SB3389

LRB104 19008 RPS 32453 b

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3389

Introduced 2/4/2026, by Sen. Li Arellano, Jr.

SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-106.42 new
40 ILCS 5/16-115 new
40 ILCS 5/16-203
40 ILCS 5/16-210 new
40 ILCS 5/16-215 new
30 ILCS 805/8.50 new

Amends the Downstate Teacher Article of the Illinois Pension Code. Provides that employers under the Article may elect to establish a self-managed plan for members as an alternative to the traditional benefit package. Provides that an employee of an employer that establishes a self-managed plan shall be given the choice to elect which retirement program he or she wishes to participate in with respect to all periods of covered employment occurring on and after the effective date of the employee's election. Sets forth provisions concerning definitions, adoption of the self-managed plan by employers, selection of service providers, establishment of an initial account balance, employee and employer contributions, plan termination, vesting, and benefit amounts. Provides that any benefit increase that results from the amendatory Act is excluded from the definition of "new benefit increase". Amends the State Mandates Act to require implementation without reimbursement.

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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 10. The Illinois Pension Code is amended by changing Section 16-203 and by adding Sections 16-106.42, 16-115, 16-210, and 16-215 as follows:

(40 ILCS 5/16-106.42 new)

Sec. 16-106.42. Tier 2 member. "Tier 2 member": A member of this System who first becomes a member under this Article on or after January 1, 2011 and who is not a Tier 1 member.

(40 ILCS 5/16-115 new)

Sec. 16-115. Traditional benefit package. "Traditional benefit package": The defined benefit maintained by the System to which a member who does not participate in the self-managed plan established under Section 16-215 is entitled.

(40 ILCS 5/16-203)

Sec. 16-203. Application and expiration of new benefit increases.

(a) As used in this Section, "new benefit increase" means an increase in the amount of any benefit provided under this Article, or an expansion of the conditions of eligibility for

any benefit under this Article, that results from an amendment to this Code that takes effect after June 1, 2005 (the effective date of Public Act 94-4). "New benefit increase", however, does not include any benefit increase resulting from the changes made to Article 1 or this Article by Public Act 95-910, Public Act 100-23, Public Act 100-587, Public Act 100-743, Public Act 100-769, Public Act 101-10, Public Act 101-49, Public Act 102-16, ~~or~~ Public Act 102-871, or this amendatory Act of the 104th General Assembly.

(b) Notwithstanding any other provision of this Code or any subsequent amendment to this Code, every new benefit increase is subject to this Section and shall be deemed to be granted only in conformance with and contingent upon compliance with the provisions of this Section.

(c) The Public Act enacting a new benefit increase must identify and provide for payment to the System of additional funding at least sufficient to fund the resulting annual increase in cost to the System as it accrues.

Every new benefit increase is contingent upon the General Assembly providing the additional funding required under this subsection. The Commission on Government Forecasting and Accountability shall analyze whether adequate additional funding has been provided for the new benefit increase and shall report its analysis to the Public Pension Division of the Department of Insurance. A new benefit increase created by a Public Act that does not include the additional funding

required under this subsection is null and void. If the Public Pension Division determines that the additional funding provided for a new benefit increase under this subsection is or has become inadequate, it may so certify to the Governor and the State Comptroller and, in the absence of corrective action by the General Assembly, the new benefit increase shall expire at the end of the fiscal year in which the certification is made.

(d) Every new benefit increase shall expire 5 years after its effective date or on such earlier date as may be specified in the language enacting the new benefit increase or provided under subsection (c). This does not prevent the General Assembly from extending or re-creating a new benefit increase by law.

(e) Except as otherwise provided in the language creating the new benefit increase, a new benefit increase that expires under this Section continues to apply to persons who applied and qualified for the affected benefit while the new benefit increase was in effect and to the affected beneficiaries and alternate payees of such persons, but does not apply to any other person, including, without limitation, a person who continues in service after the expiration date and did not apply and qualify for the affected benefit while the new benefit increase was in effect.

(Source: P.A. 102-16, eff. 6-17-21; 102-558, eff. 8-20-21; 102-813, eff. 5-13-22; 102-871, eff. 5-13-22; 103-154, eff.

6-30-23.)

(40 ILCS 5/16-210 new)

Sec. 16-210. Retirement program elections.

(a) In this Section:

"Currently eligible employee" means an employee who is employed by an employer on the effective date on which the employer offers to its employees the self-managed plan as an alternative to the traditional benefit package.

"Eligible employee" means a teacher, as defined in Section 16-106, who is either a currently eligible employee or a newly eligible employee.

"Newly eligible employee" means an employee who first becomes employed by an employer after the effective date on which the employer offers its employees the self-managed plan as an alternative to the traditional benefit package.

(b) All participating teachers are participants under the traditional benefit package prior to January 1, 2027. If an employee does not elect to participate in the self-managed plan, he or she shall continue to participate in the traditional benefit package by default. A newly eligible employee participates in the traditional benefit package until he or she makes an election to participate in the self-managed plan.

Effective on and after the date that an employer elects, as described in Section 16-215, to offer to its teachers the

self-managed plan as an alternative to the traditional benefit package, each of that employer's eligible employees, as defined in subsection (a), shall be given the choice to elect which retirement program he or she wishes to participate in with respect to all periods of covered employment occurring on and after the effective date of the employee's election. The retirement program election made by an eligible employee must be made in writing, in the manner prescribed by the System and within the time period described in subsection (d).

The employee election authorized by this Section is a one-time, irrevocable election. If an employee terminates employment after making the election provided under this subsection (b), then, upon his or her subsequent re-employment with an employer, the original election shall automatically apply to him or her if the employer is then a participating employer as described in Section 16-215.

An eligible employee who fails to make this election shall, by default, participate in the traditional benefit package. Notwithstanding any other provision of this Article and Article 1, a Tier 2 member shall have the option to enroll in the self-managed plan.

(c) An eligible employee who, at the time he or she is first eligible to make the election described in subsection (b), does not have sufficient age and service to qualify for a retirement annuity under Section 16-132 may elect to participate in the traditional benefit package or the

self-managed plan.

(d) A currently eligible employee must make this election within one year after the effective date of the employer's adoption of the self-managed plan.

A newly eligible employee must make this election within 6 months after the date on which the System receives the report of status certification from the employer. If an employee elects to participate in the self-managed plan, no employer contributions shall be remitted to the self-managed plan when the employee's account balance transfer is made. Employer contributions to the self-managed plan shall commence as of the first pay period that begins after the System receives the employee's election.

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

(40 ILCS 5/16-215 new)

Sec. 16-215. Self-Managed Plan.

(a) Purpose. The General Assembly finds that it is important for Illinois Public Schools to be able to attract and retain the most qualified teachers and that in order to attract and retain these employees, school districts 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 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 irrevocably elect to adopt the self-managed plan established under this Section. An employer's election to adopt the self-managed plan makes available to the eligible employees of that employer the elections described in Section 16-210.

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 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. Teachers 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. The System shall provide advance notice to the participant of the participant's obligation to direct the investment of employee and employer contributions into one or more investment funds selected by the System at the time he or she makes his or her initial retirement plan selection. If a participant fails to direct the investment of employee and employer contributions into the various investment options offered to the participant when making his or her initial retirement election choice, that failure shall require the System to invest the employee and employer contributions in a default investment fund on behalf

of the participant, and the investment shall be deemed to have been made at the participant's investment direction. The participant has the right to transfer account balances out of the default investment fund during time periods designated by the System. Neither the System nor the employer guarantees any of the investments in the employee's account balances.

(e) Participation. A teacher eligible to participate in the self-managed plan must make a written election in accordance with the provisions of Section 16-210 and the procedures established by the System. 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 teacher's employer begins to offer participation in the self-managed plan. Employers may not make the self-managed plan available earlier than January 1, 2027. 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.

A teacher who 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 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, the employee 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 16-151 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. 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.

The contribution rate for employees participating in the self-managed plan under this Section shall be equal to the employee contribution rate for other members of the System, as provided in Section 16-152. 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 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 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.

The program shall provide for employer 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.

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.

The State of Illinois shall make contributions by appropriations to the System of the employer contributions required for teachers 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 16-158. 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 Section 16-158 to obtain the required funding from the Common School 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 3 years of service with an employer described in Section 16-106; (2) the death of the participating employee while employed by an employer described in Section 16-106, 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 that 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.

Section 90. The State Mandates Act is amended by adding Section 8.50 as follows:

(30 ILCS 805/8.50 new)

Sec. 8.50. 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 104th General Assembly.