

HB5839



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5839

Introduced 2/10/2010, 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 18718 AMC 34102 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.

20 "Deferred Retirement Option Plan" or "DROP" means a program
21 available to certain members who are eligible to receive
22 benefits under Section 14-110 of this Code under which members
23 effectively retire and have their retirement accumulate, after

1 applicable taxes, in the System while they continue covered
2 employment for up to 5 years.

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

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

18 "DROP eligibility date" means the first day of the month in
19 which a vested member becomes eligible to elect to participate
20 in DROP by virtue of reaching either his normal retirement date
21 or a deferred eligibility date, if a deferred eligibility date
22 is applicable and elected by the member. Both the 12-month
23 period during which the member may elect to participate in the
24 DROP and the 60-month period that a member is allowed to
25 participate in DROP begin on the member's DROP eligibility
26 date.

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

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

9 "Initial eligibility date" means the first day of the month
10 in which a vested member first becomes eligible to elect to
11 participate in DROP by virtue of reaching his or her normal
12 retirement date.

13 "Normal retirement date" means when the member becomes age
14 50 or when the member completes 26 years and 8 months of
15 service. The member may either include or exclude optional
16 service credit in determining the date on which 26 years and 8
17 months of service has been attained.

18 "Optional service credit" includes credit for prior
19 service, past service purchased by the member, and military
20 service. "Optional service credit" does not include workers'
21 compensation credit or past service credit paid for by the
22 employer.

23 (b) A member who is eligible for benefits under Section
24 14-110 of this Code is eligible to participate in the DROP
25 provided the member attains a normal retirement date and is
26 employed in a regularly established position within their

1 Department.

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

5 (1) A member may elect to participate in DROP when he
6 or she (A) reaches age 50 and has established 25 years of
7 service or (B) has established 26 years and 8 months of
8 service, regardless of age.

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

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

19 (c) It is the responsibility of the eligible member to make
20 proper application to the System to participate in DROP. To
21 qualify for DROP, the member shall submit a notice of election
22 to participate that shall specify the DROP begin date and the
23 DROP termination and resignation date and is acknowledged by
24 the employer, and the notice of election to participate shall
25 be received by the System no later than the end of the last
26 month of the member's election period described in subsection

1 (b) of this Section or a later date, if authorized in
2 subsection (b). Such termination and resignation date shall
3 constitute a binding letter of resignation with the employer.
4 Failure to complete the notice of election to participate
5 within the limitations of subsection (b) of this Section shall
6 result in the member being ineligible for DROP participation.

7 An application for service retirement and the DROP shall be
8 accepted by the System up to 6 months, but no later than 3
9 months, in advance of the intended DROP begin date and shall
10 establish the member's effective date of retirement and DROP
11 begin date. The effective date of retirement and the DROP begin
12 date shall both be the first day of the month that the member
13 indicates on his or her application as the date he or she
14 wishes his or her DROP participation to begin, provided the
15 System receives the member's application no later than the
16 close of business on the last day 3 months prior to when the
17 DROP begin date occurs. If a member fails to apply for DROP by
18 the last day of the month in which his or her intended DROP
19 begin date occurs, the effective date of retirement and the
20 DROP begin date shall be the first day of the month in which
21 the System receives the member's application, provided the
22 application is received within the 3-month election period.

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

25 (1) acknowledge receipt of the member's application
26 and advise him or her of any required information or

1 documents that have not yet been received; such information
2 may include, but is not limited to, birth date, beneficiary
3 designation, option selection, any payments due the
4 member's account for purchase of additional service credit
5 or a written statement from the member that the member does
6 not wish to claim such service credit, and certification of
7 final salary and accumulated annual leave payments;

8 (2) establish the DROP begin date; and

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

12 (e) Subject to timely submission of all required documents,
13 the effective date of DROP participation shall be the effective
14 date of retirement. The DROP participant may not modify or
15 cancel his or her retirement benefit after the last day of the
16 month of the DROP begin date. The DROP benefit shall be deemed
17 cashed or deposited as of the last day of the month following
18 the DROP begin date.

19 (f) If all the required information and documents have not
20 been received by the System after 3 follow-up notices have been
21 sent to the member, the System must send the member a certified
22 letter, advising the member that he has 21 days to provide such
23 information or documents without loss of his DROP begin date.
24 If the System has not received all of the required information
25 and documents after the 21 days specified in the certified
26 letter, the System must send a final agency action letter to

1 the member advising the member that his or her application is
2 canceled and that he or she must reapply to join DROP, if
3 eligible, with a new effective DROP begin date to be
4 established upon application.

5 (g) All employers paying the salary of a DROP participant
6 shall contribute the required percentage of such participant's
7 gross compensation. In addition, health insurance benefits
8 continue in accordance with the State Employees Group Insurance
9 Act of 1971.

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

13 A member may choose to receive his accumulated annual leave
14 and applicable sick time payments and earned in accordance with
15 agency policy, either upon beginning or terminating DROP. This
16 early annual leave payment shall be based on the hourly wage of
17 the member at the time he or she begins participation in DROP.
18 Any additional annual leave payment made at the DROP end date
19 according to the employer's leave policy cannot be included in
20 the retirement benefit, which was determined and fixed by law
21 when the member elected to participate in DROP. If the member
22 elects to receive the annual leave payment upon termination of
23 DROP and termination of employment with his or her employer,
24 any accumulated annual leave payment made at that time cannot
25 be included in the retirement benefit, which was determined and
26 fixed by law when the member elected to participate in DROP.

1 (i) The beneficiary eligible to receive any accrued DROP
2 benefits payable if the DROP participant dies before the
3 completion of the DROP participation period is the most recent
4 joint annuitant or beneficiary designated to receive
5 retirement benefits upon the death of the participant, as
6 directed by the participant on his or her beneficiary forms.
7 However, if the beneficiary or joint annuitant dies during the
8 DROP participation period, the participant may designate a new
9 beneficiary as follows:

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

14 (2) If the participant retired under option 3 or 4, he
15 or she may name a new qualified joint annuitant or spouse.
16 Such beneficiary is eligible for both the accrued DROP
17 benefits and any continuing benefits.

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

23 (4) The participant may not name a beneficiary to
24 receive DROP benefits who is different from the beneficiary
25 designated to receive the retirement benefits.

26 (j) Effective with the DROP begin date, the member's

1 initial normal monthly benefit shall be fixed and shall accrue
2 monthly in the System Trust Fund. Interest shall accrue at an
3 effective annual rate of 3%, compounded monthly, on the prior
4 month's accumulated ending balance, up to the month of the DROP
5 participant's termination or death. The DROP benefit is
6 increased by the annual cost-of-living adjustment as otherwise
7 provided in this Article.

8 (k) A DROP participant is not eligible to apply for or
9 receive retiree health insurance subsidy payments until such
10 participant has terminated employment and DROP participation.
11 A member shall not earn creditable service applicable to the
12 health insurance subsidy while participating in DROP.

13 (l) A DROP participant is considered an annuitant; however,
14 participation in DROP does not alter the participant's
15 employment status. Terms and conditions of employment,
16 including, but not limited to, salary, insurance coverage,
17 leave accrual and seniority status, do not change as a result
18 of DROP participation. However, employment is not guaranteed
19 during the DROP participation period.

20 Employment continues during participation in DROP through
21 the date the member preselected to stop participation in DROP.
22 A DROP participant may change jobs or have more than one
23 employer under this Article, as long as the participant does
24 not have a break in service. If a break in service occurs, DROP
25 participation ceases as of the end of the month in which no
26 compensation is received for covered employment. All employers

1 are required to acknowledge the participant's DROP termination
2 date and to acknowledge potential liability for any additional
3 retirement contributions and interest required if the
4 participant fails to timely terminate employment.

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

7 (n) If a participant continues employment beyond the
8 preselected DROP end date and prior to completion of the
9 maximum 60 months allowed, a new form must be submitted with a
10 new DROP end date acknowledged by both the participant and any
11 affected employer.

12 (o) DROP benefits shall be subject to the provisions of
13 this Article pertaining to assignment, execution, or
14 attachment of benefits, and forfeiture of benefits,
15 respectively.

16 (p) Eligibility to participate in the DROP ends upon the
17 death of the participant.

18 (q) A DROP participant must terminate employment on or
19 before the preselected resignation date. If a participant fails
20 to terminate on or before the DROP termination and resignation
21 date: (1) retirement and DROP participation are voided; (2) the
22 DROP accumulation and any monthly retirement benefits received
23 are forfeited; (3) membership in the System is retroactively
24 reestablished to the date the member initiated DROP
25 participation; (4) each employer is liable for payment of or
26 eligible for a refund of, as applicable, the difference between

1 the DROP contributions paid and the required retirement
2 contributions for the applicable class of membership during the
3 period of DROP participation, plus interest at annual effective
4 rate of 3%, compounded annually; no interest is payable on
5 refunds to employers; and (5) the designated beneficiary shall
6 remain the named beneficiary, unless revised.

7 (r) Upon the participant's termination of all employment,
8 the deferred resignation becoming effective, and the
9 conclusion of the DROP participation period, or upon the death
10 of the participant, benefits shall be paid or distributed as
11 follows:

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

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

1 combined partial lump sum and rollover.

2 A DROP participant or beneficiary who submits all required
3 forms, but fails to elect a method of payment within 60 days of
4 termination of DROP, automatically receives a lump sum
5 distribution, less applicable withheld taxes.

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

1 (s) Benefits accumulating in the DROP are not subject to
2 federal benefit limitations specified in Section 415 of the
3 Internal Revenue Code until DROP participation ends and the
4 participant begins receiving his monthly retirement benefits.
5 The amount of the accumulated DROP at the time the member
6 ceases DROP is amortized over the member's expected lifetime,
7 in the manner required by the Internal Revenue Code, and the
8 annualized value of the DROP account reduces the federal
9 maximum annual benefit the member is entitled to receive.

10 (t) Reemployment with an employer during the first calendar
11 month after concluding DROP shall result in cancellation of
12 DROP and retirement. The member's DROP application shall be
13 void, and he or she shall be required to repay all DROP and
14 monthly retirement benefits received. The employer who
15 re-employs such member is liable for payment of or eligible for
16 a refund of, as applicable, the difference between the DROP
17 contributions paid and the required SERS retirement
18 contributions for the applicable class of membership during the
19 period of DROP participation. Payment of additional
20 contributions for the applicable class of membership during the
21 period of DROP participation. Payment of additional
22 contributions shall include interest at an annual effective
23 rate of 3%, compounded annually. No interest will be paid on
24 refunds to employers.

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.