



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3937

Introduced 2/26/2009, by Rep. Kevin A. McCarthy

SYNOPSIS AS INTRODUCED:

40 ILCS 5/18-105.1 new
40 ILCS 5/18-105.2 new
40 ILCS 5/18-123.3 new
40 ILCS 5/18-133
40 ILCS 5/18-133.2 new
40 ILCS 5/18-169.1 new

from Ch. 108 1/2, par. 18-133

Amends the Illinois Pension Code. Requires the Judges Retirement System of Illinois to automatically enroll its newly eligible employees in a self-managed program of retirement benefits instead of the program of retirement benefits currently offered and allows currently eligible employees to elect to participate in the self-managed program. Provides that a self-managed plan shall authorize a participating employee to accumulate assets for retirement through a combination of employer and employee contributions that may be invested at the employee's direction in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts. Provides that, to the extent that the changes made by the amendatory Act are determined to be a new benefit increase, the changes are exempt from the 5-year expiration provision. Effective immediately.

LRB096 11641 AMC 22203 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

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 Sections 18-105.1, 18-105.2, 18-123.3, 18-133.2, and 18-169.1
6 and changing Section 18-133 as follows:

7 (40 ILCS 5/18-105.1 new)

8 Sec. 18-105.1. Traditional benefit package. "Traditional
9 benefit package" means the defined benefit retirement program
10 maintained by the System, which includes retirement annuities
11 payable directly from the System, as provided in Sections
12 18-124 through 18-125.1; disability retirement annuities
13 payable under Sections 18-126 and 18-126.1; survivor's
14 annuities payable directly from the System, as provided in
15 Section 18-123 and Sections 18-128 through 18-128.1 and Section
16 18-128.3; and contribution refunds as provided in Section
17 18-129.

18 (40 ILCS 5/18-105.2 new)

19 Sec. 18-105.2. Self-managed plan. "Self-managed plan"
20 means the defined contribution retirement program maintained
21 by the System, as described in Section 18-133.2. The
22 self-managed plan also includes disability benefits, as

1 provided in Section 18-126.1. The self-managed plan does not
2 include retirement annuities or survivor's annuities payable
3 directly from the System, as provided in Section 18-123,
4 Sections 18-124 through 18-126, Sections 18-128 through
5 18-128.1, and Section 18-128.3 or refunds determined under
6 Section 18-129.

7 (40 ILCS 5/18-123.3 new)

8 Sec. 18-123.3. Retirement program elections.

9 (a) For the purposes of this Section:

10 "Eligible participant" means either a currently eligible
11 participant or a newly eligible participant.

12 "Currently eligible participant" means a participant who
13 is employed as a judge on the date on which the System first
14 offers the self-managed plan as an alternative to the
15 traditional benefit package.

16 "Newly eligible participant" means a participant who first
17 becomes employed as a judge after the date on which the System
18 first offers the self-managed plan as an alternative to the
19 traditional benefit package.

20 (b) When the System offers to participants the self-managed
21 plan as an alternative to the traditional benefit package, each
22 currently eligible participant shall be given the choice to
23 elect which retirement program he or she wishes to participate
24 in with respect to all periods of covered employment occurring
25 on or after the effective date of the participant's election.

1 The retirement program election made by a currently eligible
2 participant must be made in writing, in the manner prescribed
3 by the System, and within the time period described in this
4 Section.

5 If a currently eligible participant elects the
6 self-managed plan, then that election is irrevocable. If a
7 currently eligible participant who elected to participate or
8 participated by default in the traditional benefit plan
9 terminates employment under this Article, then the
10 participant, upon his or her subsequent re-employment under
11 this Article, may make an election under this Section.

12 A currently eligible participant who fails to make an
13 election under this Section shall, by default, participate in
14 the traditional benefit package.

15 (c) A currently eligible participant may elect to
16 participate in the traditional benefit package or the
17 self-managed plan.

18 A currently eligible participant must make this election
19 within 5 years after the effective date of the employer's
20 adoption of the self-managed plan or, in the case of a
21 currently eligible participant who terminates employment under
22 this Article, within 6 months after his or her re-employment
23 under this Article.

24 A newly eligible participant is automatically enrolled in
25 the self-managed plan under Section 18-133.2.

26 (d) If a currently eligible participant elects to

1 participate in the self-managed plan, the System shall fund
2 their account as stated in subsection (f) of Section 18-133.2.
3 Employer contributions to the self-managed plan shall commence
4 as of the first pay period that begins after the System
5 receives the member's election.

6 (e) A currently eligible participant shall be provided with
7 written information prepared or prescribed by the System that
8 describes the participant's retirement program choices. The
9 eligible participant shall be offered an opportunity to receive
10 counseling from the System prior to making his or her election.
11 This counseling may consist of videotaped materials, group
12 presentations, individual consultation with an employee or
13 authorized representative of the System in person or by
14 telephone or other electronic means, or any combination of
15 these methods.

16 (40 ILCS 5/18-133) (from Ch. 108 1/2, par. 18-133)

17 Sec. 18-133. Financing; employee contributions.

18 (a) Effective July 1, 1967, each participant is required to
19 contribute 7 1/2% of each payment of salary toward the
20 retirement annuity. Such contributions shall continue during
21 the entire time the participant is in service, with the
22 following exceptions:

23 (1) Contributions for the retirement annuity are not
24 required on salary received after 18 years of service by
25 persons who were participants before January 2, 1954.

1 (2) A participant who continues to serve as a judge
2 after becoming eligible to receive the maximum rate of
3 annuity may elect, through a written direction filed with
4 the Board, to discontinue contributing to the System. Any
5 such option elected by a judge shall be irrevocable unless
6 prior to January 1, 2000, and while continuing to serve as
7 judge, the judge (A) files with the Board a letter
8 cancelling the direction to discontinue contributing to
9 the System and requesting that such contributing resume,
10 and (B) pays into the System an amount equal to the total
11 of the discontinued contributions plus interest thereon at
12 5% per annum. Service credits earned in any other
13 "participating system" as defined in Article 20 of this
14 Code shall be considered for purposes of determining a
15 judge's eligibility to discontinue contributions under
16 this subdivision (a) (2).

17 (3) A participant who (i) has attained age 60, (ii)
18 continues to serve as a judge after becoming eligible to
19 receive the maximum rate of annuity, and (iii) has not
20 elected to discontinue contributing to the System under
21 subdivision (a) (2) of this Section (or has revoked any such
22 election) may elect, through a written direction filed with
23 the Board, to make contributions to the System based only
24 on the amount of the increases in salary received by the
25 judge on or after the date of the election, rather than the
26 total salary received. If a judge who is making

1 contributions to the System on the effective date of this
2 amendatory Act of the 91st General Assembly makes an
3 election to limit contributions under this subdivision
4 (a)(3) within 90 days after that effective date, the
5 election shall be deemed to become effective on that
6 effective date and the judge shall be entitled to receive a
7 refund of any excess contributions paid to the System
8 during that 90-day period; any other election under this
9 subdivision (a)(3) becomes effective on the first of the
10 month following the date of the election. An election to
11 limit contributions under this subdivision (a)(3) is
12 irrevocable. Service credits earned in any other
13 participating system as defined in Article 20 of this Code
14 shall be considered for purposes of determining a judge's
15 eligibility to make an election under this subdivision
16 (a)(3).

17 (b) Beginning July 1, 1969, each participant is required to
18 contribute 1% of each payment of salary towards the automatic
19 increase in annuity provided in Section 18-125.1. However, such
20 contributions need not be made by any participant who has
21 elected prior to September 15, 1969, not to be subject to the
22 automatic increase in annuity provisions.

23 (c) Effective July 13, 1953, each married participant
24 subject to the survivor's annuity provisions is required to
25 contribute 2 1/2% of each payment of salary, whether or not he
26 or she is required to make any other contributions under this

1 Section. Such contributions shall be made concurrently with the
2 contributions made for annuity purposes.

3 Notwithstanding any provision in this subsection (c) to the
4 contrary, in the case of an employee who participates in the
5 self-managed plan under Section 18-133.2, contributions for
6 survivor's annuity shall be used to fund benefits under Section
7 18-133.2.

8 (Source: P.A. 91-653, eff. 12-10-99.)

9 (40 ILCS 5/18-133.2 new)

10 Sec. 18-133.2. Self-managed plan.

11 (a) The General Assembly finds that it is important to be
12 able to attract and retain the most qualified judges and that
13 in order to attract and retain these judges, the System should
14 have the flexibility to provide a defined contribution
15 (self-managed) plan for eligible participants. Accordingly,
16 the Judges Retirement System of Illinois is hereby authorized
17 to establish and administer a self-managed plan, which shall
18 offer participants the opportunity to accumulate assets for
19 retirement through a combination of participant and employer
20 contributions that may be invested in mutual funds, collective
21 investment funds, or other investment products and used to
22 purchase annuity contracts, either fixed or variable or a
23 combination thereof. The plan must be qualified under the
24 Internal Revenue Code of 1986.

25 (b) The Board shall adopt the self-managed plan established

1 under this Section. An employer's election to adopt the
2 self-managed plan makes available to the eligible participants
3 of that employer the elections described in Section 18-133.2.

4 The Judges Retirement System of Illinois shall be the plan
5 sponsor for the self-managed plan and shall prepare a plan
6 document and prescribe such rules and procedures as are
7 considered necessary or desirable for the administration of the
8 self-managed plan. Consistent with its fiduciary duty to the
9 participants and beneficiaries of the self-managed plan, the
10 Board of Trustees of the System may delegate aspects of plan
11 administration as it sees fit to companies authorized to do
12 business in this State.

13 (c) The System shall solicit proposals to provide
14 administrative services and funding vehicles for the
15 self-managed plan from insurance and annuity companies and
16 mutual fund companies, banks, trust companies, or other
17 financial institutions authorized to do business in this State.
18 In reviewing the proposals received and approving and
19 contracting with no fewer than 2 and no more than 7 companies,
20 the Board of Trustees of the System shall consider, among other
21 things, the following criteria:

22 (1) the nature and extent of the benefits that would be
23 provided to the participants;

24 (2) the reasonableness of the benefits in relation to
25 the premium charged;

26 (3) the suitability of the benefits to the needs and

1 interests of the participants and the employer;

2 (4) the ability of the company to provide benefits
3 under the contract and the financial stability of the
4 company; and

5 (5) the efficacy of the contract in the recruitment and
6 retention of judges.

7 The System shall periodically review each approved
8 company. A company may continue to provide administrative
9 services and funding vehicles for the self-managed plan only so
10 long as it continues to be an approved company under contract
11 with the Board.

12 In addition to the companies approved by the System under
13 this subsection (c), the System may offer its participants an
14 investment fund managed by the System.

15 (d) Participants who are under the self-managed plan must
16 be allowed to direct the transfer of their account balances
17 among the various investment options offered, subject to
18 applicable contractual provisions. The participant shall not
19 be deemed a fiduciary by reason of providing such investment
20 direction. A person who is a fiduciary shall not be liable for
21 any loss resulting from such investment direction and shall not
22 be deemed to have breached any fiduciary duty by acting in
23 accordance with that direction. Neither the System nor the
24 State guarantees any of the investments in the participant's
25 account balances.

26 (e) A currently eligible participant, as defined in Section

1 18-123.3, must make a written election to participate in the
2 self-managed plan in accordance with the provisions of Section
3 18-133.2 and the procedures established by the System.
4 Participation in the self-managed plan shall begin on the first
5 day of the month immediately following the month in which the
6 currently eligible participant's election is filed with the
7 System or when a newly eligible participant, as defined in
8 Section 18-123.3, enters the System, but not sooner than the
9 effective date of the self-managed plan. The System shall make
10 the self-managed plan available under this Article by January
11 1, 2011. A participant's participation in the traditional
12 retirement package under this Article shall terminate on the
13 date that participation in the self-managed plan begins.

14 A participant who has elected to participate in the
15 self-managed plan under this Section must continue
16 participation while employed as a judge, and may not
17 participate in the traditional benefit package administered by
18 the System under this Article while employed as a judge.

19 Participation in the self-managed plan under this Section
20 shall constitute membership in the Judges Retirement System of
21 Illinois.

22 A participant under this Section shall be entitled to the
23 benefits of Article 20 of this Code.

24 (f) If, at the time a participant elects to participate in
25 the self-managed plan, the participant rights and credits in
26 the System due to previous participation in the traditional

1 benefit package, the System shall establish for the participant
2 an opening account balance in the self-managed plan, equal to
3 (i) the amount of the contribution refund that the participant
4 would be eligible to receive under Section 18-129 if the
5 participant terminated employment on that date and elected a
6 refund of contributions, plus (ii) an amount equal to the
7 regular employer contribution that would be required to fund
8 the actual regular cost incurred for each year of service
9 credit earned, provided that the total opening account balance
10 does not exceed 7.6% of that participant's salary for that
11 year, plus interest. The interest used in this subsection (f)
12 is calculated as the average annual rate of return that the
13 System has earned over the past 20 fiscal years and is
14 compounded. The System shall transfer assets from the defined
15 benefit retirement program to the self-managed plan, as a
16 tax-free transfer in accordance with Internal Revenue Service
17 guidelines, for purposes of funding the participant's opening
18 account balance.

19 (g) Notwithstanding any other provision of this Article, a
20 participant may not purchase or receive service or service
21 credit applicable to the traditional benefit package under this
22 Article for any period during which the participant was covered
23 under the self-managed plan established under this Section.

24 (h) The self-managed plan shall be funded by contributions
25 from participants participating in the self-managed plan and
26 State contributions as provided in this Section.

1 The contribution rate for persons participating in the
2 self-managed plan under this Section shall be equal to the
3 participant contribution rate for other participants in the
4 System, as provided in Section 18-133. This required
5 contribution shall be made as an employer pick-up under Section
6 414(h) of the Internal Revenue Code of 1986 or any successor
7 Section thereof. Any employee participating in the System's
8 traditional benefit package prior to his or her election to
9 participate in the self-managed plan shall continue to have the
10 employer pick up that contribution. However, the amounts picked
11 up after the election of the self-managed plan shall be
12 remitted to and treated as assets of the self-managed plan. In
13 no event shall a participant have the option of receiving these
14 amounts in cash. Participants may make additional
15 contributions to the self-managed plan in accordance with
16 procedures prescribed by the System, to the extent permitted
17 under rules prescribed by the System.

18 The program shall provide for State contributions to be
19 credited to each self-managed plan participant in an amount
20 equal to the regular employer contribution that would be
21 required to fund the actual regular cost incurred for each year
22 of service credit earned had the participant chosen to enroll
23 in the traditional benefit plan.

24 An amount of participant contribution, not exceeding 1% of
25 the participant's salary, shall be used for the purpose of
26 providing the disability benefits of the System to the

1 employee. Prior to the beginning of each plan year under the
2 self-managed plan, the Board of Trustees shall determine, as a
3 percentage of salary, the amount of participant contributions
4 to be allocated during that plan year for providing disability
5 benefits for participants in the self-managed plan. The
6 provisions of this paragraph shall be administered in
7 conjunction with the provisions of Section 18-124.

8 The State of Illinois shall make contributions by
9 appropriations to the System of the employer contributions
10 required for participants who are covered under the
11 self-managed plan under this Section. The amount required shall
12 be certified by the Board of Trustees of the System and paid by
13 the State in accordance with Section 18-140. The System shall
14 not be obligated to remit the required employer contributions
15 to any of the insurance and annuity companies, mutual fund
16 companies, banks, trust companies, financial institutions, or
17 other sponsors of any of the funding vehicles offered under the
18 self-managed plan until it has received the required employer
19 contributions from the State. In the event of a deficiency in
20 the amount of State contributions, the System shall implement
21 those procedures described in subsection (b) of Section 18-140
22 to obtain the required funding from the General Revenue Fund.

23 (i) A participant in the self-managed plan becomes vested
24 in the employer contributions credited to his or her accounts
25 in the self-managed plan on the earliest to occur of the
26 following: (1) attainment of 5 years of service credit; (2) the

1 death of the participant while employed as a judge, if the
2 participant has completed at least 1.5 years of service; or (3)
3 the participant's election to retire and apply the reciprocal
4 provisions of Article 20 of this Code.

5 A participant in the self-managed plan who receives a
6 distribution of his or her vested amounts from the self-managed
7 plan while not yet eligible for retirement under this Article
8 (and Article 20, if applicable) shall forfeit all service
9 credit and accrued rights in the System; if subsequently
10 re-employed as a judge, the participant shall be considered a
11 new employee. If a former participant again becomes a
12 participating employee (or becomes employed by a participating
13 system under Article 20 of this Code) and continues as such for
14 at least 2 years, all such rights, service credits, and
15 previous status as a participant shall be restored upon
16 repayment of the amount of the distribution, without interest.

17 (j) If a participant who is vested in employer
18 contributions terminates employment, the participant shall be
19 entitled to a benefit which is based on the account values
20 attributable to both employer and participant contributions
21 and any investment return thereon.

22 If a participant who is not vested in employer
23 contributions terminates employment, the participant shall be
24 entitled to a benefit based solely on the account values
25 attributable to the participant's contributions and any
26 investment return thereon, and the employer contributions and

1 any investment return thereon shall be forfeited. Any employer
2 contributions which are forfeited shall be held in escrow by
3 the company investing those contributions and shall be used, as
4 directed by the System, for future allocations of employer
5 contributions or for the restoration of amounts previously
6 forfeited by former participants who again become
7 participating employees.

8 (40 ILCS 5/18-169.1 new)

9 Sec. 18-169.1. New benefit increases. To the extent that
10 the changes made to this Article by this amendatory Act of the
11 96th General Assembly authorizing the System to offer a
12 self-managed plan are determined to be a new benefit increase
13 within the meaning of Section 18-169, the changes made by this
14 amendatory Act are exempt from the provisions of subsection (d)
15 of Section 18-169.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.