



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/09/04, by Brandon W. Phelps

**SYNOPSIS AS INTRODUCED:**

40 ILCS 5/7-132

from Ch. 108 1/2, par. 7-132

Amends the IMRF Article of the Illinois Pension Code to add the Cairo Public Utility Company to the list of entities permitted to participate in the Fund as participating instrumentalities. Effective immediately.

LRB093 19757 LRD 45498 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

1 AN ACT in relation to 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 7-132 as follows:

6 (40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

7 Sec. 7-132. Municipalities, instrumentalities and  
8 participating instrumentalities included and effective dates.

9 (A) Municipalities and their instrumentalities.

10 (a) The following described municipalities, but not  
11 including any with more than 1,000,000 inhabitants, and the  
12 instrumentalities thereof, shall be included within and be  
13 subject to this Article beginning upon the effective dates  
14 specified by the Board:

15 (1) Except as to the municipalities and  
16 instrumentalities thereof specifically excluded under this  
17 Article, every county shall be subject to this Article, and  
18 all cities, villages and incorporated towns having a  
19 population in excess of 5,000 inhabitants as determined by  
20 the last preceding decennial or subsequent federal census,  
21 shall be subject to this Article following publication of  
22 the census by the Bureau of the Census. Within 90 days  
23 after publication of the census, the Board shall notify any  
24 municipality that has become subject to this Article as a  
25 result of that census, and shall provide information to the  
26 corporate authorities of the municipality explaining the  
27 duties and consequences of participation. The notification  
28 shall also include a proposed date upon which participation  
29 by the municipality will commence.

30 However, for any city, village or incorporated town  
31 that attains a population over 5,000 inhabitants after

1 having provided social security coverage for its employees  
2 under the Social Security Enabling Act, participation  
3 under this Article shall not be mandatory but may be  
4 elected in accordance with subparagraph (3) or (4) of this  
5 paragraph (a), whichever is applicable.

6 (2) School districts, other than those specifically  
7 excluded under this Article, shall be subject to this  
8 Article, without election, with respect to all employees  
9 thereof.

10 (3) Towns and all other bodies politic and corporate  
11 which are formed by vote of, or are subject to control by,  
12 the electors in towns and are located in towns which are  
13 not participating municipalities on the effective date of  
14 this Act, may become subject to this Article by election  
15 pursuant to Section 7-132.1.

16 (4) Any other municipality (together with its  
17 instrumentalities), other than those specifically excluded  
18 from participation and those described in paragraph (3)  
19 above, may elect to be included either by referendum under  
20 Section 7-134 or by the adoption of a resolution or  
21 ordinance by its governing body. A copy of such resolution  
22 or ordinance duly authenticated and certified by the clerk  
23 of the municipality or other appropriate official of its  
24 governing body shall constitute the required notice to the  
25 board of such action.

26 (b) A municipality that is about to begin participation  
27 shall submit to the Board an application to participate, in a  
28 form acceptable to the Board, not later than 90 days prior to  
29 the proposed effective date of participation. The Board shall  
30 act upon the application within 90 days, and if it finds that  
31 the application is in conformity with its requirements and the  
32 requirements of this Article, participation by the applicant  
33 shall commence on a date acceptable to the municipality and  
34 specified by the Board, but in no event more than one year from  
35 the date of application.

36 (c) A participating municipality which succeeds to the

1 functions of a participating municipality which is dissolved or  
2 terminates its existence shall assume and be transferred the  
3 net accumulation balance in the municipality reserve and the  
4 municipality account receivable balance of the terminated  
5 municipality.

6 (d) In the case of a Veterans Assistance Commission whose  
7 employees were being treated by the Fund on January 1, 1990 as  
8 employees of the county served by the Commission, the Fund may  
9 continue to treat the employees of the Veterans Assistance  
10 Commission as county employees for the purposes of this  
11 Article, unless the Commission becomes a participating  
12 instrumentality in accordance with subsection (B) of this  
13 Section.

14 (B) Participating instrumentalities.

15 (a) The participating instrumentalities designated in  
16 paragraph (b) of this subsection shall be included within and  
17 be subject to this Article if:

18 (1) an application to participate, in a form acceptable  
19 to the Board and adopted by a two-thirds vote of the  
20 governing body, is presented to the Board not later than 90  
21 days prior to the proposed effective date; and

22 (2) the Board finds that the application is in  
23 conformity with its requirements, that the applicant has  
24 reasonable expectation to continue as a political entity  
25 for a period of at least 10 years and has the prospective  
26 financial capacity to meet its current and future  
27 obligations to the Fund, and that the actuarial soundness  
28 of the Fund may be reasonably expected to be unimpaired by  
29 approval of participation by the applicant.

30 The Board shall notify the applicant of its findings within  
31 90 days after receiving the application, and if the Board  
32 approves the application, participation by the applicant shall  
33 commence on the effective date specified by the Board.

34 (b) The following participating instrumentalities, so long  
35 as they meet the requirements of Section 7-108 and the area

1 served by them or within their jurisdiction is not located  
2 entirely within a municipality having more than one million  
3 inhabitants, may be included hereunder:

4 i. Township School District Trustees.

5 ii. Multiple County and Consolidated Health  
6 Departments created under Division 5-25 of the Counties  
7 Code or its predecessor law.

8 iii. Public Building Commissions created under the  
9 Public Building Commission Act, and located in counties of  
10 less than 1,000,000 inhabitants.

11 iv. A multitype, consolidated or cooperative library  
12 system created under the Illinois Library System Act. Any  
13 library system created under the Illinois Library System  
14 Act that has one or more predecessors that participated in  
15 the Fund may participate in the Fund upon application. The  
16 Board shall establish procedures for implementing the  
17 transfer of rights and obligations from the predecessor  
18 system to the successor system.

19 v. Regional Planning Commissions created under  
20 Division 5-14 of the Counties Code or its predecessor law.

21 vi. Local Public Housing Authorities created under the  
22 Housing Authorities Act, located in counties of less than  
23 1,000,000 inhabitants.

24 vii. Illinois Municipal League.

25 viii. Northeastern Illinois Metropolitan Area Planning  
26 Commission.

27 ix. Southwestern Illinois Metropolitan Area Planning  
28 Commission.

29 x. Illinois Association of Park Districts.

30 xi. Illinois Supervisors, County Commissioners and  
31 Superintendents of Highways Association.

32 xii. Tri-City Regional Port District.

33 xiii. An association, or not-for-profit corporation,  
34 membership in which is authorized under Section 85-15 of  
35 the Township Code.

36 xiv. Drainage Districts operating under the Illinois

1 Drainage Code.

2 xv. Local mass transit districts created under the  
3 Local Mass Transit District Act.

4 xvi. Soil and water conservation districts created  
5 under the Soil and Water Conservation Districts Law.

6 xvii. Commissions created to provide water supply or  
7 sewer services or both under Division 135 or Division 136  
8 of Article 11 of the Illinois Municipal Code.

9 xviii. Public water districts created under the Public  
10 Water District Act.

11 xix. Veterans Assistance Commissions established under  
12 Section 9 of the Military Veterans Assistance Act that  
13 serve counties with a population of less than 1,000,000.

14 xx. The governing body of an entity, other than a  
15 vocational education cooperative, created under an  
16 intergovernmental cooperative agreement established  
17 between participating municipalities under the  
18 Intergovernmental Cooperation Act, which by the terms of  
19 the agreement is the employer of the persons performing  
20 services under the agreement under the usual common law  
21 rules determining the employer-employee relationship. The  
22 governing body of such an intergovernmental cooperative  
23 entity established prior to July 1, 1988 may make  
24 participation retroactive to the effective date of the  
25 agreement and, if so, the effective date of participation  
26 shall be the date the required application is filed with  
27 the fund. If any such entity is unable to pay the required  
28 employer contributions to the fund, then the participating  
29 municipalities shall make payment of the required  
30 contributions and the payments shall be allocated as  
31 provided in the agreement or, if not so provided, equally  
32 among them.

33 xxi. The Illinois Municipal Electric Agency.

34 xxii. The Waukegan Port District.

35 xxiii. The Fox Waterway Agency created under the Fox  
36 Waterway Agency Act.

1 xxiv. The Illinois Municipal Gas Agency.

2 xxv. The Kaskaskia Regional Port District.

3 xxvi. The Southwestern Illinois Development Authority.

4 xxvii. The Cairo Public Utility Company.

5 (c) The governing boards of special education joint  
6 agreements created under Section 10-22.31 of the School Code  
7 without designation of an administrative district shall be  
8 included within and be subject to this Article as participating  
9 instrumentalities when the joint agreement becomes effective.  
10 However, the governing board of any such special education  
11 joint agreement in effect before September 5, 1975 shall not be  
12 subject to this Article unless the joint agreement is modified  
13 by the school districts to provide that the governing board is  
14 subject to this Article, except as otherwise provided by this  
15 Section.

16 The governing board of the Special Education District of  
17 Lake County shall become subject to this Article as a  
18 participating instrumentality on July 1, 1997. Notwithstanding  
19 subdivision (a)1 of Section 7-139, on the effective date of  
20 participation, employees of the governing board of the Special  
21 Education District of Lake County shall receive creditable  
22 service for their prior service with that employer, up to a  
23 maximum of 5 years, without any employee contribution.  
24 Employees may establish creditable service for the remainder of  
25 their prior service with that employer, if any, by applying in  
26 writing and paying an employee contribution in an amount  
27 determined by the Fund, based on the employee contribution  
28 rates in effect at the time of application for the creditable  
29 service and the employee's salary rate on the effective date of  
30 participation for that employer, plus interest at the effective  
31 rate from the date of the prior service to the date of payment.  
32 Application for this creditable service must be made before  
33 July 1, 1998; the payment may be made at any time while the  
34 employee is still in service. The employer may elect to make  
35 the required contribution on behalf of the employee.

36 The governing board of a special education joint agreement

1 created under Section 10-22.31 of the School Code for which an  
2 administrative district has been designated, if there are  
3 employees of the cooperative educational entity who are not  
4 employees of the administrative district, may elect to  
5 participate in the Fund and be included within this Article as  
6 a participating instrumentality, subject to such application  
7 procedures and rules as the Board may prescribe.

8 The Boards of Control of cooperative or joint educational  
9 programs or projects created and administered under Section  
10 3-15.14 of the School Code, whether or not the Boards act as  
11 their own administrative district, shall be included within and  
12 be subject to this Article as participating instrumentalities  
13 when the agreement establishing the cooperative or joint  
14 educational program or project becomes effective.

15 The governing board of a special education joint agreement  
16 entered into after June 30, 1984 and prior to September 17,  
17 1985 which provides for representation on the governing board  
18 by less than all the participating districts shall be included  
19 within and subject to this Article as a participating  
20 instrumentality. Such participation shall be effective as of  
21 the date the joint agreement becomes effective.

22 The governing boards of educational service centers  
23 established under Section 2-3.62 of the School Code shall be  
24 included within and subject to this Article as participating  
25 instrumentalities. The governing boards of vocational  
26 education cooperative agreements created under the  
27 Intergovernmental Cooperation Act and approved by the State  
28 Board of Education shall be included within and be subject to  
29 this Article as participating instrumentalities. If any such  
30 governing boards or boards of control are unable to pay the  
31 required employer contributions to the fund, then the school  
32 districts served by such boards shall make payment of required  
33 contributions as provided in Section 7-172. The payments shall  
34 be allocated among the several school districts in proportion  
35 to the number of students in average daily attendance for the  
36 last full school year for each district in relation to the



1 total number of students in average attendance for such period  
2 for all districts served. If such educational service centers,  
3 vocational education cooperatives or cooperative or joint  
4 educational programs or projects created and administered  
5 under Section 3-15.14 of the School Code are dissolved, the  
6 assets and obligations shall be distributed among the districts  
7 in the same proportions unless otherwise provided.

8 (d) The governing boards of special recreation joint  
9 agreements created under Section 8-10b of the Park District  
10 Code, operating without designation of an administrative  
11 district or an administrative municipality appointed to  
12 administer the program operating under the authority of such  
13 joint agreement shall be included within and be subject to this  
14 Article as participating instrumentalities when the joint  
15 agreement becomes effective. However, the governing board of  
16 any such special recreation joint agreement in effect before  
17 January 1, 1980 shall not be subject to this Article unless the  
18 joint agreement is modified, by the districts and  
19 municipalities which are parties to the agreement, to provide  
20 that the governing board is subject to this Article.

21 If the Board returns any employer and employee  
22 contributions to any employer which erroneously submitted such  
23 contributions on behalf of a special recreation joint  
24 agreement, the Board shall include interest computed from the  
25 end of each year to the date of payment, not compounded, at the  
26 rate of 7% per annum.

27 (e) Each multi-township assessment district, the board of  
28 trustees of which has adopted this Article by ordinance prior  
29 to April 1, 1982, shall be a participating instrumentality  
30 included within and subject to this Article effective December  
31 1, 1981. The contributions required under Section 7-172 shall  
32 be included in the budget prepared under and allocated in  
33 accordance with Section 2-30 of the Property Tax Code.

34 (f) Beginning January 1, 1992, each prospective  
35 participating municipality or participating instrumentality  
36 shall pay to the Fund the cost, as determined by the Board, of

1 a study prepared by the Fund or its actuary, detailing the  
2 prospective costs of participation in the Fund to be expected  
3 by the municipality or instrumentality.

4 (Source: P.A. 92-424, eff. 8-17-01.)

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