

# HB0924



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0924

Introduced 2/10/2009, by Rep. Daniel J. Burke

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/14-110.5 new

Amends the State Employee Article of the Illinois Pension Code. Provides a Deferred Retirement Option Plan to members of the State Employees' Retirement System of Illinois who are eligible to receive the alternative formula under which members effectively retire and have their retirement accumulate, after applicable taxes, in the System while they continue covered employment for up to 5 years. Effective immediately.

LRB096 04651 AMC 14710 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

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 adding  
5 Section 14-110.5 as follows:

6 (40 ILCS 5/14-110.5 new)

7 Sec. 14-110.5. Deferred Retirement Option Plan.

8 (a) As used in this Section:

9 "Deferred eligibility date" means the first day of any  
10 month to which a vested member is eligible to defer his  
11 election to participate in DROP. A vested member who has  
12 reached 26 years and 8 months of actual service and has not  
13 reached the age of 50 may enter the DROP and be eligible for  
14 contributions to this fund. If the member resigns or dies prior  
15 to age 50 he or his designee is not eligible to collect any of  
16 the DROP contributions. For a member with dual normal  
17 retirement dates, the DROP eligibility date may be determined  
18 by the member as the first day of the month in which normal  
19 retirement is achieved in either class. For an elected officer  
20 member who has reached normal retirement date during a term of  
21 office, the DROP initial eligibility date may be deferred to  
22 the first day of the month after the beginning date of the next  
23 succeeding term of office.

1       "Deferred Retirement Option Plan" or "DROP" means a program  
2 available to certain members who are eligible to receive  
3 benefits under Section 14-110 of this Code under which members  
4 effectively retire and have their retirement accumulate, after  
5 applicable taxes, in the System while they continue covered  
6 employment for up to 5 years.

7       "DROP begin date" means the first day of the month in which  
8 the member's DROP participation period begins and is always the  
9 same date as the member's effective date of retirement. Such  
10 date shall be the first day of the month in which the eligible  
11 member submits a DROP application, or any future month after  
12 the member reaches his or her DROP eligibility date, as  
13 selected by the member. However, a member's DROP begin date  
14 cannot precede the month the Board receives the DROP  
15 application.

16       "DROP break in service" means a period for which no  
17 compensation is reported for a DROP participant during one full  
18 month of the participant's work year and there is no continuing  
19 employer-employee relationship. A member who is on leave of  
20 absence without pay or on a workers' compensation leave has an  
21 employer-employee relationship.

22       "DROP eligibility date" means the first day of the month in  
23 which a vested member becomes eligible to elect to participate  
24 in DROP by virtue of reaching either his normal retirement date  
25 or a deferred eligibility date, if a deferred eligibility date  
26 is applicable and elected by the member. Both the 12-month

1 period during which the member may elect to participate in the  
2 DROP and the 60-month period that a member is allowed to  
3 participate in DROP begin on the member's DROP eligibility  
4 date.

5 "DROP end date" means the date DROP participation ceases  
6 and shall be the date termination of all employment occurs. The  
7 DROP end date shall be effective as of the date of the  
8 participant's designated deferred resignation or earlier if  
9 the participant terminates prior to the designated resignation  
10 date.

11 "DROP participation period" means the period of time a  
12 member participates in DROP, not to exceed 60 months.

13 "Initial eligibility date" means the first day of the month  
14 in which a vested member first becomes eligible to elect to  
15 participate in DROP by virtue of reaching his or her normal  
16 retirement date.

17 "Normal retirement date" means when the member becomes age  
18 50 or when the member completes 26 years and 8 months of  
19 service. The member may either include or exclude optional  
20 service credit in determining the date on which 26 years and 8  
21 months of service has been attained.

22 "Optional service credit" includes credit for prior  
23 service, past service purchased by the member, and military  
24 service. "Optional service credit" does not include workers'  
25 compensation credit or past service credit paid for by the  
26 employer.

1       (b) A member who is eligible for benefits under Section  
2 14-110 of this Code is eligible to participate in the DROP  
3 provided the member attains a normal retirement date and is  
4 employed in a regularly established position within their  
5 Department.

6       An eligible member must elect to participate in DROP no  
7 less than 3 months prior to the member's DROP eligibility date,  
8 subject to the following conditions:

9           (1) A member who reaches age 50 with 25 years of  
10 service or 26 years and 8 months at any age in accordance  
11 with section (b)1.

12           (2) A member may elect to include or exclude any  
13 optional service credit from the total service used to  
14 establish the DROP begin date when determining the DROP  
15 eligibility date.

16           (3) A member with dual normal retirement dates, due to  
17 an employment history in 2 different classes of membership  
18 with different normal retirement date and age  
19 requirements, may elect to participate in DROP within 12  
20 months of attaining normal retirement date in either  
21 membership class.

22           (4) An elected officer who reaches his or her DROP  
23 eligibility date during a term of office may defer DROP  
24 participation until the next term in such office. The  
25 officer must elect to participate in DROP within 12 months  
26 of the first day of the month following the first month of

1 such succeeding term and may participate for no more than  
2 60 months after such day or until the end of the term,  
3 whichever occurs first.

4 (c) It is the responsibility of the eligible member to make  
5 proper application to the System to participate in DROP. To  
6 qualify for DROP, the member shall submit a notice of election  
7 to participate that shall specify the DROP begin date and the  
8 DROP termination and resignation date and is acknowledged by  
9 the employer, and the notice of election to participate shall  
10 be received by the System no later than the end of the last  
11 month of the member's election period described in subsection  
12 (b) of this Section or a later date, if authorized in  
13 subsection (b). Such termination and resignation date shall  
14 constitute a binding letter of resignation with the employer.  
15 Failure to complete the notice of election to participate  
16 within the limitations of subsection (b) of this Section shall  
17 result in the member being ineligible for DROP participation.

18 An application for service retirement and the DROP shall be  
19 accepted by the System up to 6 months, but no later than 3  
20 months, in advance of the intended DROP begin date and shall  
21 establish the member's effective date of retirement and DROP  
22 begin date. The effective date of retirement and the DROP begin  
23 date shall both be the first day of the month that the member  
24 indicates on his or her application as the date he or she  
25 wishes his or her DROP participation to begin, provided the  
26 System receives the member's application no later than the

1 close of business on the last day 3 months prior to when the  
2 DROP begin date occurs. If a member fails to apply for DROP by  
3 the last day of the month in which his or her intended DROP  
4 begin date occurs, the effective date of retirement and the  
5 DROP begin date shall be the first day of the month in which  
6 the System receives the member's application, provided the  
7 application is received within the 3-month election period.

8 (d) When the System receives a member's application for  
9 DROP, the System must:

10 (1) acknowledge receipt of the member's application  
11 and advise him or her of any required information or  
12 documents that have not yet been received; such information  
13 may include, but is not limited to, birth date, beneficiary  
14 designation, option selection, any payments due the  
15 member's account for purchase of additional service credit  
16 or a written statement from the member that the member does  
17 not wish to claim such service credit, and certification of  
18 final salary and accumulated annual leave payments;

19 (2) establish the DROP begin date; and

20 (3) send a follow-up notice, reminding the member of  
21 any required information or documents that have not yet  
22 been received.

23 (e) Subject to timely submission of all required documents,  
24 the effective date of DROP participation shall be the effective  
25 date of retirement. The DROP participant may not modify or  
26 cancel his or her retirement benefit after the last day of the

1 month of the DROP begin date. The DROP benefit shall be deemed  
2 cashied or deposited as of the last day of the month following  
3 the DROP begin date.

4 (f) If all the required information and documents have not  
5 been received by the System after 3 follow-up notices have been  
6 sent to the member, the System must send the member a certified  
7 letter, advising the member that he has 21 days to provide such  
8 information or documents without loss of his DROP begin date.  
9 If the System has not received all of the required information  
10 and documents after the 21 days specified in the certified  
11 letter, the System must send a final agency action letter to  
12 the member advising the member that his or her application is  
13 canceled and that he or she must reapply to join DROP, if  
14 eligible, with a new effective DROP begin date to be  
15 established upon application.

16 (g) All employers paying the salary of a DROP participant  
17 shall contribute the required percentage of such participant's  
18 gross compensation. In addition, health insurance benefits  
19 continue in accordance with the State Employees Group Insurance  
20 Act of 1971.

21 (h) The retirement benefit of a member who has elected to  
22 participate in the DROP shall be calculated as provided in this  
23 Section.

24 A member may choose to receive his accumulated annual leave  
25 and applicable sick time payments and earned in accordance with  
26 agency policy, either upon beginning or terminating DROP. This



1 early annual leave payment shall be based on the hourly wage of  
2 the member at the time he or she begins participation in DROP.  
3 Any additional annual leave payment made at the DROP end date  
4 according to the employer's leave policy cannot be included in  
5 the retirement benefit, which was determined and fixed by law  
6 when the member elected to participate in DROP. If the member  
7 elects to receive the annual leave payment upon termination of  
8 DROP and termination of employment with his or her employer,  
9 any accumulated annual leave payment made at that time cannot  
10 be included in the retirement benefit, which was determined and  
11 fixed by law when the member elected to participate in DROP.

12 (i) The beneficiary eligible to receive any accrued DROP  
13 benefits payable if the DROP participant dies before the  
14 completion of the DROP participation period is the most recent  
15 joint annuitant or beneficiary designated to receive  
16 retirement benefits upon the death of the participant, as  
17 directed by the participant on his or her beneficiary forms.  
18 However, if the beneficiary or joint annuitant dies during the  
19 DROP participation period, the participant may designate a new  
20 beneficiary as follows:

21 (1) If the participant retired under option 1 or 2, he  
22 or she may name a new beneficiary. Such beneficiary is  
23 eligible for both the DROP benefits and any benefits  
24 provided by the option selected.

25 (2) If the participant retired under option 3 or 4, he  
26 or she may name a new qualified joint annuitant or spouse.

1       Such beneficiary is eligible for both the accrued DROP  
2       benefits and any continuing benefits.

3       (3) If the participant retired under option 3 or 4, he  
4       or she may name a new beneficiary who will receive only the  
5       accrued DROP benefits. Such beneficiary shall not replace  
6       the joint annuitant or spouse or be eligible for any  
7       continuing benefits.

8       (4) The participant may not name a beneficiary to  
9       receive DROP benefits who is different from the beneficiary  
10      designated to receive the retirement benefits.

11      (j) Effective with the DROP begin date, the member's  
12      initial normal monthly benefit shall be fixed and shall accrue  
13      monthly in the System Trust Fund. Interest shall accrue at an  
14      effective annual rate of 6.5% compounded monthly, on the prior  
15      month's accumulated ending balance, up to the month of the DROP  
16      participant's termination or death. The DROP benefit is  
17      increased by the annual cost-of-living adjustment as otherwise  
18      provided in this Article.

19      (k) A DROP participant is not eligible to apply for or  
20      receive retiree health insurance subsidy payments until such  
21      participant has terminated employment and DROP participation.  
22      A member shall not earn creditable service applicable to the  
23      health insurance subsidy while participating in DROP.

24      (l) A DROP participant is considered an annuitant; however,  
25      participation in DROP does not alter the participant's  
26      employment status. Terms and conditions of employment,

1 including, but not limited to, salary, insurance coverage,  
2 leave accrual and seniority status, do not change as a result  
3 of DROP participation. However, employment is not guaranteed  
4 during the DROP participation period.

5 Employment continues during participation in DROP through  
6 the date the member preselected to stop participation in DROP,  
7 except that elected officers may continue in office after the  
8 DROP end date. A DROP participant may change jobs or have more  
9 than one employer under this Article, as long as the  
10 participant does not have a break in service. If a break in  
11 service occurs, DROP participation ceases as of the end of the  
12 month in which no compensation is received for covered  
13 employment. All employers are required to acknowledge the  
14 participant's DROP termination date and to acknowledge  
15 potential liability for any additional retirement  
16 contributions and interest required if the participant fails to  
17 timely terminate employment.

18 (m) DROP participants shall not be eligible for disability  
19 benefits under this Article.

20 (n) If a participant continues employment beyond the  
21 preselected DROP end date and prior to completion of the  
22 maximum 60 months allowed, a new form must be submitted with a  
23 new DROP end date acknowledged by both the participant and any  
24 affected employer.

25 (o) DROP benefits shall be subject to the provisions of  
26 this Article pertaining to assignment, execution, or

1 attachment of benefits, and forfeiture of benefits,  
2 respectively.

3 (p) Eligibility to participate in the DROP ends upon the  
4 death of the participant. A DROP participant's survivors shall  
5 not be eligible to receive the participant's line-of-duty death  
6 benefits. If the participant dies on or after the DROP begin  
7 date, but prior to the first monthly benefit being credited to  
8 his or her DROP account, benefits shall be paid as follows:

9 (1) according to the option selected by the participant  
10 at the time he or she entered DROP;

11 (2) if the beneficiary qualifies as a joint annuitant  
12 and the participant had selected an option other than  
13 option 3, the beneficiary may choose to receive a benefit  
14 payable under option 3 with no payout of DROP accrual, as  
15 though the participant had not applied for DROP and had  
16 retired on the date of death; or

17 (3) if no option had been selected by the participant,  
18 benefits shall be paid in accordance with System rules.

19 Upon the death of a DROP participant, the designated  
20 beneficiary shall be entitled to apply for and receive the  
21 accrued benefits in the DROP.

22 (q) A DROP participant not in the Elected Officers' Class  
23 must terminate employment on or before the preselected  
24 resignation date. If a participant fails to terminate on or  
25 before the DROP termination and resignation date: (1)  
26 retirement and DROP participation are voided; (2) the DROP

1 accumulation and any monthly retirement benefits received are  
2 forfeited; (3) membership in the System is retroactively  
3 reestablished to the date the member initiated DROP  
4 participation; (4) each employer is liable for payment of or  
5 eligible for a refund of, as applicable, the difference between  
6 the DROP contributions paid and the required retirement  
7 contributions for the applicable class of membership during the  
8 period of DROP participation, plus 6.5% interest compounded  
9 annually; no interest is payable on refunds to employers; and  
10 (5) the designated beneficiary shall remain the named  
11 beneficiary, unless revised.

12 (r) A member of the Elected Officers' Class participating  
13 in the DROP may continue to serve in elected office upon  
14 reaching the DROP end date. No additional DROP benefits shall  
15 accrue on behalf of the officer after the officer's DROP end  
16 date, however, cost-of-living adjustments and interest shall  
17 continue to accrue until the officer ceases holding office and  
18 satisfies the definition of termination provided in this  
19 Section. The officer shall not be a renewed member in the  
20 Elected Officers' Class and the employer shall not make  
21 retirement contributions on the officer's behalf after the  
22 officer's DROP end date, however, the employer shall submit  
23 health insurance subsidy contributions until the officer  
24 ceases holding elective office. Monthly retirement benefit  
25 payments shall be paid to the officer beginning the first month  
26 after the officer ceases holding office and satisfies the

1 definition of termination provided in this Section. After  
2 satisfying the definition of termination, such officer who is  
3 reemployed or reelected shall be subject to the reemployment  
4 limitations provided in this Article.

5 (s) Upon the participant's termination of all employment,  
6 the deferred resignation becoming effective, and the  
7 conclusion of the DROP participation period, or upon the death  
8 of the participant, or for an elected officer as provided in  
9 this Section, benefits shall be paid or distributed as follows:

10 (1) The previously determined normal monthly  
11 retirement benefits, plus applicable cost-of-living  
12 increases, commence in accordance with the method of  
13 payment chosen by the participant at the time he or she  
14 began DROP participation.

15 (2) The total accumulated DROP benefits are  
16 distributed to the participant, or, if deceased, to the  
17 participant's joint annuitant or beneficiary as  
18 appropriate, provided the System receives the proper forms  
19 signed by both the participant and employer verifying  
20 termination of employment and notifying the System as to  
21 which of the following methods of payment he or she has  
22 chosen: (i) lump sum (if the participant is deceased, a  
23 beneficiary, other than a spouse, must receive the lump sum  
24 distribution only), (ii) direct rollover, or (iii)  
25 combined partial lump sum and rollover.

26 A DROP participant or beneficiary who submits all required

1 forms, but fails to elect a method of payment within 60 days of  
2 termination of DROP, automatically receives a lump sum  
3 distribution, less applicable withheld taxes.

4 A participant who elects a rollover must have the rollover  
5 paid directly to the custodian of an eligible retirement plan.  
6 Eligible retirement plans include an individual retirement  
7 account as described in Section 408(a) of the Internal Revenue  
8 Code, an Individual Retirement Annuity as described in Section  
9 408(b) of the Internal Revenue Code, excluding an endowment  
10 contract, a qualified trust established in accordance with  
11 Section 401(a) of the Internal Revenue Code, for the sole and  
12 exclusive benefit of employees or their beneficiaries, an  
13 annuity plan as described in Section 403(a) of the Internal  
14 Revenue Code, excluding a plan described in Sections 403(b) and  
15 457 of in the Internal Revenue Code, an eligible deferred  
16 compensation plan described in Section 457(B) of the Internal  
17 Revenue Code that is maintained by an eligible employer as  
18 described in Section 457(e) (1) (A) of the Internal Revenue Code,  
19 and an annuity contract as described in Section 403(b) of the  
20 Internal Revenue Code. If the DROP participant dies and the  
21 surviving spouse wishes to roll over the DROP account, it can  
22 only be rolled over into an individual retirement account, an  
23 individual retirement annuity, an eligible deferred  
24 compensation plan, or an annuity contract.

25 (t) Benefits accumulating in the DROP are not subject to  
26 federal benefit limitations specified in Section 415 of the

1 Internal Revenue Code until DROP participation ends and the  
2 participant begins receiving his monthly retirement benefits.  
3 The amount of the accumulated DROP at the time the member  
4 ceases DROP is amortized over the member's expected lifetime,  
5 in the manner required by the Internal Revenue Code, and the  
6 annualized value of the DROP account reduces the federal  
7 maximum annual benefit the member is entitled to receive.

8 (u) Reemployment with an employer during the first calendar  
9 month after concluding DROP shall result in cancellation of  
10 DROP and retirement. The member's DROP application shall be  
11 void, and he or she shall be required to repay all DROP and  
12 monthly retirement benefits received. The employer who  
13 re-employs such member is liable for payment of or eligible for  
14 a refund of, as applicable, the difference between the DROP  
15 contributions paid and the required SERS retirement  
16 contributions for the applicable class of membership during the  
17 period of DROP participation. Payment of additional  
18 contributions for the applicable class of membership during the  
19 period of DROP participation. Payment of additional  
20 contributions shall include 6.5% interest compounded annually.  
21 No interest will be paid on refunds to employers.

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