



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3405

Introduced 2/10/2010, by Sen. Kwame Raoul

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-170	from Ch. 108 1/2, par. 7-170
40 ILCS 5/7-171	from Ch. 108 1/2, par. 7-171
40 ILCS 5/7-172	from Ch. 108 1/2, par. 7-172
40 ILCS 5/7-173	from Ch. 108 1/2, par. 7-173
40 ILCS 5/7-211	from Ch. 108 1/2, par. 7-211
30 ILCS 805/8.34 new	

Amends the IMRF Article of the Illinois Pension Code. Makes changes in provisions concerning Social Security taxes. Makes changes concerning cross-references to provisions concerning amortization of unfunded obligations. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 15967 AMC 31212 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 7-170, 7-171, 7-172, 7-173, and 7-211 as follows:

6 (40 ILCS 5/7-170) (from Ch. 108 1/2, par. 7-170)

7 Sec. 7-170. Federal Social Security coverage. (a) It is
8 declared to be the policy and purpose to extend to covered
9 employees as defined in Section 7-138, the benefits of the
10 Federal Old Age and Survivors Insurance System as authorized by
11 the Federal Social Security Act and amendments thereto. To
12 effect this, the board shall take such action as may be
13 required by applicable State and Federal laws or regulations.

14 (b) The board shall execute an agreement with the State
15 Agency to secure coverage of covered employees as provided in
16 paragraph (a) of this section.

17 (c) Each participating municipality and each participating
18 instrumentality shall remit payment of contributions for
19 Social Security purposes on behalf of covered employees and
20 covered municipalities and participating instrumentalities as
21 required by applicable State and federal laws and regulations
22 ~~the board and the State Agency established by the Social~~
23 ~~Security Enabling Act.~~

1 (d) Contributions of covered employees to this fund for
2 Federal Social Security purposes shall be paid ~~to the State~~
3 ~~Agency~~ in such amounts and at such time as required by
4 applicable State and federal laws and regulations ~~are~~
5 ~~designated by State laws or regulations.~~

6 (e) (Blank) ~~Contributions in behalf of covered~~
7 ~~municipalities and participating instrumentalities for Federal~~
8 ~~Social Security purposes and the required pro rata share of~~
9 ~~administrative expenses shall be paid to the State Agency from~~
10 ~~this fund in accordance with applicable State laws and~~
11 ~~regulations.~~

12 (f) The board shall maintain such records and submit such
13 reports as may be required by applicable State and Federal laws
14 or regulations.

15 (Source: P.A. 81-793.)

16 (40 ILCS 5/7-171) (from Ch. 108 1/2, par. 7-171)

17 Sec. 7-171. Finance; taxes.

18 (a) Each municipality other than a school district shall
19 appropriate an amount sufficient to provide for the current
20 municipality contributions required by Section 7-172 of this
21 Article, for the fiscal year for which the appropriation is
22 made and all amounts due for municipal contributions for
23 previous years. Those municipalities which have been assessed
24 an annual amount to amortize its unfunded obligation, as
25 provided in subparagraph 4 ~~5~~ of paragraph (a) of Section 7-172

1 of this Article, shall include in the appropriation an amount
2 sufficient to pay the amount assessed. The appropriation shall
3 be based upon an estimate of assets available for municipality
4 contributions and liabilities therefor for the fiscal year for
5 which appropriations are to be made, including funds available
6 from levies for this purpose in prior years.

7 (b) For the purpose of providing monies for municipality
8 contributions, beginning for the year in which a municipality
9 is included in this fund:

10 (1) A municipality other than a school district may
11 levy a tax which shall not exceed the amount appropriated
12 for municipality contributions.

13 (2) A school district may levy a tax in an amount
14 reasonably calculated at the time of the levy to provide
15 for the municipality contributions required under Section
16 7-172 of this Article for the fiscal years for which
17 revenues from the levy will be received and all amounts due
18 for municipal contributions for previous years. Any levy
19 adopted before the effective date of this amendatory Act of
20 1995 by a school district shall be considered valid and
21 authorized to the extent that the amount was reasonably
22 calculated at the time of the levy to provide for the
23 municipality contributions required under Section 7-172
24 for the fiscal years for which revenues from the levy will
25 be received and all amounts due for municipal contributions
26 for previous years. In no event shall a budget adopted by a

1 school district limit a levy of that school district
2 adopted under this Section.

3 (c) Any county which is served by a regional office of
4 education that serves 2 or more counties may include in its
5 appropriation an amount sufficient to provide its
6 proportionate share of the municipality contributions for that
7 regional office of education. The tax levy authorized by this
8 Section may include an amount necessary to provide monies for
9 this contribution.

10 (d) Any county that is a part of a multiple-county health
11 department or consolidated health department which is formed
12 under "An Act in relation to the establishment and maintenance
13 of county and multiple-county public health departments",
14 approved July 9, 1943, as amended, and which is a participating
15 instrumentality may include in the county's appropriation an
16 amount sufficient to provide its proportionate share of
17 municipality contributions of the department. The tax levy
18 authorized by this Section may include the amount necessary to
19 provide monies for this contribution.

20 (d-5) A school district participating in a special
21 education joint agreement created under Section 10-22.31 of the
22 School Code that is a participating instrumentality may include
23 in the school district's tax levy under this Section an amount
24 sufficient to provide its proportionate share of the
25 municipality contributions for current and prior service by
26 employees of the participating instrumentality created under

1 the joint agreement.

2 (e) Such tax shall be levied and collected in like manner,
3 with the general taxes of the municipality and shall be in
4 addition to all other taxes which the municipality is now or
5 may hereafter be authorized to levy upon all taxable property
6 therein, and shall be exclusive of and in addition to the
7 amount of tax levied for general purposes under Section 8-3-1
8 of the "Illinois Municipal Code", approved May 29, 1961, as
9 amended, or under any other law or laws which may limit the
10 amount of tax which the municipality may levy for general
11 purposes. The tax may be levied by the governing body of the
12 municipality without being authorized as being additional to
13 all other taxes by a vote of the people of the municipality.

14 (f) The county clerk of the county in which any such
15 municipality is located, in reducing tax levies shall not
16 consider any such tax as a part of the general tax levy for
17 municipality purposes, and shall not include the same in the
18 limitation of any other tax rate which may be extended.

19 (g) The amount of the tax to be levied in any year shall,
20 within the limits herein prescribed, be determined by the
21 governing body of the respective municipality.

22 (h) The revenue derived from any such tax levy shall be
23 used only for the purposes specified in this Article and, as
24 collected, shall be paid to the treasurer of the municipality
25 levying the tax. Monies received by a county treasurer for use
26 in making contributions to a regional office of education for

1 its municipality contributions shall be held by him for that
2 purpose and paid to the regional office of education in the
3 same manner as other monies appropriated for the expense of the
4 regional office.

5 (Source: P.A. 89-329, eff. 8-17-95; 90-448, eff. 8-16-97;
6 90-511, eff. 8-22-97; 90-655, eff. 7-30-98.)

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

1 year, any negative balance in its municipality reserve
2 resulting from the award. This amount when established will
3 be payable as a separate contribution whether or not it
4 later has participating employees.

5 (b) A separate municipality contribution rate shall be
6 determined for each calendar year for all participating
7 municipalities together with all instrumentalities thereof.
8 The municipality contribution rate shall be determined for
9 participating instrumentalities as if they were participating
10 municipalities. The municipality contribution rate shall be
11 the sum of the following percentages:

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

21 2. The percentage of earnings of the participating
22 employees of each participating municipality and
23 participating instrumentalities necessary to adjust for
24 the difference between the present value of all benefits,
25 excluding temporary and total and permanent disability and
26 death benefits, to be provided for its participating

1 employees and the sum of its accumulated municipality
2 contributions and the accumulated employee contributions
3 and the present value of expected future employee and
4 municipality contributions pursuant to subparagraph 1 of
5 this paragraph (b). This adjustment shall be spread over
6 the remainder of the period that is allowable under
7 generally accepted accounting principles.

8 3. The percentage of earnings of the participating
9 employees of all municipalities and participating
10 instrumentalities necessary to provide the present value
11 of all temporary and total and permanent disability
12 benefits granted during the most recent year for which
13 information is available.

14 4. The percentage of earnings of the participating
15 employees of all participating municipalities and
16 participating instrumentalities necessary to provide the
17 present value of the net single sum death benefits expected
18 to become payable from the reserve established under
19 Section 7-206 during the year for which this rate is fixed.

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

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

25 A separate municipality contribution rate shall be
26 computed for the sheriff's law enforcement employees of each

1 forest preserve district that elects to have such employees.
2 For the period from January 1, 1986 to December 31, 1986, such
3 rate shall be the forest preserve district's regular rate plus
4 2%.

5 In the event that the Board determines that there is an
6 actuarial deficiency in the account of any municipality with
7 respect to a person who has elected to participate in the Fund
8 under Section 3-109.1 of this Code, the Board may adjust the
9 municipality's contribution rate so as to make up that
10 deficiency over such reasonable period of time as the Board may
11 determine.

12 (d) The Board may establish a separate municipality
13 contribution rate for all employees who are program
14 participants employed under the federal Comprehensive
15 Employment Training Act by all of the participating
16 municipalities and instrumentalities. The Board may also
17 provide that, in lieu of a separate municipality rate for these
18 employees, a portion of the municipality contributions for such
19 program participants shall be refunded or an extra charge
20 assessed so that the amount of municipality contributions
21 retained or received by the fund for all CETA program
22 participants shall be an amount equal to that which would be
23 provided by the separate municipality contribution rate for all
24 such program participants. Refunds shall be made to prime
25 sponsors of programs upon submission of a claim therefor and
26 extra charges shall be assessed to participating

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

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

15 (f) Any municipality which is the recipient of State
16 allocations representing that municipality's contributions for
17 retirement annuity purposes on behalf of its employees as
18 provided in Section 12-21.16 of the Illinois Public Aid Code
19 shall pay the allocations so received to the Board for such
20 purpose. Estimates of State allocations to be received during
21 any taxable year shall be considered in the determination of
22 the municipality's tax rate for that year under Section 7-171.
23 If a special tax is levied under Section 7-171, none of the
24 proceeds may be used to reimburse the municipality for the
25 amount of State allocations received and paid to the Board. Any
26 multiple-county or consolidated health department which

1 receives contributions from a county under Section 11.2 of "An
2 Act in relation to establishment and maintenance of county and
3 multiple-county health departments", approved July 9, 1943, as
4 amended, or distributions under Section 3 of the Department of
5 Public Health Act, shall use these only for municipality
6 contributions by the health department.

7 (g) Municipality contributions for the several purposes
8 specified shall, for township treasurers and employees in the
9 offices of the township treasurers who meet the qualifying
10 conditions for coverage hereunder, be allocated among the
11 several school districts and parts of school districts serviced
12 by such treasurers and employees in the proportion which the
13 amount of school funds of each district or part of a district
14 handled by the treasurer bears to the total amount of all
15 school funds handled by the treasurer.

16 From the funds subject to allocation among districts and
17 parts of districts pursuant to the School Code, the trustees
18 shall withhold the proportionate share of the liability for
19 municipality contributions imposed upon such districts by this
20 Section, in respect to such township treasurers and employees
21 and remit the same to the Board.

22 The municipality contribution rate for an educational
23 service center shall initially be the same rate for each year
24 as the regional office of education or school district which
25 serves as its administrative agent. When actuarial data become
26 available, a separate rate shall be established as provided in

1 subparagraph (i) of this Section.

2 The municipality contribution rate for a public agency,
3 other than a vocational education cooperative, formed under the
4 Intergovernmental Cooperation Act shall initially be the
5 average rate for the municipalities which are parties to the
6 intergovernmental agreement. When actuarial data become
7 available, a separate rate shall be established as provided in
8 subparagraph (i) of this Section.

9 (h) Each participating municipality and participating
10 instrumentality shall make the contributions in the amounts
11 provided in this Section in the manner prescribed from time to
12 time by the Board and all such contributions shall be
13 obligations of the respective participating municipalities and
14 participating instrumentalities to this fund. The failure to
15 deduct any employee contributions shall not relieve the
16 participating municipality or participating instrumentality of
17 its obligation to this fund. Delinquent payments of
18 contributions due under this Section may, with interest, be
19 recovered by civil action against the participating
20 municipalities or participating instrumentalities.
21 Municipality contributions, other than the amount necessary
22 for employee contributions and Social Security contributions,
23 for periods of service by employees from whose earnings no
24 deductions were made for employee contributions to the fund,
25 may be charged to the municipality reserve for the municipality
26 or participating instrumentality.

1 (i) Contributions by participating instrumentalities shall
2 be determined as provided herein except that the percentage
3 derived under subparagraph 2 of paragraph (b) of this Section,
4 and the amount payable under subparagraph 4 ~~5~~ of paragraph (a)
5 of this Section, shall be based on an amortization period of 10
6 years.

7 (j) Notwithstanding the other provisions of this Section,
8 the additional unfunded liability accruing as a result of this
9 amendatory Act of the 94th General Assembly shall be amortized
10 over a period of 30 years beginning on January 1 of the second
11 calendar year following the calendar year in which this
12 amendatory Act takes effect, except that the employer may
13 provide for a longer amortization period by adopting a
14 resolution or ordinance specifying a 35-year or 40-year period
15 and submitting a certified copy of the ordinance or resolution
16 to the fund no later than June 1 of the calendar year following
17 the calendar year in which this amendatory Act takes effect.

18 (Source: P.A. 94-712, eff. 6-1-06.)

19 (40 ILCS 5/7-173) (from Ch. 108 1/2, par. 7-173)

20 Sec. 7-173. Contributions by employees.

21 (a) Each participating employee shall make contributions
22 to the fund as follows:

23 1. For retirement annuity purposes, normal
24 contributions of 3 3/4% of earnings.

25 2. Additional contributions of such percentages of

1 each payment of earnings, as shall be elected by the
2 employee for retirement annuity purposes, but not in excess
3 of 10%. The selected rate shall be applicable to all
4 earnings beginning on the first day of the second month
5 following receipt by the Board of written notice of
6 election to make such contributions. Additional
7 contributions at the selected rate shall be made
8 concurrently with normal contributions.

9 3. Survivor contributions, by each participating
10 employee, of 3/4% of each payment of earnings.

11 (b) Each employee shall make contributions ~~to the fund~~ for
12 Federal Social Security taxes, for periods during which he is a
13 covered employee, as required by the Social Security Enabling
14 Act and State and federal law. For participating employees,
15 such contributions shall be in addition to those required under
16 paragraph (a) of this Section.

17 (c) Contributions shall be deducted from each
18 corresponding payment of earnings paid to each employee and
19 shall be remitted to the board by the participating
20 municipality or participating instrumentality making such
21 payment. The remittance, together with a report of the earnings
22 and contributions shall be made as directed by the board. For
23 township treasurers and employees of township treasurers
24 qualifying as employees hereunder, the contributions herein
25 required as deductions from salary shall be withheld by the
26 school township trustees from funds available for the payment

1 of the compensation of such treasurers and employees as
2 provided in the School Code and remitted to the board.

3 (d) An employee who has made additional contributions under
4 paragraph (a)2 of this Section may upon retirement or at any
5 time prior thereto, elect to withdraw the total of such
6 additional contributions including interest credited thereon
7 to the end of the preceding calendar year.

8 (e) Failure to make the deductions for employee
9 contributions provided in paragraph (c) of this Section shall
10 not relieve the employee from liability for such contributions.
11 The amount of such liability may be deducted, with interest
12 charged under Section 7-209, from any annuities or benefits
13 payable hereunder to the employee or any other person receiving
14 an annuity or benefit by reason of such employee's
15 participation.

16 (f) A participating employee who has at least 40 years of
17 creditable service in the Fund may elect to cease making the
18 contributions required under this Section. The status of the
19 employee under this Article shall be unaffected by this
20 election, except that the employee shall not receive any
21 additional creditable service for the periods of employment
22 following the election. An election under this subsection
23 relieves the employer from making additional employer
24 contributions in relation to that employee.

25 (Source: P.A. 87-1265.)

1 (40 ILCS 5/7-211) (from Ch. 108 1/2, par. 7-211)

2 Sec. 7-211. Authorizations.

3 (a) Each participating municipality and instrumentality
4 thereof and each participating instrumentality shall:

5 1. Deduct all normal and additional contributions and
6 contributions for federal Social Security taxes as
7 required by the Social Security Enabling Act from each
8 payment of earnings payable to each participating employee
9 who is entitled to any earnings from such municipality or
10 instrumentality thereof or participating instrumentality,
11 and remit all normal and additional ~~such~~ contributions
12 immediately to the board; and

13 2. Pay to the board contributions required by this
14 Article.

15 (b) Each participating employee shall, by virtue of the
16 payment of contributions to this fund, receive a vested
17 interest in the annuities and benefits provided in this Article
18 and in consideration of such vested interest shall be deemed to
19 have agreed and authorized the deduction from earnings of all
20 contributions payable to this fund in accordance with this
21 Article.

22 (c) Payment of earnings less the amounts of contributions
23 provided in this Article and in the Social Security Enabling
24 Act shall be a full and complete discharge of all claims for
25 payment for services rendered by any employee during the period
26 covered by any such payment.

1 (d) Any covered annuitant may authorize the withholding of
2 all or a portion of his or her annuity, for the payment of
3 premiums on group accident and health insurance provided
4 pursuant to Section 7-199.1. The annuitant may revoke this
5 authorization at any time.

6 (Source: P.A. 91-887, eff. 7-6-00.)

7 Section 90. The State Mandates Act is amended by adding
8 Section 8.34 as follows:

9 (30 ILCS 805/8.34 new)

10 Sec. 8.34. Exempt mandate. Notwithstanding Sections 6 and 8
11 of this Act, no reimbursement by the State is required for the
12 implementation of any mandate created by this amendatory Act of
13 the 96th General Assembly.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.