



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by James F. Clayborne Jr.

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-132

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

Amends the Illinois Municipal (IMRF) Article of the Illinois Pension Code to authorize participation by the United Counties Council of Illinois. Authorizes participation regardless of whether the Board makes certain findings that are required for other participating instrumentalities. Authorizes a person employed by the Council when it becomes a participating instrumentality to elect not to become a participating employee. Effective immediately.

LRB093 19794 LRD 45536 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 changing
5 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 Notwithstanding any provision in this paragraph (a) to the
35 contrary, the participating instrumentality designated under

1 item (xxvii) may begin participating on July 1, 2004,
2 regardless of the Board's findings under item (2) of paragraph
3 (a) of this subsection (B).

4 (b) The following participating instrumentalities, so long
5 as they meet the requirements of Section 7-108 and the area
6 served by them or within their jurisdiction is not located
7 entirely within a municipality having more than one million
8 inhabitants, may be included hereunder:

9 i. Township School District Trustees.

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

13 iii. Public Building Commissions created under the
14 Public Building Commission Act, and located in counties of
15 less than 1,000,000 inhabitants.

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

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

26 vi. Local Public Housing Authorities created under the
27 Housing Authorities Act, located in counties of less than
28 1,000,000 inhabitants.

29 vii. Illinois Municipal League.

30 viii. Northeastern Illinois Metropolitan Area Planning
31 Commission.

32 ix. Southwestern Illinois Metropolitan Area Planning
33 Commission.

34 x. Illinois Association of Park Districts.

35 xi. Illinois Supervisors, County Commissioners and
36 Superintendents of Highways Association.

- 1 xii. Tri-City Regional Port District.
- 2 xiii. An association, or not-for-profit corporation,
3 membership in which is authorized under Section 85-15 of
4 the Township Code.
- 5 xiv. Drainage Districts operating under the Illinois
6 Drainage Code.
- 7 xv. Local mass transit districts created under the
8 Local Mass Transit District Act.
- 9 xvi. Soil and water conservation districts created
10 under the Soil and Water Conservation Districts Law.
- 11 xvii. Commissions created to provide water supply or
12 sewer services or both under Division 135 or Division 136
13 of Article 11 of the Illinois Municipal Code.
- 14 xviii. Public water districts created under the Public
15 Water District Act.
- 16 xix. Veterans Assistance Commissions established under
17 Section 9 of the Military Veterans Assistance Act that
18 serve counties with a population of less than 1,000,000.
- 19 xx. The governing body of an entity, other than a
20 vocational education cooperative, created under an
21 intergovernmental cooperative agreement established
22 between participating municipalities under the
23 Intergovernmental Cooperation Act, which by the terms of
24 the agreement is the employer of the persons performing
25 services under the agreement under the usual common law
26 rules determining the employer-employee relationship. The
27 governing body of such an intergovernmental cooperative
28 entity established prior to July 1, 1988 may make
29 participation retroactive to the effective date of the
30 agreement and, if so, the effective date of participation
31 shall be the date the required application is filed with
32 the fund. If any such entity is unable to pay the required
33 employer contributions to the fund, then the participating
34 municipalities shall make payment of the required
35 contributions and the payments shall be allocated as
36 provided in the agreement or, if not so provided, equally

1 among them.

2 xxi. The Illinois Municipal Electric Agency.

3 xxii. The Waukegan Port District.

4 xxiii. The Fox Waterway Agency created under the Fox
5 Waterway Agency Act.

6 xxiv. The Illinois Municipal Gas Agency.

7 xxv. The Kaskaskia Regional Port District.

8 xxvi. The Southwestern Illinois Development Authority.

9 xxvii. The United Counties Council of Illinois. If the
10 United Counties Council of Illinois becomes a
11 participating instrumentality included within and subject
12 to this Article, service with the Council under its
13 previous name (the Urban Counties Council of Illinois)
14 shall be deemed service with the same employer. The
15 employer may elect to make any employee contributions for
16 prior service on behalf of the employees. A person who is
17 employed by the United Counties Council of Illinois when it
18 becomes a participating instrumentality may elect not to
19 become a participating employee by filing a written
20 election with the Fund within 30 days after the United
21 Counties Council of Illinois becomes a participating
22 instrumentality.

23 (c) The governing boards of special education joint
24 agreements created under Section 10-22.31 of the School Code
25 without designation of an administrative district shall be
26 included within and be subject to this Article as participating
27 instrumentalities when the joint agreement becomes effective.
28 However, the governing board of any such special education
29 joint agreement in effect before September 5, 1975 shall not be
30 subject to this Article unless the joint agreement is modified
31 by the school districts to provide that the governing board is
32 subject to this Article, except as otherwise provided by this
33 Section.

34 The governing board of the Special Education District of
35 Lake County shall become subject to this Article as a
36 participating instrumentality on July 1, 1997. Notwithstanding

1 subdivision (a)1 of Section 7-139, on the effective date of
2 participation, employees of the governing board of the Special
3 Education District of Lake County shall receive creditable
4 service for their prior service with that employer, up to a
5 maximum of 5 years, without any employee contribution.
6 Employees may establish creditable service for the remainder of
7 their prior service with that employer, if any, by applying in
8 writing and paying an employee contribution in an amount
9 determined by the Fund, based on the employee contribution
10 rates in effect at the time of application for the creditable
11 service and the employee's salary rate on the effective date of
12 participation for that employer, plus interest at the effective
13 rate from the date of the prior service to the date of payment.
14 Application for this creditable service must be made before
15 July 1, 1998; the payment may be made at any time while the
16 employee is still in service. The employer may elect to make
17 the required contribution on behalf of the employee.

18 The governing board of a special education joint agreement
19 created under Section 10-22.31 of the School Code for which an
20 administrative district has been designated, if there are
21 employees of the cooperative educational entity who are not
22 employees of the administrative district, may elect to
23 participate in the Fund and be included within this Article as
24 a participating instrumentality, subject to such application
25 procedures and rules as the Board may prescribe.

26 The Boards of Control of cooperative or joint educational
27 programs or projects created and administered under Section
28 3-15.14 of the School Code, whether or not the Boards act as
29 their own administrative district, shall be included within and
30 be subject to this Article as participating instrumentalities
31 when the agreement establishing the cooperative or joint
32 educational program or project becomes effective.

33 The governing board of a special education joint agreement
34 entered into after June 30, 1984 and prior to September 17,
35 1985 which provides for representation on the governing board
36 by less than all the participating districts shall be included

1 within and subject to this Article as a participating
2 instrumentality. Such participation shall be effective as of
3 the date the joint agreement becomes effective.

4 The governing boards of educational service centers
5 established under Section 2-3.62 of the School Code shall be
6 included within and subject to this Article as participating
7 instrumentalities. The governing boards of vocational
8 education cooperative agreements created under the
9 Intergovernmental Cooperation Act and approved by the State
10 Board of Education shall be included within and be subject to
11 this Article as participating instrumentalities. If any such
12 governing boards or boards of control are unable to pay the
13 required employer contributions to the fund, then the school
14 districts served by such boards shall make payment of required
15 contributions as provided in Section 7-172. The payments shall
16 be allocated among the several school districts in proportion
17 to the number of students in average daily attendance for the
18 last full school year for each district in relation to the
19 total number of students in average attendance for such period
20 for all districts served. If such educational service centers,
21 vocational education cooperatives or cooperative or joint
22 educational programs or projects created and administered
23 under Section 3-15.14 of the School Code are dissolved, the
24 assets and obligations shall be distributed among the districts
25 in the same proportions unless otherwise provided.

26 (d) The governing boards of special recreation joint
27 agreements created under Section 8-10b of the Park District
28 Code, operating without designation of an administrative
29 district or an administrative municipality appointed to
30 administer the program operating under the authority of such
31 joint agreement shall be included within and be subject to this
32 Article as participating instrumentalities when the joint
33 agreement becomes effective. However, the governing board of
34 any such special recreation joint agreement in effect before
35 January 1, 1980 shall not be subject to this Article unless the
36 joint agreement is modified, by the districts and

1 municipalities which are parties to the agreement, to provide
2 that the governing board is subject to this Article.

3 If the Board returns any employer and employee
4 contributions to any employer which erroneously submitted such
5 contributions on behalf of a special recreation joint
6 agreement, the Board shall include interest computed from the
7 end of each year to the date of payment, not compounded, at the
8 rate of 7% per annum.

9 (e) Each multi-township assessment district, the board of
10 trustees of which has adopted this Article by ordinance prior
11 to April 1, 1982, shall be a participating instrumentality
12 included within and subject to this Article effective December
13 1, 1981. The contributions required under Section 7-172 shall
14 be included in the budget prepared under and allocated in
15 accordance with Section 2-30 of the Property Tax Code.

16 (f) Beginning January 1, 1992, each prospective
17 participating municipality or participating instrumentality
18 shall pay to the Fund the cost, as determined by the Board, of
19 a study prepared by the Fund or its actuary, detailing the
20 prospective costs of participation in the Fund to be expected
21 by the municipality or instrumentality.

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.