and shall be one of the following:

2 (1) an investment adviser registered under the federal  
3 Investment Advisers Act of 1940 and the Illinois Securities  
4 Law of 1953;

5 (2) a bank or trust company authorized to conduct a  
6 trust business in Illinois;

7 (3) a life insurance company authorized to transact  
8 business in Illinois; or

9 (4) an investment company as defined and registered  
10 under the federal Investment Company Act of 1940 and  
11 registered under the Illinois Securities Law of 1953.

12 (a-5) Notwithstanding any other provision of law, a person  
13 or entity that provides consulting services (referred to as a  
14 "consultant" in this Section) to a pension fund with respect to  
15 the selection of fiduciaries may not be awarded a contract to  
16 provide those consulting services that is more than 5 years in  
17 duration. No contract to provide such consulting services may  
18 be renewed or extended. At the end of the term of a contract,  
19 however, the contractor is eligible to compete for a new  
20 contract. No person shall attempt to avoid or contravene the  
21 restrictions of this subsection by any means. All offers from  
22 responsive offerors shall be accompanied by disclosure of the  
23 names and addresses of the following:

24 (1) The offeror.

25 (2) Any entity that is a parent of, or owns a  
26 controlling interest in, the offeror.



1           (3) Any entity that is a subsidiary of, or in which a  
2           controlling interest is owned by, the offeror.

3           Beginning on July 1, 2008, a person, other than a trustee  
4           or an employee of a pension fund or retirement system, may not  
5           act as a consultant under this Section unless that person is at  
6           least one of the following: (i) registered as an investment  
7           adviser under the federal Investment Advisers Act of 1940 (15  
8           U.S.C. 80b-1, et seq.); (ii) registered as an investment  
9           adviser under the Illinois Securities Law of 1953; (iii) a  
10          bank, as defined in the Investment Advisers Act of 1940; or  
11          (iv) an insurance company authorized to transact business in  
12          this State.

13          (b) All investment advice and services provided by an  
14          investment adviser or a consultant appointed under this Section  
15          shall be rendered pursuant to a written contract between the  
16          investment adviser and the board, and in accordance with the  
17          board's investment policy.

18          The contract shall include all of the following:

19                 (1) acknowledgement in writing by the investment  
20                 adviser that he or she is a fiduciary with respect to the  
21                 pension fund;

22                 (2) the board's investment policy;

23                 (3) full disclosure of direct and indirect fees,  
24                 commissions, penalties, and any other compensation that  
25                 may be received by the investment adviser, including  
26                 reimbursement for expenses; and

1           (4) a requirement that the investment adviser submit  
2           periodic written reports, on at least a quarterly basis,  
3           for the board's review at its regularly scheduled meetings.  
4           All returns on investment shall be reported as net returns  
5           after payment of all fees, commissions, and any other  
6           compensation.

7           (b-5) Each contract described in subsection (b) shall also  
8           include (i) full disclosure of direct and indirect fees,  
9           commissions, penalties, and other compensation, including  
10          reimbursement for expenses, that may be paid by or on behalf of  
11          the investment adviser or consultant in connection with the  
12          provision of services to the pension fund and (ii) a  
13          requirement that the investment adviser or consultant update  
14          the disclosure promptly after a modification of those payments  
15          or an additional payment.

16          Within 30 days after the effective date of this amendatory  
17          Act of the 95th General Assembly, each investment adviser and  
18          consultant providing services on the effective date or subject  
19          to an existing contract for the provision of services must  
20          disclose to the board of trustees all direct and indirect fees,  
21          commissions, penalties, and other compensation paid by or on  
22          behalf of the investment adviser or consultant in connection  
23          with the provision of those services and shall update that  
24          disclosure promptly after a modification of those payments or  
25          an additional payment.

26          A person required to make a disclosure under subsection (d)

1 is also required to disclose direct and indirect fees,  
2 commissions, penalties, or other compensation that shall or may  
3 be paid by or on behalf of the person in connection with the  
4 rendering of those services. The person shall update the  
5 disclosure promptly after a modification of those payments or  
6 an additional payment.

7 The disclosures required by this subsection shall be in  
8 writing and shall include the date and amount of each payment  
9 and the name and address of each recipient of a payment.

10 (c) Within 30 days after appointing an investment adviser  
11 or consultant, the board shall submit a copy of the contract to  
12 the Division of Insurance of the Department of Financial and  
13 Professional Regulation.

14 (d) Investment services provided by a person other than an  
15 investment adviser appointed under this Section, including but  
16 not limited to services provided by the kinds of persons listed  
17 in items (1) through (4) of subsection (a), shall be rendered  
18 only after full written disclosure of direct and indirect fees,  
19 commissions, penalties, and any other compensation that shall  
20 or may be received by the person rendering those services.

21 (e) The board of trustees of each pension fund shall retain  
22 records of investment transactions in accordance with the rules  
23 of the Department of Financial and Professional Regulation.

24 (f) Upon the initial transfer of assets and investment  
25 authority of an eligible pension fund under subsection (b) of  
26 Section 3-135 or subsection (b) of Section 4-128 of this Code,

1 and thereafter in perpetuity, the Board of Trustees of the  
2 Illinois Municipal Retirement Fund shall provide all  
3 investment services for that eligible pension fund. Any fees  
4 for these services shall be paid from the respective pension  
5 funds.

6 The Board of Trustees of the Illinois Municipal Retirement  
7 Fund shall not be held liable by or indemnify any individual  
8 annuitant or beneficiary of any eligible pension fund  
9 established under Article 3 or Article 4 of this Code for  
10 nonpayment of benefits by the eligible pension fund.

11 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

12 (40 ILCS 5/1-113.6)

13 Sec. 1-113.6. Investment policies.

14 (a) Except as provided in subsection (b), every ~~Every~~ board  
15 of trustees of a pension fund shall adopt a written investment  
16 policy and file a copy of that policy with the Department of  
17 Insurance within 30 days after its adoption. Whenever a board  
18 changes its investment policy, it shall file a copy of the new  
19 policy with the Department within 30 days.

20 (b) Beginning 24 months after the effective date of this  
21 amendatory Act of the 101st General Assembly, or upon the  
22 transfer of its investment authority under Section 1-113.05,  
23 whichever occurs first, the requirement to maintain and file an  
24 investment policy under subsection (a) ceases to apply to the  
25 board of trustees of an eligible pension fund established under

1 Article 3 or Article 4 of this Code.

2 (Source: P.A. 90-507, eff. 8-22-97.)

3 (40 ILCS 5/1-113.7)

4 Sec. 1-113.7. Registration of investments; custody and  
5 safekeeping.

6 This Section does not apply to investments that have been  
7 transferred under Section 1-113.05.

8 The board of trustees may register the investments of its  
9 pension fund in the name of the pension fund, in the nominee  
10 name of a bank or trust company authorized to conduct a trust  
11 business in Illinois, or in the nominee name of the Illinois  
12 Public Treasurer's Investment Pool.

13 The assets of the pension fund and ownership of its  
14 investments shall be protected through third-party custodial  
15 safekeeping. The board of trustees may appoint as custodian of  
16 the investments of its pension fund the treasurer of the  
17 municipality, a bank or trust company authorized to conduct a  
18 trust business in Illinois, or the Illinois Public Treasurer's  
19 Investment Pool.

20 A dealer may not maintain possession of or control over  
21 securities of a pension fund subject to the provisions of this  
22 Section unless it is registered as a broker-dealer with the  
23 U.S. Securities and Exchange Commission and is a member in good  
24 standing of the National Association of Securities Dealers, and  
25 (1) with respect to securities that are not issued only in

1 book-entry form, (A) all such securities of each fund are  
2 either held in safekeeping in a place reasonably free from risk  
3 of destruction or held in custody by a securities depository  
4 that is a "clearing agency" registered with the U.S. Securities  
5 and Exchange Commission, (B) the dealer is a member of the  
6 Securities Investor Protection Corporation, (C) the dealer  
7 sends to each fund, no less frequently than each calendar  
8 quarter, an itemized statement showing the moneys and  
9 securities in the custody or possession of the dealer at the  
10 end of such period, and (D) an independent certified public  
11 accountant conducts an audit, no less frequently than each  
12 calendar year, that reviews the dealer's internal accounting  
13 controls and procedures for safeguarding securities; and (2)  
14 with respect to securities that are issued only in book-entry  
15 form, (A) all such securities of each fund are held either in a  
16 securities depository that is a "clearing agency" registered  
17 with the U.S. Securities and Exchange Commission or in a bank  
18 that is a member of the Federal Reserve System, (B) the dealer  
19 records the ownership interest of the funds in such securities  
20 on the dealer's books and records, (C) the dealer is a member  
21 of the Securities Investor Protection Corporation, (D) the  
22 dealer sends to each fund, no less frequently than each  
23 calendar quarter, an itemized statement showing the moneys and  
24 securities in the custody or possession of the dealer at the  
25 end of such period, and (E) the dealer's financial statement  
26 (which shall contain among other things a statement of the

1 dealer's net capital and its required net capital computed in  
2 accordance with Rule 15c3-1 under the Securities Exchange Act  
3 of 1934) is audited annually by an independent certified public  
4 accountant, and the dealer's most recent audited financial  
5 statement is furnished to the fund. No broker-dealer serving as  
6 a custodian for any public pension fund as provided by this Act  
7 shall be authorized to serve as an investment advisor for that  
8 same public pension fund as described in Section 1-101.4 of  
9 this Code, to the extent that the investment advisor acquires  
10 or disposes of any asset of that same public pension fund.  
11 Notwithstanding the foregoing, in no event may a broker or  
12 dealer that is a natural person maintain possession of or  
13 control over securities or other assets of a pension fund  
14 subject to the provisions of this Section. In maintaining  
15 securities of a pension fund subject to the provisions of this  
16 Section, each dealer must maintain those securities in  
17 conformity with the provisions of Rule 15c3-3(b) of the  
18 Securities Exchange Act of 1934 (Physical Possession or Control  
19 of Securities). The Director of the Department of Insurance may  
20 adopt such rules and regulations as shall be necessary and  
21 appropriate in his or her judgment to effectuate the purposes  
22 of this Section.

23 A bank or trust company authorized to conduct a trust  
24 business in Illinois shall register, deposit, or hold  
25 investments for safekeeping, all in accordance with the  
26 obligations and subject to the limitations of the Securities in

1 Fiduciary Accounts Act.

2 (Source: P.A. 92-651, eff. 7-11-02.)

3 (40 ILCS 5/3-127) (from Ch. 108 1/2, par. 3-127)

4 Sec. 3-127. Reserves.

5 (a) The board shall establish and maintain a reserve to  
6 insure the payment of all obligations incurred under this  
7 Article excluding retirement annuities established under  
8 Section 3-109.3. The reserve to be accumulated shall be equal  
9 to the estimated total actuarial requirements of the fund.

10 (b) In the case of an eligible pension fund that has  
11 transferred its investment authority to the Board of Trustees  
12 of the Illinois Municipal Retirement Fund under Section  
13 1-113.05 of this Code, the assets invested by the Board of  
14 Trustees of the Illinois Municipal Retirement Fund on behalf of  
15 the pension fund, and the dividends and other investment  
16 earnings attributable thereto, shall be considered as part of  
17 the reserve for the purposes of this Section.

18 The Board of Trustees of the Illinois Municipal Retirement  
19 Fund shall report to the board of each such fund, at least  
20 annually and upon the reasonable request of an eligible pension  
21 fund, the financial information on the invested assets and  
22 earnings attributable to that pension fund so that the board  
23 may make the determinations required under this Article.

24 (c) If a pension fund has a reserve of less than the  
25 accrued liabilities of the fund, the board of the pension fund,



1 in making its annual report to the city council or board of  
2 trustees of the municipality, shall designate the amount,  
3 calculated as a level percentage of payroll, needed annually to  
4 insure the accumulation of the reserve to the level of the  
5 fund's accrued liabilities over a period of 40 years from July  
6 1, 1993 for pension funds then in operation, or from the date  
7 of establishment in the case of a fund created thereafter, so  
8 that the necessary reserves will be attained over such a  
9 period.

10 (Source: P.A. 91-939, eff. 2-1-01.)

11 (40 ILCS 5/3-132) (from Ch. 108 1/2, par. 3-132)

12 Sec. 3-132. To control and manage the Pension Fund.

13 (a) In accordance with the applicable provisions of  
14 Articles 1 and 1A and this Article, the board of trustees of  
15 the pension fund shall have the authority to control and  
16 manage, exclusively, the following:

17 (1) the pension fund, and

18 ~~(2) investment expenditures and income, including~~  
19 ~~interest dividends, capital gains and other distributions~~  
20 ~~on the investments, and~~

21 (2) ~~(3)~~ all money donated, paid, assessed, or provided  
22 by law for the pensioning of disabled and retired police  
23 officers, their surviving spouses, minor children, and  
24 dependent parents.

25 All such money received or collected shall be credited by

1 the treasurer of the municipality to the Illinois Municipal  
2 Retirement Fund's account of the pension fund and held by the  
3 Illinois Municipal Retirement Fund for purposes of investment  
4 pursuant to Article 7 of this Code.

5 (b) Pursuant to rules adopted under Article 7 of this Code,  
6 the board of trustees of an eligible pension fund shall make  
7 periodic written application to the Board of Trustees of the  
8 Illinois Municipal Retirement Fund for receipt and deposit of  
9 reserves into the pension fund. Reserves in the amount of 3  
10 months' current liabilities, including annuity and benefit  
11 payments and operational expenses owed by the fund, shall be  
12 held by the treasurer of the municipality subject to the order  
13 and control of the board. The treasurer of the municipality  
14 shall maintain a record of all money received, transferred, and  
15 held for the account of the board.

16 (c) In case of any dispute that may arise between the board  
17 of trustees of the eligible pension fund and the Illinois  
18 Municipal Retirement Fund pursuant to subsection (b) of this  
19 Section, the board of trustees of the eligible pension fund  
20 shall appeal the dispute to the Director of the Illinois  
21 Department of Insurance. If the Director finds that there  
22 exists a good faith dispute between the parties, the Director  
23 may hold a hearing in accordance with the rules of the Illinois  
24 Department of Insurance.

25 (Source: P.A. 90-507, eff. 8-22-97.)

1 (40 ILCS 5/3-135) (from Ch. 108 1/2, par. 3-135)

2 Sec. 3-135. To invest, manage, and transfer funds.

3 (a) Except as provided in subsection (b), Beginning January  
4 1, 1998, the board shall invest funds in accordance with  
5 Sections 1-113.1 through 1-113.10 of this Code.

6 Any pension fund that does not meet the definition of  
7 eligible pension fund under Section 1-101.6 of this Code shall  
8 retain the authority to control and manage investment  
9 expenditures and income, including interest, dividends,  
10 capital gains, and other distributions on the investments.

11 (b) The board of an eligible pension fund that receives a  
12 certified investment asset list under Section 3-135.1 shall  
13 cease investment activities upon receiving the certified  
14 investment asset list and shall transfer all investment assets,  
15 minus assets needed to comply with subsection (b) of Section  
16 3-132, to the Board of Trustees of the Illinois Municipal  
17 Retirement Fund in the manner prescribed by rules adopted by  
18 the Board of Trustees of the Illinois Municipal Retirement Fund  
19 under Article 7. Upon completion of the transfer described in  
20 this subsection, the investment authority of the board shall  
21 terminate.

22 (Source: P.A. 90-507, eff. 8-22-97.)

23 (40 ILCS 5/3-135.1 new)

24 Sec. 3-135.1. Certified investment asset list.

25 (a) Within 24 months after the effective date of this

1 amendatory Act of the 101st General Assembly, the Department of  
2 Insurance shall audit the investment assets of each eligible  
3 pension fund established under this Article to determine a  
4 certified investment asset list. The audit shall be performed  
5 by a certified public accountant. The board of each pension  
6 fund shall defray the expense of the audit.

7 (b) Upon completion of the audit, the Department shall  
8 provide the certified investment asset list to the eligible  
9 pension fund and the Board of Trustees of the Illinois  
10 Municipal Retirement Fund. The Department may adopt rules  
11 governing the creation and distribution of the certified  
12 investment asset list.

13 (40 ILCS 5/3-135.2 new)

14 Sec. 3-135.2. To transfer investment funds. At each  
15 quarterly meeting of the Board, the Board of trustees of any  
16 eligible pension fund shall transfer any available funds for  
17 investment to the Board of Trustees of the Illinois Municipal  
18 Retirement Fund in accordance with provisions of Article 7 of  
19 this Code. Each transfer shall be made within 30 days of the  
20 end of the fiscal year quarter and written notice of the  
21 transfer shall be given to the Board of Trustees of the  
22 Illinois Municipal Retirement Fund.

23 (40 ILCS 5/4-120) (from Ch. 108 1/2, par. 4-120)

24 Sec. 4-120. Reserves.

1       (a) The board shall establish and maintain a reserve to  
2 insure the payment of all obligations incurred under this  
3 Article. The reserve to be accumulated shall be equal to the  
4 estimated total actuarial requirements of the Fund.

5       (b) In the case of an eligible pension fund that has  
6 transferred its investment authority to the Board of Trustees  
7 of the Illinois Municipal Retirement Fund under Section  
8 1-113.05 of this Code, the assets invested by the Board of  
9 Trustees of the Illinois Municipal Retirement Fund on behalf of  
10 the pension fund, and the dividends and other investment  
11 earnings attributable thereto, shall be considered as part of  
12 the reserve for the purposes of this Section.

13       The Board of Trustees of the Illinois Municipal Retirement  
14 Fund shall report to the board of each such fund, at least  
15 annually and upon the reasonable request of an eligible pension  
16 fund, the financial information on the invested assets and  
17 earnings attributable to that pension fund so that the board  
18 may make the determinations required under this Article.

19 (Source: P.A. 83-1440.)

20 (40 ILCS 5/4-123) (from Ch. 108 1/2, par. 4-123)

21 Sec. 4-123. To control and manage the Pension Fund.

22       (a) In accordance with the applicable provisions of  
23 Articles 1 and 1A and this Article the board of trustees of the  
24 pension fund shall have the authority~~7~~ to control and manage,  
25 exclusively, the following:

1 (1) the pension fund, and  
2 ~~(2) investment expenditures and income, including~~  
3 ~~interest dividends, capital gains, and other distributions~~  
4 ~~on the investments, and~~

5 (2) ~~(3)~~ all money donated, paid, assessed, or provided  
6 by law for the pensioning of disabled and retired  
7 firefighters, their surviving spouses, minor children, and  
8 dependent parents. All such money received or collected  
9 shall be credited by the treasurer of the municipality to  
10 the Illinois Municipal Retirement Fund's account of the  
11 pension fund and held by the Fund for purposes of  
12 investment pursuant to Article 7 of this Code.

13 (b) Pursuant to rules adopted under Article 7 of this Code,  
14 the board of trustees of an eligible pension fund shall make  
15 periodic written application to the Board of Trustees of the  
16 Illinois Municipal Retirement Fund for receipt and deposit of  
17 reserves into the pension fund. Reserves in the amount of 3  
18 months' current liabilities, including annuity and benefit  
19 payments and operational expenses owed by the fund, shall be  
20 held by the treasurer of the municipality subject to the order  
21 and control of the board. The treasurer of the municipality  
22 shall maintain a record of all money received, transferred, and  
23 held for the account of the board.

24 (c) In case of any dispute that may arise between the board  
25 of trustees of any eligible pension fund and the Illinois  
26 Municipal Retirement Fund pursuant to subsection (b) of this

1 Section, the board of trustees of the pension fund shall appeal  
2 the dispute to the Director of the Illinois Department of  
3 Insurance. If the Director finds good faith dispute between the  
4 parties, the Director may hold a hearing in accordance with the  
5 rules of the Illinois Department of Insurance.

6 (Source: P.A. 90-507, eff. 8-22-97.)

7 (40 ILCS 5/4-128) (from Ch. 108 1/2, par. 4-128)

8 Sec. 4-128. To invest and transfer funds.

9 (a) Except as provided in subsection (b), Beginning January  
10 1, 1998, the board shall invest funds in accordance with  
11 Sections 1-113.1 through 1-113.10 of this Code.

12 Any pension fund that does not meet the definition of  
13 eligible pension fund under Section 1-101.6 of this Code shall  
14 retain the authority to control and manage investment  
15 expenditures and income, including interest, dividends,  
16 capital gains, and other distributions on the investments.

17 (b) The board of an eligible pension fund that receives a  
18 certified investment asset list under Section 4-128.1 shall  
19 cease investment activities upon receiving the certified  
20 investment asset list and shall transfer all investment assets,  
21 minus assets needed to comply with subsection (b) of Section  
22 4-123, to the Board of Trustees of the Illinois Municipal  
23 Retirement Fund in the manner prescribed by rules adopted by  
24 the Board of Trustees of the Illinois Municipal Retirement Fund  
25 under Article 7. Upon completion of the transfer described in

1 this subsection, the investment authority of the board shall  
2 terminate.

3 (Source: P.A. 90-507, eff. 8-22-97.)

4 (40 ILCS 5/4-128.1 new)

5 Sec. 4-128.1. Certified investment asset list.

6 (a) Within 24 months after the effective date of this  
7 amendatory Act of the 101st General Assembly, the Department of  
8 Insurance shall audit the investment assets of each eligible  
9 pension fund established under this Article to determine a  
10 certified investment asset list. The audit shall be performed  
11 by a certified public accountant. The board of the pension fund  
12 shall defray the expense of the audit.

13 (b) Upon completion of the audit, the Department shall  
14 provide the certified investment asset list to the eligible  
15 pension fund and the Board of Trustees of the Illinois  
16 Municipal Retirement Fund. The Department may adopt rules  
17 governing the creation and distribution of the certified  
18 investment asset list.

19 (40 ILCS 5/4-128.2 new)

20 Sec. 4-128.2. To transfer investment funds. At each  
21 quarterly meeting of the Board, the Board of trustees of any  
22 eligible pension fund shall transfer any available funds for  
23 investment to the Board of Trustees of the Illinois Municipal  
24 Retirement Fund in accordance with provisions of Article 7 of



1 this Code. Each transfer shall be made within 30 days of the  
2 end of the fiscal year quarter and written notice of the  
3 transfer shall be given to the Board of Trustees of the  
4 Illinois Municipal Retirement Fund.

5 (40 ILCS 5/7-226 new)

6 Sec. 7-226. Transfer from Article 3 or 4 fund.

7 (a) Upon receipt of a certified investment asset list  
8 provided under Section 3-135.1 or 4-128.1 of this Code for an  
9 eligible pension fund, the Board of the Illinois Municipal  
10 Retirement Fund shall, as soon as practicable, initiate the  
11 transfer of assets from the board of trustees of the eligible  
12 fund, and the board of trustees of the eligible fund shall  
13 transfer to the Board of Trustees of the Illinois Municipal  
14 Retirement Fund for management and investment all of its  
15 securities including securities for which commitments have  
16 been made, and all funds, assets, or money representing  
17 permanent or temporary investments, and cash reserves  
18 maintained for the purpose of obtaining income thereon.

19 (b) Upon the transfer of securities and assets from a board  
20 of trustees under this Section, the custody and control of the  
21 Board of Trustees of the Illinois Municipal Retirement Fund  
22 over the present and future assets of the pension fund shall  
23 take effect. The transfer shall be receipted for in detail by  
24 the Board of the Illinois Municipal Retirement Fund and the  
25 receipt shall be provided to the board of trustees of the

1 pension fund within 30 days of the effective date of the  
2 transfer.

3 (c) Each pension fund established under Article 3 and 4 of  
4 this Code that is under the investment authority of the Board  
5 of Trustees of the Illinois Municipal Retirement Fund shall  
6 report to the Board of Trustees of the Illinois Municipal  
7 Retirement Fund, at the end of each quarter of the pension  
8 fund's fiscal year, the amount of funds available for  
9 investment. These amounts shall be transferred within 30 days  
10 of the end of the quarter to the Board of Trustees of the  
11 Illinois Municipal Retirement Fund in a manner prescribed by  
12 the Board. Notice to the Board of Trustees of the Illinois  
13 Municipal Retirement Fund of each such transfer shall be given  
14 by the pension fund as the transfer occurs.

15 (40 ILCS 5/7-227 new)

16 Sec. 7-227. Audit of transition. Within 6 months of the  
17 completion of the transfer of investment assets from an  
18 eligible pension fund established under Article 3 or 4 of this  
19 Code to the control of the Board, the books, records, accounts,  
20 and securities of the board shall be audited by a certified  
21 public accountant designated by the Illinois Auditor General.  
22 The audit shall include, but is not limited to, the following:  
23 (i) a full description of the investments acquired, showing  
24 average costs; (ii) a full description of the securities sold  
25 or exchanged, showing average proceeds or other conditions of

1 an exchange; (iii) gains or losses realized during the period;  
2 (iv) income from investments; (v) administrative expenses of  
3 the board; and (vi) the proportion of administrative expenses  
4 allocable to each pension fund. The audit report shall be  
5 published on the Board's website and filed with the Illinois  
6 Department of Insurance.

7 Section 90. The State Mandates Act is amended by adding  
8 Section 8.43 as follows:

9 (30 ILCS 805/8.43 new)

10 Sec. 8.43. Exempt mandate. Notwithstanding Sections 6 and 8  
11 of this Act, no reimbursement by the State is required for the  
12 implementation of any mandate created by this amendatory Act of  
13 the 101st General Assembly.

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