Sec. 1A-101. Creation of Public Pension Division.

There is created in the Department of Insurance a Public Pension Division which, under the supervision and direction of the Director of Insurance, shall exercise the powers and perform the duties and functions prescribed under this Code. The Division shall consist of an administrator, a supervisor, a technical staff trained in the fundamentals of public pension fund planning, operations, administration, and investment of public pension funds, and such other personnel as may be necessary properly and effectively to discharge the functions of the Division.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-102. Definitions.

As used in this Article, the following terms have the meanings ascribed to them in this Section, unless the context otherwise requires:

"Accrued liability" means the actuarial present value of future benefit payments and appropriate administrative expenses under a plan, reduced by the actuarial present value of all future normal costs (including any participant contributions) with respect to the participants included in the actuarial valuation of the plan.

"Actuarial present value" means the single amount, as of a given valuation date, that results from applying actuarial assumptions to an amount or series of amounts payable or receivable at various times.

"Actuarial value of assets" means the value assigned by the actuary to the assets of a plan for the purposes of an actuarial valuation.

"Basis point" means 1/100th of one percent.

"Beneficiary" means a person eligible for or receiving benefits from a pension fund as provided in the Article of this Code under which the fund is established.

"Credited projected benefit" means that portion of a participant’s projected benefit based on an allocation taking into account service to date determined in accordance with the terms of the plan based on anticipated future compensation.

"Current value" means the fair market value when available; otherwise, the fair value as determined in good faith by a trustee, assuming an orderly liquidation at the time of the determination.

"Department" means the Department of Insurance of the State of Illinois.

"Director" means the Director of the Department of Insurance.
"Division" means the Public Pension Division of the Department of Insurance.

"Governmental unit" means the State of Illinois, any instrumentality or agency thereof (except transit authorities or agencies operating within or within and without cities with a population over 3,000,000), and any political subdivision or municipal corporation that establishes and maintains a public pension fund.

"Normal cost" means that part of the actuarial present value of all future benefit payments and appropriate administrative expenses assigned to the current year under the actuarial valuation method used by the plan (excluding any amortization of the unfunded accrued liability).

"Participant" means a participating member or deferred pensioner or annuitant of a pension fund as provided in the Article of this Code under which the pension fund is established, or a beneficiary thereof.

"Pension fund" means any public pension fund, annuity and benefit fund, or retirement system established under this Code.

"Plan year" means the calendar or fiscal year on which the records of a given plan are kept.

"Projected benefits" means benefit amounts under a plan which are expected to be paid at various future times under a particular set of actuarial assumptions, taking into account, as applicable, the effect of advancement in age and past and anticipated future compensation and service credits.

"Supplemental annual cost" means that portion of the unfunded accrued liability assigned to the current year under one of the following bases:

1. interest only on the unfunded accrued liability;
2. the level annual amount required to amortize the unfunded accrued liability over a period not exceeding 40 years;
3. the amount required for the current year to amortize the unfunded accrued liability over a period not exceeding 40 years as a level percentage of payroll.

"Total annual cost" means the sum of the normal cost plus the supplemental annual cost.

"Unfunded accrued liability" means the excess of the accrued liability over the actuarial value of the assets of a plan.

"Vested pension benefit" means an interest obtained by a participant or beneficiary in that part of an immediate or deferred benefit under a plan which arises from the participant's service and is not conditional upon the participant's continued service for an employer any of whose employees are covered under the plan, and which has not been forfeited under the terms of the plan.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-103. Rules.
The Department is authorized to promulgate rules necessary for the administration and enforcement of this Code. Except as otherwise provided under this Code, these rules shall apply only to pension funds established under Article 3 or Article 4 of this Code. Rules adopted pursuant to this Section shall govern where conflict with local rules and regulations exists.
Sec. 1A-104. Examinations and investigations.

(a) The Division shall make periodic examinations and investigations of all pension funds established under this Code and maintained for the benefit of employees and officers of governmental units in the State of Illinois. However, in lieu of making an examination and investigation, the Division may accept and rely upon a report of audit or examination of any pension fund made by an independent certified public accountant pursuant to the provisions of the Article of this Code governing the pension fund. The acceptance of the report of audit or examination does not bar the Division from making a further audit, examination, and investigation if deemed necessary by the Division.

The Department may implement a flexible system of examinations under which it directs resources as it deems necessary or appropriate. In consultation with the pension fund being examined, the Division may retain attorneys, independent actuaries, independent certified public accountants, and other professionals and specialists as examiners, the cost of which (except in the case of pension funds established under Article 3 or 4) shall be borne by the pension fund that is the subject of the examination.

(b) The Division shall examine or investigate each pension fund established under Article 3 or Article 4 of this Code. The schedule of each examination shall be such that each fund shall be examined once every 3 years.

Each examination shall include the following:

1. an audit of financial transactions, investment policies, and procedures;
2. an examination of books, records, documents, files, and other pertinent memoranda relating to financial, statistical, and administrative operations;
3. a review of policies and procedures maintained for the administration and operation of the pension fund;
4. a determination of whether or not full effect is being given to the statutory provisions governing the operation of the pension fund;
5. a determination of whether or not the administrative policies in force are in accord with the purposes of the statutory provisions and effectively protect and preserve the rights and equities of the participants;
6. a determination of whether or not proper financial and statistical records have been established and adequate documentary evidence is recorded and maintained in support of the several types of annuity and benefit payments being made; and
7. a determination of whether or not the calculations made by the fund for the payment of all annuities and benefits are accurate.

In addition, the Division may conduct investigations, which shall be identified as such and which may include one or more of the items listed in this subsection.

A copy of the report of examination or investigation as prepared by the Division shall be submitted to the secretary of the board of trustees of the pension fund examined or investigated and to the chief executive officer of the municipality. The Director, upon request, shall grant a hearing to the officers or trustees of the pension fund or their duly appointed representatives, upon any facts contained in the
report of examination. The hearing shall be conducted before filing the report or making public any information contained in the report. The Director may withhold the report from public inspection for up to 60 days following the hearing.

(Source: P.A. 95-950, eff. 8-29-08.)

Sec. 1A-105. Examination and subpoena of records and witnesses.

The Director may administer oaths and affirmations and summon and compel the attendance before him or her and examine under oath any officer, trustee, agent, actuary, attorney, or employee connected either directly or indirectly with any pension fund, or any other person having information regarding the condition, affairs, management, administration, or methods of conducting a pension fund. The Director may require any person having possession of any record, book, paper, contract, or other document pertaining to a pension fund to surrender it or to otherwise afford the Director access to it and for failure so to do the Director may attach the same.

Should any person fail to obey the summons of the Director or refuse to surrender to him or her or afford him or her access to any such record, book, paper, contract, or other document, the Director may apply to the circuit court of the county in which the principal office of the pension fund involved is located, and the court, if it finds that the Director has not exceeded his or her authority in the matter, may, by order duly entered, require the attendance of witnesses and the production of all relevant documents required by the Director in carrying out his or her responsibilities under this Code. Upon refusal or neglect to obey the order of the court, the court may compel obedience by proceedings for contempt of court.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-106. Advisory services.

The Division shall render advisory services to the pension funds on all matters pertaining to their operations and shall recommend any corrective or clarifying legislation that it may deem necessary. These recommendations shall be made in the report of examination of the particular pension fund and in the biennial report to the General Assembly under Section 1A-108. The recommendations may embrace all substantive legislative and administrative policies, including, but not limited to, matters dealing with the payment of annuities and benefits, the investment of funds, and the condition of the books, records, and accounts of the pension fund.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-107. Automation of services.

The Division shall automate its operations, services, and communications to the fullest practical extent. This automation shall include, but need not be limited to, the acquisition, use, and maintenance of electronic data processing technology to (i) automate Division operations as necessary to carry out its duties and responsibilities under this Code, (ii) provide by FY 2000 electronic exchange of information between the Division and pension funds subject to this Code, (iii) provide to pension funds and the general public and receive from pension funds and the general public data on computer processible media, and (iv) control access to information when necessary to protect the confidentiality of persons identified in the information.
The Division shall ensure that this automation is designed so as to protect any confidential data it may receive from a pension fund. This Section does not authorize the Division or the Department of Insurance to disclose any information identifying specific pension fund participants or relating to an identifiable pension fund participant.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-108. Report to the Governor and General Assembly.

On or before October 1 following the convening of a regular session of the General Assembly, the Division shall submit a report to the Governor and General Assembly setting forth the latest financial statements on the pension funds operating in the State of Illinois, a summary of the current provisions underlying these funds, and a report on any changes that have occurred in these provisions since the date of the last such report submitted by the Division.

The report shall also include the results of examinations made by the Division of any pension fund and any specific recommendations for legislative and administrative correction that the Division deems necessary. The report may embody general recommendations concerning desirable changes in any existing pension, annuity, or retirement laws designed to standardize and establish uniformity in their basic provisions and to bring about an improvement in the financial condition of the pension funds. The purposes of these recommendations and the objectives sought shall be clearly expressed in the report.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader, and the Clerk of the House of Representatives, the President, the Minority Leader, and the Secretary of the Senate, and the Legislative Research Unit, as required by Section 3.1 of the General Assembly Organization Act, and filing additional copies with the State Government Report Distribution Center for the General Assembly as required under paragraph (t) of Section 7 of the State Library Act.

Upon request, the Division shall distribute additional copies of the report at no charge to the secretary of each pension fund established under Article 3 or 4, the treasurer or fiscal officer of each municipality with an established police or firefighter pension fund, the executive director of every other pension fund established under this Code, and to public libraries, State agencies, and police, firefighter, and municipal organizations active in the public pension area.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-108.5. Economic opportunity investments.

(a) For the purposes of this Section:

"Economic opportunity investment" means a qualified investment, managed passively or actively by the pension fund, that promotes economic development within the State of Illinois by providing financially prudent investment opportunities in or through the use of (a) Illinois businesses or (b) Illinois-based projects that promote the economy of the State or a region of the State, including without limitation promotion of venture capital programs, coal and other natural resource development, tourism development, infrastructure development, real estate development, and job development within the State of Illinois, while producing a competitive rate of return commensurate with the risk of investment.
"Illinois business" means a business, including an investment adviser, that is headquartered in Illinois.

"Illinois-based project" means an individual project of a business, including the provision of products and investment and other services to the pension fund, that will result in the conduct of business within the State, the employment of individuals within the State, or the acquisition of real property located within the State.

(b) It is the public policy of the State of Illinois to encourage the pension funds, and any State entity investing funds on behalf of pension funds, to promote the economy of Illinois through the use of economic opportunity investments to the greatest extent feasible within the bounds of financial and fiduciary prudence.

(c) Each pension fund, except pension funds created under Articles 3 and 4 of this Code, shall submit a report to the Governor and the General Assembly by September 1 of each year, beginning in 2009, that identifies the economic opportunity investments made by the fund, the primary location of the business or project, the percentage of the fund’s assets in economic opportunity investments, and the actions that the fund has undertaken to increase the use of economic opportunity investments.

(d) Pension funds created under Articles 2, 14, 15, 16, and 18 of this Act, and any State agency investing funds on behalf of those pension funds, must make reasonable efforts to invest in economic opportunity investments.

(e) In making economic opportunity investments, trustees and fiduciaries must comply with the relevant requirements and restrictions set forth in Sections 1-109, 1-109.1, 1-109.2, 1-110, and 1-111 of this Code. Economic opportunity investments that otherwise comply with this Code shall not be deemed imprudent solely because they are investments in an Illinois business or Illinois-based project.

(Source: P.A. 96-753, eff. 8-25-09.)

Sec. 1A-109. Annual statements by pension funds.

Each pension fund shall furnish to the Division an annual statement in a format prepared by the Division. The Division shall design the form and prescribe the content of the annual statement and, at least 60 days prior to the filing date, shall furnish the form to each pension fund for completion. The annual statement shall be prepared by each fund, properly certified by its officers, and submitted to the Division within 6 months following the close of the fiscal year of the pension fund.

The annual statement shall include, but need not be limited to, the following:

1. a financial balance sheet as of the close of the fiscal year;
2. a statement of income and expenditures;
3. an actuarial balance sheet;
4. statistical data reflecting age, service, and salary characteristics concerning all participants;
5. special facts concerning disability or other claims;
6. details on investment transactions that occurred during the fiscal year covered by the report;
7. details on administrative expenses; and
8. such other supporting data and schedules as in the judgement of the Division may be necessary for a proper appraisal of the financial condition of the pension fund and the results of
its operations. The annual statement shall also specify the actuarial and interest tables used in the operation of the pension fund.

A pension fund that fails to file its annual statement within the time prescribed under this Section is subject to the penalty provisions of Section 1A-113.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-110. Actuarial statements by pension funds established under Articles other than 3 or 4.

(a) Each pension fund established under an Article of this Code other than Article 3 or 4 shall include as part of its annual statement a complete actuarial statement applicable to the plan year.

The actuarial statement shall be filed with the Division within 9 months after the close of the fiscal year of the pension fund. Any pension fund that fails to file within that time is subject to the penalty provisions of Section 1A-113.

The board of trustees of each pension fund subject to this Section, on behalf of all its participants, shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement. The enrolled actuary shall utilize such assumptions and methods as are necessary for the contents of the matters reported in the actuarial statement to be reasonably related to the experience of the plan and to reasonable expectations, and to represent in the aggregate the actuary’s best estimate of anticipated experience under the plan.

The actuarial statement shall include a description of the actuarial assumptions and methods used to determine the actuarial values in the statement and shall disclose the impact of significant changes in the actuarial assumptions and methods, plan provisions, and other pertinent factors on the actuarial position of the plan.

The actuarial statement shall include a statement by the enrolled actuary that to the best of his or her knowledge the actuarial statement is complete and accurate and has been prepared in accordance with generally accepted actuarial principles and practice.

For the purposes of this Section, “enrolled actuary” means an actuary who (1) is a member of the Society of Actuaries or the American Academy of Actuaries and (2) either is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 or was engaged in providing actuarial services to a public retirement plan in Illinois on July 1, 1983.

(b) The actuarial statement referred to in subsection (a) shall include all of the following:

(1) The dates of the plan year and the date of the actuarial valuation applicable to the plan year for which the actuarial statement is filed.

(2) The amount of (i) the contributions made by the participants, and (ii) all other contributions, including those made by the employer or employers.

(3) The total estimated amount of the covered compensation with respect to active participants for the plan year for which the statement is filed.

(4) The number of (i) active participants, (ii) terminated participants currently eligible for deferred vested pension benefits or the return of contributions made by those participants, and (iii) all other participants and beneficiaries included in the actuarial valuation.

(5) The following values as of the date of the actuarial valuation applicable to the plan year for which the statement is filed:
(i) The current value of assets accumulated in the plan.

(ii) The unfunded accrued liability. The major factors that have resulted in the change in the unfunded accrued liability from the previous year shall be identified. Effects that are individually significant shall be separately identified. As a minimum, the effect of the following shall be shown: plan amendments; changes in actuarial assumptions; experience less (or more) favorable than that assumed; and contributions less (or more) than the normal cost plus interest on the unfunded accrued liability.

(iii) The amount of accumulated contributions for active participants (including interest, if any).

(iv) The actuarial present value of credited projected benefits for vested participants currently receiving benefits, other vested participants, and non-vested participants.

(6) The actuarial value of assets.

(7) Any other information that is necessary to fully and fairly disclose the actuarial position of the plan and any other information the enrolled actuary may present.

(8) Any other information regarding the plan that the Division may by rule request.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-111. Actuarial statements by pension funds established under Article 3 or 4.

(a) Each pension fund established under Article 3 or 4 of this Code shall include as part of its annual statement a complete actuarial statement applicable to the plan year.

If the actuarial statement is prepared by a person other than the Department, it shall be filed with the Division within 9 months after the close of the fiscal year of the pension fund. Any pension fund that fails to file within that time shall be subject to the penalty provisions of Section 1A-113. The statement shall be prepared by or under the supervision of a qualified actuary, signed by the qualified actuary, and contain such information as the Division may by rule require.

(b) For the purposes of this Section, "qualified actuary" means (i) a member of the American Academy of Actuaries, or (ii) an individual who has demonstrated to the satisfaction of the Director that he or she has the educational background necessary for the practice of actuarial science and has at least 7 years of actuarial experience.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-112. Fees.

(a) Every pension fund that is required to file an annual statement under Section 1A-109 shall pay to the Department an annual compliance fee. In the case of a pension fund under Article 3 or 4 of this Code, the annual compliance fee shall be 0.02% (2 basis points) of the total assets of the pension fund, as reported in the most current annual statement of the fund, but not more than $8,000. In the case of all other pension funds and retirement systems, the annual compliance fee shall be $8,000.

(b) The annual compliance fee shall be due on June 30 for the following State fiscal year, except that the fee payable in 1997 for fiscal year 1998 shall be due no earlier than 30 days following the effective date of this amendatory Act of 1997.
(c) Any information obtained by the Division that is available to the public under the Freedom of Information Act and is either compiled in published form or maintained on a computer processible medium shall be furnished upon the written request of any applicant and the payment of a reasonable information services fee established by the Director, sufficient to cover the total cost to the Division of compiling, processing, maintaining, and generating the information. The information may be furnished by means of published copy or on a computer processed or computer processible medium.

No fee may be charged to any person for information that the Division is required by law to furnish to that person.

(d) Except as otherwise provided in this Section, all fees and penalties collected by the Department under this Code shall be deposited into the Public Pension Regulation Fund.

(e) Fees collected under subsection (c) of this Section and money collected under Section 1A-107 shall be deposited into the Department's Statistical Services Revolving Fund and credited to the account of the Public Pension Division. This income shall be used exclusively for the purposes set forth in Section 1A-107. Notwithstanding the provisions of Section 408.2 of the Illinois Insurance Code, no surplus funds remaining in this account shall be deposited in the Insurance Financial Regulation Fund. All money in this account that the Director certifies is not needed for the purposes set forth in Section 1A-107 of this Code shall be transferred to the Public Pension Regulation Fund.

(f) Nothing in this Code prohibits the General Assembly from appropriating funds from the General Revenue Fund to the Department for the purpose of administering or enforcing this Code.

(Source: P.A. 93-32, eff. 7-1-03.)

Sec. 1A-113. Penalties.

(a) A pension fund that fails, without just cause, to file its annual statement within the time prescribed under Section 1A-109 shall pay to the Department a penalty to be determined by the Department, which shall not exceed $100 for each day's delay.

(b) A pension fund that fails, without just cause, to file its actuarial statement within the time prescribed under Section 1A-110 or 1A-111 shall pay to the Department a penalty to be determined by the Department, which shall not exceed $100 for each day's delay.

(c) A pension fund that fails to pay a fee within the time prescribed under Section 1A-112 shall pay to the Department a penalty of 5% of the amount of the fee for each month or part of a month that the fee is late. The entire penalty shall not exceed 25% of the fee due.

(d) This subsection applies to any governmental unit, as defined in Section 1A-102, that is subject to any law establishing a pension fund or retirement system for the benefit of employees of the governmental unit.

Whenever the Division determines by examination, investigation, or in any other manner that the governing body or any elected or appointed officer or official of a governmental unit has failed to comply with any provision of that law:

(1) The Director shall notify in writing the governing body, officer, or official of the specific provision or provisions of the law with which the person has failed to comply.

(2) Upon receipt of the notice, the person notified shall take immediate steps to comply with the provisions of law specified in the notice.
(3) If the person notified fails to comply within a reasonable time after receiving the notice, the Director may hold a hearing at which the person notified may show cause for noncompliance with the law.

(4) If upon hearing the Director determines that good and sufficient cause for noncompliance has not been shown, the Director may order the person to submit evidence of compliance within a specified period of not less than 30 days.

(5) If evidence of compliance has not been submitted to the Director within the period of time prescribed in the order and no administrative appeal from the order has been initiated, the Director may assess a civil penalty of up to $2,000 against the governing body, officer, or official for each noncompliance with an order of the Director.

The Director shall develop by rule, with as much specificity as practicable, the standards and criteria to be used in assessing penalties and their amounts. The standards and criteria shall include, but need not be limited to, consideration of evidence of efforts made in good faith to comply with applicable legal requirements. This rulemaking is subject to the provisions of the Illinois Administrative Procedure Act.

If a penalty is not paid within 30 days of the date of assessment, the Director without further notice shall report the act of noncompliance to the Attorney General of this State. It shall be the duty of the Attorney General or, if the Attorney General so designates, the State's Attorney of the county in which the governmental unit is located to apply promptly by complaint on relation of the Director of Insurance in the name of the people of the State of Illinois, as plaintiff, to the circuit court of the county in which the governmental unit is located for enforcement of the penalty prescribed in this subsection or for such additional relief as the nature of the case and the interest of the employees of the governmental unit or the public may require.

(e) Whoever knowingly makes a false certificate, entry, or memorandum upon any of the books or papers pertaining to any pension fund or upon any statement, report, or exhibit filed or offered for file with the Division or the Director of Insurance in the course of any examination, inquiry, or investigation, with intent to deceive the Director, the Division, or any of its employees is guilty of a Class A misdemeanor.

(Source: P.A. 90-507, eff. 8-22-97.)

Sec. 1A-201. Advisory Commission on Pension Benefits.

(a) There is created an Advisory Commission on Pension Benefits. The Commission shall consist of 15 persons, of whom 8 shall be appointed by the Governor and one each shall be appointed by the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives. Four of the persons appointed by the Governor shall represent different statewide labor organizations, of which 2 shall be organizations that represent primarily teachers and 2 shall be organizations that represent primarily State employees other than teachers. The Directors of the retirement systems established under Articles 14, 15, and 16 of this Code shall be ex officio members of the Commission.

(b) The Commission shall consider and make its recommendations concerning changing the age and service requirements, automatic annual increase benefits, and employee contribution rates of the State-funded retirement systems and other pension-related issues as determined by the Commission. On or before November 1, 2005, the Commission shall report its findings and recommendations to the Governor and the General Assembly.
(c) The Commission may request actuarial data from any of the 5 State-funded retirement systems established under this Code. That data may include, but is not limited to, the dates of birth, years of service, salaries, and life expectancies of members. A retirement system shall provide the requested information as soon as practical after the request is received, but in no event later than any reasonable deadline imposed by the Commission.

(Source: P.A. 94-4, eff. 6-1-05.)