



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3463

Introduced 1/18/2022, by Sen. Robert F. Martwick

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-204

Amends the Downstate Teacher Article of the Illinois Pension Code. Provides that beginning July 1, 2023, the System shall have the authority to enroll in the defined contribution benefit all employees who first became active members of the System before January 1, 2022 in accordance with specified automatic enrollment provisions. Provides that the System shall enroll all such employees as soon as practicable, but no later than January 1, 2025. Provides that the System: shall protect employers from liability and expenses arising out of investment loss claims by participants, except to the extent the claims are the fault of the employer; shall determine and resolve contribution limitations that arise out of a participant's participation in both the System's defined contribution benefit and an employer-offered plan; shall compensate employers for their administrative costs on a per participant basis at a rate reasonably determined by the System; and shall not require an employer to undertake any task or assume any responsibility that creates a fiduciary duty on the part of the employer to a participant. Effective immediately.

LRB102 25276 RPS 34549 b

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  
5 changing Section 16-204 as follows:

6 (40 ILCS 5/16-204)

7 Sec. 16-204. Optional defined contribution benefit. As  
8 soon as practicable after the effective date of this  
9 amendatory Act of the 100th General Assembly, the System shall  
10 offer a defined contribution benefit to active members of the  
11 System. The defined contribution benefit shall be an optional  
12 benefit to any member who chooses to participate. The defined  
13 contribution benefit shall collect optional employee and  
14 optional employer contributions into an account and shall  
15 offer investment options to the participant. The benefit under  
16 this Section shall be operated in full compliance with any  
17 applicable State and federal laws, and the System shall  
18 utilize generally accepted practices in creating and  
19 maintaining the benefit for the best interest of the  
20 participants. The System may use funds from the employee and  
21 employer contributions to defray any and all costs of creating  
22 and maintaining the benefit. In addition, the System may use  
23 funds provided under Section 16-158 of this Code to defray any

1 and all costs of creating and maintaining the benefit and then  
2 shall reimburse those costs from funds received from the  
3 employee and employer contributions under this Section. All  
4 employers must comply with the reporting and administrative  
5 functions established by the System and are required to  
6 implement the benefits established under this Section. The  
7 System: (1) shall protect employers from liability and  
8 expenses arising out of investment loss claims by  
9 participants, except to the extent the claims are the fault of  
10 the employer; (2) shall determine and resolve contribution  
11 limitations that arise out of a participant's participation in  
12 both the System's defined contribution benefit and an  
13 employer-offered plan; (3) shall compensate employers for  
14 their administrative costs on a per participant basis at a  
15 rate reasonably determined by the System; and (4) shall not  
16 require an employer to undertake any task or assume any  
17 responsibility that creates a fiduciary duty on the part of  
18 the employer to a participant. The System shall produce an  
19 annual report on the participation in the benefit and shall  
20 make the report public.

21 As soon as is practicable on or after January 1, 2022, the  
22 System shall automatically enroll any employee who first  
23 becomes an active member or participant in the System. A  
24 member automatically enrolled under this Section shall have 3%  
25 of his or her pre-tax gross compensation for each compensation  
26 period deferred into his or her deferred compensation account,

1 unless the member otherwise instructs the System on forms  
2 approved by the System. A member may elect, in a manner  
3 provided for by the System, to not participate in the defined  
4 contribution benefit or to increase or reduce the amount of  
5 pre-tax gross compensation contributed, consistent with State  
6 or federal law. A member shall be automatically enrolled in  
7 the benefit beginning the first day of the pay period  
8 following the member's 30th day of employment. A member who  
9 has been automatically enrolled in the benefit may elect,  
10 within 90 days of enrollment, to withdraw from the benefit and  
11 receive a refund of amounts deferred, plus or minus any  
12 applicable earnings, investment fees, and administrative fees.  
13 Any refunded amount shall be included in the member's gross  
14 income for the taxable year in which the refund is issued.

15 Beginning July 1, 2023, the System shall have the  
16 authority to enroll in the defined contribution benefit all  
17 employees who first became active members of the System before  
18 January 1, 2022 in accordance with the automatic enrollment  
19 provisions in this Section. The System shall enroll all such  
20 employees pursuant to the procedure established in this  
21 Section as soon as practicable, but no later than January 1,  
22 2025.

23 On or after January 1, 2023, the System may elect to  
24 increase the automatic annual contributions under this  
25 Section. The increase in the rate of contribution, however,  
26 shall not exceed 2% of a member's pre-tax gross compensation

1 per year, and at no time shall any total contribution exceed  
2 any contribution limits established by State or federal law.

3 (Source: P.A. 102-540, eff. 8-20-21.)

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