



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3789

Introduced 2/9/2024, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

40 ILCS 5/15-202
110 ILCS 95/2

from Ch. 144, par. 1702

Amends the State Universities Article of the Illinois Pension Code. Provides that the System shall require that the deferred compensation recordkeeper agree that, in performing services with respect to the deferred compensation plan, the recordkeeper: (i) will not use information received as a result of providing services with respect to the deferred compensation plan or the participants in the deferred compensation plan to solicit the participants in the deferred compensation plan for the purpose of cross-selling nonplan products and services, unless in response to a request by a participant in the deferred compensation plan or a request by the System (currently, a request by a participant in the deferred compensation plan); and (ii) will not promote, recommend, endorse, or solicit participants in the deferred compensation plan to purchase any financial products or services outside of the deferred compensation plan, except that links to parts of the recordkeeper's or the recordkeeper's affiliate's (currently, recordkeeper's) website that are generally available to the public, are about commercial products, and may be encountered by a participant in the regular course of navigating the recordkeeper's or the recordkeeper's affiliate's website (currently, recordkeeper's) does not constitute a violation of the prohibition. Amends the University Employees Custodial Accounts Act. Makes similar changes. In a provision prohibiting a defined contribution plan recordkeeper from promoting credit cards, life insurance, or banking products, provides an exception if a request to provide those products is made by the governing board of the public institution of higher education or its authorized delegate. Effective immediately.

LRB103 37547 RPS 67671 b

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
5 changing Section 15-202 as follows:

6 (40 ILCS 5/15-202)

7 Sec. 15-202. Optional deferred compensation plan.

8 (a) As soon as practicable after August 10, 2018 (the
9 effective date of Public Act 100-769), the System shall offer
10 a deferred compensation plan that is eligible under Section
11 457(b) of the Internal Revenue Code of 1986, as amended, to
12 participating employees of the System employed by employers
13 described in Section 15-106 of this Code that qualify as
14 eligible employers under Section 457(e)(1)(A) of the Internal
15 Revenue Code of 1986, as amended. Such eligible employers
16 shall adopt the plan with an effective date no later than
17 September 1, 2021. Participating employees may voluntarily
18 elect to make elective deferrals to the eligible deferred
19 compensation plan. Eligible employers may make optional
20 employer contributions to the plan on behalf of participating
21 employees, which contributions may be maintained, increased,
22 reduced, or eliminated at the discretion of the employer from
23 plan year to plan year. The plan shall collect voluntary

1 employee and optional employer contributions into an account
2 for each participant and shall offer investment options to the
3 participant. The plan under this Section shall be operated in
4 full compliance with any applicable State and federal laws,
5 and the System shall utilize generally accepted practices in
6 creating and maintaining the plan for the best interest of the
7 participants. In administering the deferred compensation plan,
8 the System shall require that the deferred compensation plan
9 recordkeeper agree that, in performing services with respect
10 to the deferred compensation plan, the recordkeeper: (i) will
11 not use information received as a result of providing services
12 with respect to the deferred compensation plan or the
13 participants in the deferred compensation plan to solicit the
14 participants in the deferred compensation plan for the purpose
15 of cross-selling nonplan products and services, unless in
16 response to a request by a participant in the deferred
17 compensation plan or a request by the System; and (ii) will not
18 promote, recommend, endorse, or solicit participants in the
19 deferred compensation plan to purchase any financial products
20 or services outside of the deferred compensation plan, except
21 that links to parts of the recordkeeper's or the
22 recordkeeper's affiliate's website that are generally
23 available to the public, are about commercial products, and
24 may be encountered by a participant in the regular course of
25 navigating the recordkeeper's or the recordkeeper's
26 affiliate's website will not constitute a violation of this

1 item (ii). The System may use funds from the employee and
2 employer contributions to defray any and all costs of creating
3 and maintaining the plan. The System shall produce an annual
4 report on the participation in the plan and shall make the
5 report public.

6 (b) The System shall automatically enroll in the eligible
7 deferred compensation plan any employee of an eligible
8 employer who first becomes a participating employee of the
9 System on or after July 1, 2023 under an eligible automatic
10 contribution arrangement that is subject to Section 414(w) of
11 the Internal Revenue Code of 1986, as amended, and the United
12 States Department of Treasury regulations promulgated
13 thereunder. An employee who is automatically enrolled under
14 this subsection (b) shall have 3% of his or her compensation,
15 as defined by the plan, for each pay period deferred on a
16 pre-tax basis into his or her account, subject to any
17 contribution limits applicable to the plan. The Board may
18 increase the default percentage of compensation deferred under
19 this subsection (b).

20 An employee shall have 30 days from the date on which the
21 System provides the notice required under Section 414(w) of
22 the Internal Revenue Code of 1986, as amended, to elect to not
23 participate in the eligible deferred compensation plan or to
24 elect to increase or reduce the initial amount of elective
25 deferrals made to the plan. In the absence of such affirmative
26 election, the employee shall be automatically enrolled in the

1 plan on the first day of the calendar month, or as soon as
2 administratively practicable thereafter, following the 30th
3 day from the date on which the System provides the required
4 notice. An employee who has been automatically enrolled in the
5 plan under this subsection (b) may elect, within 90 days of
6 enrollment, to withdraw from the plan and receive a refund of
7 amounts deferred, adjusted by applicable earnings and fees. An
8 employee making such an election shall forfeit all employer
9 matching contributions, if any, made with respect to such
10 refunded elective deferrals and such forfeited amounts shall
11 be used to defray plan expenses. Any refunded elective
12 deferrals shall be included in the employee's gross income for
13 the taxable year in which the refund is issued.

14 (c) The System may provide for one or more automatic
15 contribution arrangements, which shall comply with all
16 applicable Internal Revenue Service rules and regulations, in
17 conjunction with or in lieu of the eligible automatic
18 contribution arrangement under subsection (b), for
19 participating employees of eligible employers whose annual
20 earnings are limited by application of subsection (b) of
21 Section 15-111 of this Code. The amount of elective deferrals
22 made for the employee each pay period under an automatic
23 contribution arrangement shall equal the default percentage
24 specified by resolution of the Board multiplied by the
25 employee's compensation as defined by the plan, subject to any
26 contribution limits applicable to the plan, and shall be made

1 on a pre-tax basis. An employee subject to this subsection (c)
2 shall have 30 days from the date on which the System provides
3 written notice to the employee to elect to not participate in
4 the eligible deferred compensation plan or to elect to
5 increase or reduce the amount of initial elective deferrals
6 made to the plan. In the absence of such affirmative election,
7 the employee shall be automatically enrolled in the plan
8 beginning the first day of the calendar month, or as soon as
9 administratively practicable thereafter, following the 30th
10 day from the date on which the System provides the required
11 notice.

12 (d) The System may provide that the default percentage for
13 any employee automatically enrolled in the eligible deferred
14 compensation plan under subsection (b) or (c) be increased by
15 a specified percentage each plan year after the plan year in
16 which the employee is automatically enrolled in the plan. The
17 amount of automatic annual increases in any plan year shall
18 not exceed 1% of compensation as defined by the plan.

19 (e) The changes made to this Section by this amendatory
20 Act of the 102nd General Assembly are corrections of existing
21 law and are intended to be retroactive to the effective date of
22 Public Act 100-769, notwithstanding Section 1-103.1 of this
23 Code.

24 (Source: P.A. 102-540, eff. 8-20-21; 103-552, eff. 8-11-23.)

25 Section 10. The University Employees Custodial Accounts

1 Act is amended by changing Section 2 as follows:

2 (110 ILCS 95/2) (from Ch. 144, par. 1702)

3 Sec. 2. The governing board of any public institution of
4 higher education has the power to establish a defined
5 contribution plan to make payments to custodial accounts for
6 investment in regulated investment company stock to provide
7 retirement benefits as described in Section 403(b)(7) of the
8 Internal Revenue Code for eligible employees of such
9 institutions. Such payments shall be made with funds made
10 available by deductions from or reductions in salary or wages
11 of eligible employees who authorize in writing deductions or
12 reductions for such purpose. Such stock shall be purchased
13 only from persons authorized to sell such stock in this State.

14 In administering the defined contribution plan, the
15 governing board of any public institution of higher education
16 shall require that the defined contribution plan recordkeeper
17 agree that, in performing services with respect to the defined
18 contribution plan, the recordkeeper: (i) will not use
19 information received as a result of providing services with
20 respect to the defined contribution plan or the participants
21 in the defined contribution plan to solicit the participants
22 in the defined contribution plan for the purpose of
23 cross-selling nonplan products and services, unless in
24 response to a request by a participant in the defined
25 contribution plan or a request by the governing board of the

1 public institution of higher education or its authorized
2 delegate; and (ii) will not promote, recommend, endorse, or
3 solicit participants in the defined contribution plan to
4 purchase any financial products or services outside of the
5 defined contribution plan, except that links to parts of the
6 recordkeeper's or the recordkeeper's affiliate's website that
7 are generally available to the public, are about commercial
8 products, and may be encountered by a participant in the
9 regular course of navigating the recordkeeper's or the
10 recordkeeper's affiliate's website will not constitute a
11 violation of this item (ii). However, a public institution of
12 higher education may allow promotion of limited services if
13 the public institution of higher education receives no
14 compensation from the recordkeeper for promoting or providing
15 such services. Such limited services may include educational,
16 counseling, debt reduction, student loan repayment or
17 forgiveness, or other services intended to enhance retirement
18 savings opportunities. Such limited services may not include
19 credit cards, life insurance, or banking products, unless a
20 request to provide those products is made by the governing
21 board of the public institution of higher education or its
22 authorized delegate.

23 (Source: P.A. 103-552, eff. 8-11-23.)

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