



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

SB2712

Introduced 2/4/2004, by James F. Clayborne Jr.

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-172	from Ch. 108 1/2, par. 7-172
40 ILCS 5/7-173.2	from Ch. 108 1/2, par. 7-173.2
40 ILCS 5/7-199.4 new	
40 ILCS 5/7-204	from Ch. 108 1/2, par. 7-204
30 ILCS 805/8.28 new	

Amends the IMRF Article of the Illinois Pension Code. Provides that each county with current or former elected county officers participating in the alternative annuity program shall have a separate employer contribution rate computed for those elected officers, and provides that those officers shall be treated as a separate unit within the Fund. Provides that a municipality may transfer funds among its reserves, from one that is over 100% funded to one that is less, under certain circumstances. In the provisions relating to employer pick-up of employee contributions, requires pick-up of employee contributions under the alternative program for elected county officers. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB093 18378 LRD 44085 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 7-172, 7-173.2, and 7-204 and by adding 7-199.4 as
6 follows:

7 (40 ILCS 5/7-172) (from Ch. 108 1/2, par. 7-172)

8 Sec. 7-172. Contributions by participating municipalities
9 and participating instrumentalities.

10 (a) Each participating municipality and each participating
11 instrumentality shall make payment to the fund as follows:

12 1. municipality contributions in an amount determined
13 by applying the municipality contribution rate to each
14 payment of earnings paid to each of its participating
15 employees;

16 2. an amount equal to the employee contributions
17 provided by paragraphs (a) and (b) of Section 7-173,
18 whether or not the employee contributions are withheld as
19 permitted by that Section;

20 3. all accounts receivable, together with interest
21 charged thereon, as provided in Section 7-209;

22 4. if it has no participating employees with current
23 earnings, an amount payable which, over a period of 20
24 years beginning with the year following an award of
25 benefit, will amortize, at the effective rate for that
26 year, any negative balance in its municipality reserve
27 resulting from the award. This amount when established will
28 be payable as a separate contribution whether or not it
29 later has participating employees.

30 (b) A separate municipality contribution rate shall be
31 determined for each calendar year for all participating
32 municipalities together with all instrumentalities thereof.

1 The municipality contribution rate shall be determined for
2 participating instrumentalities as if they were participating
3 municipalities. The municipality contribution rate shall be
4 the sum of the following percentages:

5 1. The percentage of earnings of all the participating
6 employees of all participating municipalities and
7 participating instrumentalities which, if paid over the
8 entire period of their service, will be sufficient when
9 combined with all employee contributions available for the
10 payment of benefits, to provide all annuities for
11 participating employees, and the \$3,000 death benefit
12 payable under Sections 7-158 and 7-164, such percentage to
13 be known as the normal cost rate.

14 2. The percentage of earnings of the participating
15 employees of each participating municipality and
16 participating instrumentalities necessary to adjust for
17 the difference between the present value of all benefits,
18 excluding temporary and total and permanent disability and
19 death benefits, to be provided for its participating
20 employees and the sum of its accumulated municipality
21 contributions and the accumulated employee contributions
22 and the present value of expected future employee and
23 municipality contributions pursuant to subparagraph 1 of
24 this paragraph (b). This adjustment shall be spread over
25 the remainder of the period that is allowable under
26 generally accepted accounting principles.

27 3. The percentage of earnings of the participating
28 employees of all municipalities and participating
29 instrumentalities necessary to provide the present value
30 of all temporary and total and permanent disability
31 benefits granted during the most recent year for which
32 information is available.

33 4. The percentage of earnings of the participating
34 employees of all participating municipalities and
35 participating instrumentalities necessary to provide the
36 present value of the net single sum death benefits expected

1 to become payable from the reserve established under
2 Section 7-206 during the year for which this rate is fixed.

3 5. The percentage of earnings necessary to meet any
4 deficiency arising in the Terminated Municipality Reserve.

5 (c) A separate municipality contribution rate shall be
6 computed for each participating municipality or participating
7 instrumentality for its sheriff's law enforcement employees.

8 A separate municipality contribution rate shall be
9 computed for the sheriff's law enforcement employees of each
10 forest preserve district that elects to have such employees.
11 For the period from January 1, 1986 to December 31, 1986, such
12 rate shall be the forest preserve district's regular rate plus
13 2%.

14 In the event that the Board determines that there is an
15 actuarial deficiency in the account of any municipality with
16 respect to a person who has elected to participate in the Fund
17 under Section 3-109.1 of this Code, the Board may adjust the
18 municipality's contribution rate so as to make up that
19 deficiency over such reasonable period of time as the Board may
20 determine.

21 (d) The Board may establish a separate municipality
22 contribution rate for all employees who are program
23 participants employed under the federal Comprehensive
24 Employment Training Act by all of the participating
25 municipalities and instrumentalities. The Board may also
26 provide that, in lieu of a separate municipality rate for these
27 employees, a portion of the municipality contributions for such
28 program participants shall be refunded or an extra charge
29 assessed so that the amount of municipality contributions
30 retained or received by the fund for all CETA program
31 participants shall be an amount equal to that which would be
32 provided by the separate municipality contribution rate for all
33 such program participants. Refunds shall be made to prime
34 sponsors of programs upon submission of a claim therefor and
35 extra charges shall be assessed to participating
36 municipalities and instrumentalities. In establishing the

1 municipality contribution rate as provided in paragraph (b) of
2 this Section, the use of a separate municipality contribution
3 rate for program participants or the refund of a portion of the
4 municipality contributions, as the case may be, may be
5 considered.

6 (e) Computations of municipality contribution rates for
7 the following calendar year shall be made prior to the
8 beginning of each year, from the information available at the
9 time the computations are made, and on the assumption that the
10 employees in each participating municipality or participating
11 instrumentality at such time will continue in service until the
12 end of such calendar year at their respective rates of earnings
13 at such time.

14 (f) Any municipality which is the recipient of State
15 allocations representing that municipality's contributions for
16 retirement annuity purposes on behalf of its employees as
17 provided in Section 12-21.16 of the Illinois Public Aid Code
18 shall pay the allocations so received to the Board for such
19 purpose. Estimates of State allocations to be received during
20 any taxable year shall be considered in the determination of
21 the municipality's tax rate for that year under Section 7-171.
22 If a special tax is levied under Section 7-171, none of the
23 proceeds may be used to reimburse the municipality for the
24 amount of State allocations received and paid to the Board. Any
25 multiple-county or consolidated health department which
26 receives contributions from a county under Section 11.2 of "An
27 Act in relation to establishment and maintenance of county and
28 multiple-county health departments", approved July 9, 1943, as
29 amended, or distributions under Section 3 of the Department of
30 Public Health Act, shall use these only for municipality
31 contributions by the health department.

32 (g) Municipality contributions for the several purposes
33 specified shall, for township treasurers and employees in the
34 offices of the township treasurers who meet the qualifying
35 conditions for coverage hereunder, be allocated among the
36 several school districts and parts of school districts serviced

1 by such treasurers and employees in the proportion which the
2 amount of school funds of each district or part of a district
3 handled by the treasurer bears to the total amount of all
4 school funds handled by the treasurer.

5 From the funds subject to allocation among districts and
6 parts of districts pursuant to the School Code, the trustees
7 shall withhold the proportionate share of the liability for
8 municipality contributions imposed upon such districts by this
9 Section, in respect to such township treasurers and employees
10 and remit the same to the Board.

11 The municipality contribution rate for an educational
12 service center shall initially be the same rate for each year
13 as the regional office of education or school district which
14 serves as its administrative agent. When actuarial data become
15 available, a separate rate shall be established as provided in
16 subparagraph (i) of this Section.

17 The municipality contribution rate for a public agency,
18 other than a vocational education cooperative, formed under the
19 Intergovernmental Cooperation Act shall initially be the
20 average rate for the municipalities which are parties to the
21 intergovernmental agreement. When actuarial data become
22 available, a separate rate shall be established as provided in
23 subparagraph (i) of this Section.

24 (h) Each participating municipality and participating
25 instrumentality shall make the contributions in the amounts
26 provided in this Section in the manner prescribed from time to
27 time by the Board and all such contributions shall be
28 obligations of the respective participating municipalities and
29 participating instrumentalities to this fund. The failure to
30 deduct any employee contributions shall not relieve the
31 participating municipality or participating instrumentality of
32 its obligation to this fund. Delinquent payments of
33 contributions due under this Section may, with interest, be
34 recovered by civil action against the participating
35 municipalities or participating instrumentalities.
36 Municipality contributions, other than the amount necessary

1 for employee contributions and Social Security contributions,
2 for periods of service by employees from whose earnings no
3 deductions were made for employee contributions to the fund,
4 may be charged to the municipality reserve for the municipality
5 or participating instrumentality.

6 (i) Contributions by participating instrumentalities shall
7 be determined as provided herein except that the percentage
8 derived under subparagraph 2 of paragraph (b) of this Section,
9 and the amount payable under subparagraph 5 of paragraph (a) of
10 this Section, shall be based on an amortization period of 10
11 years.

12 (j) Each county with current or former elected county
13 officers, as defined in Section 7-145.1, participating in the
14 alternative annuity program established under that Section
15 shall have a separate municipality contribution rate computed
16 for those elected county officers.

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

18 (40 ILCS 5/7-173.2) (from Ch. 108 1/2, par. 7-173.2)

19 Sec. 7-173.2. Pickup of employee contributions.

20 (a) Until July 1, 1984, each participating municipality and
21 each participating instrumentality may elect, for all of its
22 employees, to pick up the employee contributions required by
23 subparagraphs 1 and 3 of subsection (a) of Section 7-173 and,
24 in the case of sheriff's law enforcement employees, required by
25 Section 7-173.1. The pick up may be for employee contributions
26 on earnings received by employees after December 31, 1981 and
27 shall be applicable to the contributions on total earnings paid
28 in any month. The decision to pick up contributions shall be
29 made by the governing body.

30 Beginning July 1, 1984, the pick up of employee
31 contributions shall cease to be optional. Each participating
32 municipality and participating instrumentality shall pick up
33 the employee contributions required by subparagraphs 1 and 3 of
34 subsection (a) of Section 7-173 and, in the case of sheriff's
35 law enforcement employees, contributions required by Section

1 7-173.1, for all compensation earned after such date. Each
2 participating municipality shall also pick up any employee
3 contributions made by its employees under the alternative
4 program for elected county officers under Section 7-145.1.

5 (b) Contributions that are picked up shall be treated as
6 employer contributions in determining tax treatment under the
7 United States Internal Revenue Code. The employee contribution
8 shall be paid from the same source of funds as is used in
9 payment of earnings to the employee and may not be paid from
10 funds raised by the tax levy authorized by Section 7-171. The
11 contributions shall be picked up by a reduction in earnings
12 payment to employees. Employee contributions that are picked up
13 shall be considered as earnings under Section 7-114. If a
14 participating municipality or participating instrumentality
15 fails to report participating employee earnings which should
16 have been reported to the fund and pays the employee the full
17 amount of earnings including employee contributions which
18 should have been picked up and forwarded to the fund, then the
19 employee shall make payment of the employee contributions to
20 the fund on behalf of employer and such contributions shall be
21 considered as picked up contributions if paid in the year the
22 earnings were received, or by January 31st of the following
23 year, and are reflected as picked up on reports to the Internal
24 Revenue Service. If they cannot be so reflected, or if received
25 after that date, they shall not be treated as picked up
26 contributions. Picked up employee contributions shall be
27 considered as employee contributions in computing benefits
28 paid under this Article 7.

29 (c) Subject to the requirements of federal law, an employee
30 may elect to have the employer pick up optional contributions
31 that the employee has elected to pay to the Fund, and the
32 contributions so picked up shall be treated as employer
33 contributions for the purposes of determining federal tax
34 treatment. The employer shall pick up the contributions by a
35 reduction in the cash salary of the employee and shall pay the
36 contributions from the same source of funds that is used to pay

1 earnings to the employee. The employee's election to have the
2 optional contributions picked up is irrevocable and the
3 optional contributions may not thereafter be prepaid, by direct
4 payment or otherwise.

5 (Source: P.A. 90-766, eff. 8-14-98.)

6 (40 ILCS 5/7-199.4 new)

7 Sec. 7-199.4. To Transfer Reserves. Whenever any one of
8 the municipality reserves established under Section 7-204(a)
9 for a participating municipality exceeds 100% of the
10 actuarially determined liability, the excess may be
11 transferred to any of that municipality's other reserves with a
12 balance of less than 100% of the actuarially determined
13 liability. Upon request of the municipality, the Board shall
14 prepare an impact note to determine how the transfer will
15 affect the reserves and employer contribution rates for that
16 municipality. Only after receipt of the impact note may the
17 governing body of the municipality, by resolution, request the
18 transfer. No such transfer may lower any reserve balance to
19 less than 100% or increase any reserve balance to more than
20 100% of the actuarially determined liability.

21 (40 ILCS 5/7-204) (from Ch. 108 1/2, par. 7-204)

22 Sec. 7-204. Municipality reserves.

23 (a) Except as provided in paragraph (b) of this Section,
24 each participating municipality and its instrumentalities, and
25 each participating instrumentality, shall be treated as an
26 independent unit within the fund, except that if it has any
27 sheriff's law enforcement employees or any elected county
28 officers (as defined in Section 7-154.1) participating in the
29 alternative annuity program, it shall be treated as multiple ~~2~~
30 independent units, one for its sheriff's law enforcement
31 employees, one for its elected county officers participating in
32 the alternative retirement program, and one ~~the second~~ for its
33 other employees. Separate municipality reserves shall be
34 maintained in such form and detail as is necessary to show the

1 net accumulated balances of each municipality, created or
2 arising under this Article.

3 (b) In the event of termination and dissolution of any
4 participating municipality or participating instrumentality,
5 if ~~and~~ its obligations are not assumed or transferred by law to
6 another municipality, any net debit or credit balance remaining
7 in the reserve account of such municipality, or participating
8 instrumentality, shall be transferred to a Terminated
9 Municipality Reserve Account which shall be used to fund any
10 future benefits of its employees arising out of service with
11 the terminated municipality or participating instrumentality.

12 Any deficiency arising in the Terminated Municipality
13 Reserve Account shall be eliminated by a contribution by all
14 remaining municipalities and participating instrumentalities
15 at a uniform percent of payroll, to be determined, collected
16 with other contributions required under Section 7-172.

17 (c) The municipality reserve for each municipality or
18 participating instrumentality that has any sheriff's law
19 enforcement employees shall be divided into 2 reserves. A
20 reserve for the sheriff's law enforcement employees shall be
21 allocated an amount in the same proportion to the total amount
22 in reserve as the total number of sheriff's law enforcement
23 employees is to the total participating employees of the
24 municipality or participating instrumentality at that date.
25 The remainder shall be allocated to the reserve for other
26 employees.

27 (d) The Fund shall determine what amounts shall be
28 transferred or credited to the reserve for elected county
29 officers participating in the alternative retirement program.

30 (Source: P.A. 87-740.)

31 Section 90. The State Mandates Act is amended by adding
32 Section 8.28 as follows:

33 (30 ILCS 805/8.28 new)

34 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8

1 of this Act, no reimbursement by the State is required for the
2 implementation of any mandate created by this amendatory Act of
3 the 93rd General Assembly.

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