



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### SB1646

Introduced 2/8/2023, by Sen. Robert F. Martwick

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-202	
40 ILCS 5/16-204	
40 ILCS 5/24-104	from Ch. 108 1/2, par. 24-104
40 ILCS 5/24-107	from Ch. 108 1/2, par. 24-107
110 ILCS 95/2	from Ch. 144, par. 1702

Amends the State Universities and Downstate Teacher Articles of the Illinois Pension Code. Provides that in administering the optional deferred compensation plan, the System shall require that the deferred compensation plan recordkeeper agree that, in performing services with respect to the deferred compensation plan, the recordkeeper: (i) will not use information received as a result of providing services with respect to the deferred compensation plan or the participants in the deferred compensation plan to solicit the participants in the deferred compensation plan for the purpose of cross-selling nonplan products and services, unless in response to a request by a participant in the deferred compensation plan; and (ii) will not promote, recommend, endorse, or solicit participants in the deferred compensation plan to purchase any financial products or services outside of the deferred compensation plan. Adds similar provisions with regard to the deferred compensation plan and local government deferred compensation plans under the Deferred Compensation Article. Amends the University Employees Custodial Accounts Act. Provides that in administering a defined contribution plan to provide retirement benefits, the governing board of any public institution of higher education shall require that the plan recordkeeper agree that, in performing services with respect to the plan, the recordkeeper: (i) will not use information received as a result of providing services with respect to the plan or the plan's participants to solicit the plan's participants for the purpose of cross-selling nonplan products and services, unless in response to a request by a participant in the plan; and (ii) will not promote, recommend, endorse, or solicit participants in the plan to purchase any financial products or services outside of the plan.

LRB103 27811 RPS 54189 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 Sections 15-202, 16-204, 24-104, and 24-107 as  
6 follows:

7 (40 ILCS 5/15-202)

8 Sec. 15-202. Optional deferred compensation plan.

9 (a) As soon as practicable after August 10, 2018 (the  
10 effective date of Public Act 100-769), the System shall offer  
11 a deferred compensation plan that is eligible under Section  
12 457(b) of the Internal Revenue Code of 1986, as amended, to  
13 participating employees of the System employed by employers  
14 described in Section 15-106 of this Code that qualify as  
15 eligible employers under Section 457(e)(1)(A) of the Internal  
16 Revenue Code of 1986, as amended. Such eligible employers  
17 shall adopt the plan with an effective date no later than  
18 September 1, 2021. Participating employees may voluntarily  
19 elect to make elective deferrals to the eligible deferred  
20 compensation plan. Eligible employers may make optional  
21 employer contributions to the plan on behalf of participating  
22 employees, which contributions may be maintained, increased,  
23 reduced, or eliminated at the discretion of the employer from

1 plan year to plan year. The plan shall collect voluntary  
2 employee and optional employer contributions into an account  
3 for each participant and shall offer investment options to the  
4 participant. The plan under this Section shall be operated in  
5 full compliance with any applicable State and federal laws,  
6 and the System shall utilize generally accepted practices in  
7 creating and maintaining the plan for the best interest of the  
8 participants. In administering the deferred compensation plan,  
9 the System shall require that the deferred compensation plan  
10 recordkeeper agree that, in performing services with respect  
11 to the deferred compensation plan, the recordkeeper: (i) will  
12 not use information received as a result of providing services  
13 with respect to the deferred compensation plan or the  
14 participants in the deferred compensation plan to solicit the  
15 participants in the deferred compensation plan for the purpose  
16 of cross-selling nonplan products and services, unless in  
17 response to a request by a participant in the deferred  
18 compensation plan; and (ii) will not promote, recommend,  
19 endorse, or solicit participants in the deferred compensation  
20 plan to purchase any financial products or services outside of  
21 the deferred compensation plan. The System may use funds from  
22 the employee and employer contributions to defray any and all  
23 costs of creating and maintaining the plan. The System shall  
24 produce an annual report on the participation in the plan and  
25 shall make the report public.

26 (b) The System shall automatically enroll in the eligible

1 deferred compensation plan any employee of an eligible  
2 employer who first becomes a participating employee of the  
3 System on or after July 1, 2023 under an eligible automatic  
4 contribution arrangement that is subject to Section 414(w) of  
5 the Internal Revenue Code of 1986, as amended, and the United  
6 States Department of Treasury regulations promulgated  
7 thereunder. An employee who is automatically enrolled under  
8 this subsection (b) shall have 3% of his or her compensation,  
9 as defined by the plan, for each pay period deferred on a  
10 pre-tax basis into his or her account, subject to any  
11 contribution limits applicable to the plan. The Board may  
12 increase the default percentage of compensation deferred under  
13 this subsection (b).

14 An employee shall have 30 days from the date on which the  
15 System provides the notice required under Section 414(w) of  
16 the Internal Revenue Code of 1986, as amended, to elect to not  
17 participate in the eligible deferred compensation plan or to  
18 elect to increase or reduce the initial amount of elective  
19 deferrals made to the plan. In the absence of such affirmative  
20 election, the employee shall be automatically enrolled in the  
21 plan on the first day of the calendar month, or as soon as  
22 administratively practicable thereafter, following the 30th  
23 day from the date on which the System provides the required  
24 notice. An employee who has been automatically enrolled in the  
25 plan under this subsection (b) may elect, within 90 days of  
26 enrollment, to withdraw from the plan and receive a refund of

1 amounts deferred, adjusted by applicable earnings and fees. An  
2 employee making such an election shall forfeit all employer  
3 matching contributions, if any, made with respect to such  
4 refunded elective deferrals and such forfeited amounts shall  
5 be used to defray plan expenses. Any refunded elective  
6 deferrals shall be included in the employee's gross income for  
7 the taxable year in which the refund is issued.

8 (c) The System may provide for one or more automatic  
9 contribution arrangements, which shall comply with all  
10 applicable Internal Revenue Service rules and regulations, in  
11 conjunction with or in lieu of the eligible automatic  
12 contribution arrangement under subsection (b), for  
13 participating employees of eligible employers whose annual  
14 earnings are limited by application of subsection (b) of  
15 Section 15-111 of this Code. The amount of elective deferrals  
16 made for the employee each pay period under an automatic  
17 contribution arrangement shall equal the default percentage  
18 specified by resolution of the Board multiplied by the  
19 employee's compensation as defined by the plan, subject to any  
20 contribution limits applicable to the plan, and shall be made  
21 on a pre-tax basis. An employee subject to this subsection (c)  
22 shall have 30 days from the date on which the System provides  
23 written notice to the employee to elect to not participate in  
24 the eligible deferred compensation plan or to elect to  
25 increase or reduce the amount of initial elective deferrals  
26 made to the plan. In the absence of such affirmative election,

1 the employee shall be automatically enrolled in the plan  
2 beginning the first day of the calendar month, or as soon as  
3 administratively practicable thereafter, following the 30th  
4 day from the date on which the System provides the required  
5 notice.

6 (d) The System may provide that the default percentage for  
7 any employee automatically enrolled in the eligible deferred  
8 compensation plan under subsection (b) or (c) be increased by  
9 a specified percentage each plan year after the plan year in  
10 which the employee is automatically enrolled in the plan. The  
11 amount of automatic annual increases in any plan year shall  
12 not exceed 1% of compensation as defined by the plan.

13 (e) The changes made to this Section by this amendatory  
14 Act of the 102nd General Assembly are corrections of existing  
15 law and are intended to be retroactive to the effective date of  
16 Public Act 100-769, notwithstanding Section 1-103.1 of this  
17 Code.

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

19 (40 ILCS 5/16-204)

20 Sec. 16-204. Optional defined contribution benefit. As  
21 soon as practicable after the effective date of this  
22 amendatory Act of the 100th General Assembly, the System shall  
23 offer a defined contribution benefit to active members of the  
24 System. The defined contribution benefit shall be an optional  
25 benefit to any member who chooses to participate. The defined

1 contribution benefit shall collect optional employee and  
2 optional employer contributions into an account and shall  
3 offer investment options to the participant. The benefit under  
4 this Section shall be operated in full compliance with any  
5 applicable State and federal laws, and the System shall  
6 utilize generally accepted practices in creating and  
7 maintaining the benefit for the best interest of the  
8 participants. In administering the defined contribution  
9 benefit, the System shall require that the defined  
10 contribution benefit recordkeeper agree that, in performing  
11 services with respect to the defined contribution benefit, the  
12 recordkeeper: (i) will not use information received as a  
13 result of providing services with respect to the defined  
14 contribution benefit or the participants in the defined  
15 contribution benefit to solicit the participants in the  
16 defined contribution benefit for the purpose of cross-selling  
17 nonplan products and services, unless in response to a request  
18 by a participant in the defined contribution benefit; and (ii)  
19 will not promote, recommend, endorse, or solicit participants  
20 in the defined contribution benefit to purchase any financial  
21 products or services outside of the defined contribution  
22 benefit. The System may use funds from the employee and  
23 employer contributions to defray any and all costs of creating  
24 and maintaining the benefit. In addition, the System may use  
25 funds provided under Section 16-158 of this Code to defray any  
26 and all costs of creating and maintaining the benefit and then

1 shall reimburse those costs from funds received from the  
2 employee and employer contributions under this Section. All  
3 employers must comply with the reporting and administrative  
4 functions established by the System and are required to  
5 implement the benefits established under this Section. The  
6 System shall produce an annual report on the participation in  
7 the benefit and shall make the report public.

8 As soon as is practicable on or after January 1, 2022, the  
9 System shall automatically enroll any employee who first  
10 becomes an active member or participant in the System. A  
11 member automatically enrolled under this Section shall have 3%  
12 of his or her pre-tax gross compensation for each compensation  
13 period deferred into his or her deferred compensation account,  
14 unless the member otherwise instructs the System on forms  
15 approved by the System. A member may elect, in a manner  
16 provided for by the System, to not participate in the defined  
17 contribution benefit or to increase or reduce the amount of  
18 pre-tax gross compensation contributed, consistent with State  
19 or federal law. A member shall be automatically enrolled in  
20 the benefit beginning the first day of the pay period  
21 following the member's 30th day of employment. A member who  
22 has been automatically enrolled in the benefit may elect,  
23 within 90 days of enrollment, to withdraw from the benefit and  
24 receive a refund of amounts deferred, plus or minus any  
25 applicable earnings, investment fees, and administrative fees.  
26 Any refunded amount shall be included in the member's gross



1 income for the taxable year in which the refund is issued.

2 On or after January 1, 2023, the System may elect to  
3 increase the automatic annual contributions under this  
4 Section. The increase in the rate of contribution, however,  
5 shall not exceed 2% of a member's pre-tax gross compensation  
6 per year, and at no time shall any total contribution exceed  
7 any contribution limits established by State or federal law.

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

9 (40 ILCS 5/24-104) (from Ch. 108 1/2, par. 24-104)

10 Sec. 24-104. State Employees Deferred Compensation Plan.

11 In this Section, "Plan" means the State Employees Deferred  
12 Compensation Plan.

13 The Illinois State Board of Investment created under  
14 Article 22A of this Act shall develop and establish a deferred  
15 compensation plan for employees of the State which shall be  
16 known as the State Employees Deferred Compensation Plan. The  
17 Plan shall provide for the Board to review proposed investment  
18 offerings and shall require that only investments determined  
19 to be acceptable by the Board may be used for investing  
20 compensation deferred.

21 The Plan shall include appropriate provisions pertaining  
22 to its day to day operation providing for methods of electing  
23 to defer income, methods of changing the amount of income to be  
24 deferred, methods of selecting from among investment options  
25 available under the plan and such other provisions as may be

1 appropriate.

2 In administering the Plan, the Board shall require that  
3 the Plan recordkeeper agree that, in performing services with  
4 respect to the Plan, the recordkeeper: (i) will not use  
5 information received as a result of providing services with  
6 respect to the Plan or the Plan's participants to solicit the  
7 Plan's participants for the purpose of cross-selling non-Plan  
8 products and services, unless in response to a request by a  
9 Plan participant; and (ii) will not promote, recommend,  
10 endorse, or solicit Plan participants to purchase any  
11 financial products or services outside of the Plan.

12 The Plan shall provide for the preparation, and  
13 distribution from time to time to all eligible State  
14 employees, of pamphlets describing the Plan and outlining the  
15 options and opportunities available to State employees under  
16 the Plan.

17 The Plan established under this Section shall not be  
18 implemented or amended until the Board is satisfied that  
19 compensation deferred under the Plan is not subject to income  
20 tax for the year in which it is earned and that the taxation of  
21 such compensation will be deferred until the time of its  
22 distribution to the employee.

23 The Board shall also review and oversee the administration  
24 of the Plan.

25 (Source: P.A. 81-671.)

1 (40 ILCS 5/24-107) (from Ch. 108 1/2, par. 24-107)

2 Sec. 24-107. Local government plans.

3 (a) Any unit of local government or school district may  
4 establish for its employees a deferred compensation plan  
5 ~~program~~. Participation shall be by written agreement between  
6 each employee and the legislative authority of the unit of  
7 local government or school district providing for the deferral  
8 of such compensation and the subsequent investment and  
9 administration of such funds.

10 (b) Any unit of local government may establish an  
11 employer-funded money purchase retirement plan for those of  
12 its full time employees who are not eligible to participate in  
13 any pension fund or retirement system established under  
14 Articles 2 through 18 of this Code. Contributions to the plan  
15 shall be made by the unit of local government only from general  
16 purpose funds not derived from real property taxes imposed by  
17 the unit, at a rate to be determined from time to time by the  
18 unit of local government. However, the rate of employer  
19 contribution shall be (i) the same for all employees  
20 participating in the plan, and (ii) not more than 10% of the  
21 employee's salary.

22 Any benefits accruing to the participants in a retirement  
23 plan established under this subsection shall be protected from  
24 impairment in accordance with Article XIII, Section 5 of the  
25 Illinois Constitution. However, the unit of local government  
26 establishing such a plan may terminate it at any time, unless

1 it has otherwise contractually agreed with its participating  
2 employees.

3 (c) The agency or department designated by the unit of  
4 local government or school district to establish and  
5 administer a plan or program authorized under subsection (a)  
6 or (b) of this Section may invest the assets of the plan in  
7 investments deemed appropriate by the agency or department,  
8 including but not limited to life insurance or annuity  
9 contracts, and share or share certificate accounts of State or  
10 federal credit unions, the accounts of which are insured as  
11 required by the Illinois Credit Union Act or the Federal  
12 Credit Union Act, whichever is applicable. The payment of  
13 employer contributions to a retirement plan established under  
14 subsection (b), and investment and payment to a participant of  
15 deferred compensation and income or gain thereon, if any,  
16 shall not be construed to be prohibited uses of the general  
17 assets of the unit of local government or school district.

18 This Section does not limit the power or authority of any  
19 unit of local government, school district or any institution  
20 supported in whole or in part by public funds to establish and  
21 administer any other deferred compensation plans that may be  
22 authorized by law and deemed appropriate by the officials of  
23 such subdivisions or institutions.

24 (d) In administering the deferred compensation plans  
25 authorized under this Section, the governing board or  
26 administrators of the sponsoring unit of local government or

1 school district shall require that the deferred compensation  
2 plan recordkeeper agree that, in performing services with  
3 respect to the deferred compensation plan, the recordkeeper:  
4 (i) will not use information received as a result of providing  
5 services with respect to the deferred compensation plan or the  
6 deferred compensation plan's participants to solicit the  
7 participants in the deferred compensation plan for the purpose  
8 of cross-selling nonplan products and services, unless in  
9 response to a request by a participant in the deferred  
10 compensation plan; and (ii) will not promote, recommend,  
11 endorse, or solicit participants in the deferred compensation  
12 plan to purchase any financial products or services outside of  
13 the deferred compensation plan.

14 (Source: P.A. 87-794.)

15 Section 10. The University Employees Custodial Accounts  
16 Act is amended by changing Section 2 as follows:

17 (110 ILCS 95/2) (from Ch. 144, par. 1702)

18 Sec. 2. The governing board of any public institution of  
19 higher education has the power to establish a defined  
20 contribution plan to make payments to custodial accounts for  
21 investment in regulated investment company stock to provide  
22 retirement benefits as described in Section 403(b)(7) of the  
23 Internal Revenue Code for eligible employees of such  
24 institutions. Such payments shall be made with funds made

1 available by deductions from or reductions in salary or wages  
2 of eligible employees who authorize in writing deductions or  
3 reductions for such purpose. Such stock shall be purchased  
4 only from persons authorized to sell such stock in this State.

5 In administering the defined contribution plan, the  
6 governing board of any public institution of higher education  
7 shall require that the defined contribution plan recordkeeper  
8 agree that, in performing services with respect to the defined  
9 contribution plan, the recordkeeper: (i) will not use  
10 information received as a result of providing services with  
11 respect to the defined contribution plan or the participants  
12 in the defined contribution plan to solicit the participants  
13 in the defined contribution plan for the purpose of  
14 cross-selling nonplan products and services, unless in  
15 response to a request by a participant in the defined  
16 contribution plan; and (ii) will not promote, recommend,  
17 endorse, or solicit participants in the defined contribution  
18 plan to purchase any financial products or services outside of  
19 the defined contribution plan.

20 (Source: P.A. 83-261.)