

APPROVED

DECEMBER 8, 2020

Item #G-2
December 8, 2020

**ADOPTION OF RESOLUTION FOR AGENCY PARTICIPATION IN THE
STATE UNIVERSITIES RETIREMENT SYSTEM DEFERRED COMENSATION PLAN**

Submitted for: Action.

Summary: This item requests approval for the adoption of a resolution to allow the Illinois Board of Higher Education to participate in the State Universities Retirement System ("SURS") Deferred Compensation Plan ("Plan") and authorization of the Executive Director to approve the resolution and agreement.

The SURS Deferred Compensation Plan is a 457(b) deferred compensation plan that complements SURS mandatory 401(a) retirement plans (Traditional, Portable, and the Retirement Savings Plan). Participants will be able to elect to defer Pre-tax and/or Roth contributions to the Plan. The Board must approve the adoption of the Plan and the Executive Director can sign the approval by completing the Employer Resolution and Employer Participation Plan.

This is a supplemental deferred compensation plan developed by SURS. Staff still will be able to participate in the regular state deferred compensation plan, as well. An individual can participate in either or both, if they want, although the addition of this plan does not alter the legal limits on how much can be contributed annually. The primary benefit to staff is to offer more choice. There will be no new cost to IBHE and minimal added administrative burden.

Action Requested: That the Illinois Board of Higher Education hereby approves the resolution for the Illinois Board of Higher Education to participate in the State Universities Retirement System Deferred Compensation Plan and authorizes the Executive Director to approve the Employer Resolution and Employer Participation Agreement.



**ADOPTION OF RESOLUTION FOR AGENCY PARTICIPATION IN THE
STATE UNIVERSITIES RETIREMENT SYSTEM DEFERRED COMENSATION PLAN**

WHEREAS, the State Universities Retirement System Deferred Compensation Plan ("Plan") is an eligible deferred compensation plan under Section 457(b) of the Internal Revenue ("Code") established and is administered by the State Universities Retirement System ("System") pursuant to Section 15-202 of the Illinois Pension Code, 40 ILCS 5 et seq.;

WHEREAS, the Plan is funded by elective deferrals, and if elected by the Employer in the Employer Participation Agreement, discretionary employer contributions;

WHEREAS, contributions to the Plan are held in Trust by SURS as Trustee pursuant to the State Universities Retirement System Master Trust Agreement ("Trust Agreement") and are invested in investment options selected and monitored by SURS;

WHEREAS, SURS has contracted with certain service providers ("Service Providers") to administer the Plan in accordance with its written terms and applicable law;

WHEREAS, Section 15-202 of the Illinois Pension Code, 40 ILCS 5, et seq., and Section 2.02(v) of the Plan provide that an employer that is subject to Article 15 of the Illinois Pension Code and that is an eligible employer within the meaning of Code Section 457(e)(1)(A) offer the Plan to its eligible employees;

WHEREAS, the Employer is an employer subject to Article 15 of the Illinois Pension Code, and is an eligible employer within the meaning of Code Section 457(e)(1)(A); and

WHEREAS, the Employer has reviewed the Plan, is authorized by law to adopt this Resolution, and is concurrently executing an Employer Participation Agreement for the Plan, which shall constitute a part of the written terms of the Plan.

NOW THEREFORE the governing body of the Employer hereby resolves:

Section 1. The Employer adopts the Plan for the benefit of its eligible employees, including the Employer Participation Agreement which is attached hereto and made a part of this Resolution.

Section 2. The Employer agrees to abide by the terms of the Plan and the Trust Agreement, including amendments to the Plan and the Trust Agreement, and all applicable provisions of the Code, the Illinois Pension Code, and other applicable law.

Section 3. The Employer agrees to enroll only those individuals who are employees, as defined in Section 15-107 of the Illinois Pension Code, of the Employer. An employee does not include an individual who is a leased employee under Code Section 414(n)(2).

Section 4. The Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in the Trust for the exclusive benefit of participants and their beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of participants and their beneficiaries and for defraying reasonable expenses of the Plan. All contributions to the Plan shall be held, managed, invested, and distributed as part of the Trust in accordance with the provisions of the Plan. All benefits under the Plan shall be distributed solely from the Trust pursuant to the terms of the Plan.

Section 5. This Resolution and an Employer Participation Agreement shall be submitted to SURS. SURS shall determine whether the Resolution and the Employer Participation Agreement comply with the Plan, and, if they do, shall provide appropriate forms to the Employer to implement employee participation in the Plan. SURS may refuse to approve a Resolution and/or an Employer Participation Agreement from an employer that does not have state statutory authority to participate in the Plan. The Employer hereby acknowledges that it is responsible for assuring that this Resolution and the Employer Participation Agreement are adopted and executed in accordance with the requirements of applicable law.

Adopted by the Employer as of the date set forth below in accordance with applicable law.

By: _____

Print Name: Ginger Ostro

Title: Executive Director

Date: _____

Staff Recommendation

The staff recommends that the Illinois Board of Higher Education adopt the following resolution:

That the Illinois Board of Higher Education hereby approves the resolution for the Illinois Board of Higher Education to participate in the State Universities Retirement System Deferred Compensation Plan and authorizes the Executive Director to approve the Employer Resolution and Employer Participation Agreement.



STATE UNIVERSITIES RETIREMENT SYSTEM DEFERRED COMPENSATION PLAN

EMPLOYER PARTICIPATION AGREEMENT

The undersigned employer ("Employer") and the State Universities Retirement System ("SURS") agree to the participation of the Employer in the State Universities Retirement System Deferred Compensation Plan ("Plan"). The Plan is sponsored and administered by SURS and is intended to qualify as an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code ("Code") that is a governmental plan under Code Section 414(d) and Section 3(33) of the Employee Retirement Income Security Act of 1974 ("ERISA").

Complete this Participation Agreement only if the Employer is both an employer subject to Article 15 of the Illinois Pension Code and an eligible employer within the meaning of Code Section 457(e)(1)(A).

A. EMPLOYER INFORMATION

Name: Illinois Board of Higher Education

Address: 1 N. Old State Capitol Plaza, Suite 333, Springfield, IL 62701

Tax ID Number: - - - - -

B. TYPE OF ADOPTION AND EFFECTIVE DATE

The Employer's Plan document shall consist of this Employer Participation Agreement ("Agreement") and the Plan document, as amended from time to time. All capitalized terms in this Agreement shall have the meaning set forth in the Plan document.

It is very important that this Employer Participation Agreement be completed accurately to ensure consistency between the Plan and actual plan operation. The Employer may prospectively change the terms of its participation in the Plan at any time by completing a new Employer Participation Agreement with SURS.

This Agreement is for the following purpose (*check and complete one only*):

1. This is a new 457(b) deferred compensation plan adopted by the Employer for its Employees effective December 8, 2020.
2. This is an amendment to be effective as of _____, ____ (*insert effective date of this amendment*) to the current Agreement previously adopted by the Employer, which was originally effective _____, ____ (*insert effective date of the original Amendment*).
3. This is an amendment and restatement of another 457(b) deferred compensation plan maintained by the Employer, effective _____, ____ (*insert effective date of this Agreement*).

This Employer's prior plan was originally effective _____, ____ (insert effective date of the prior plan). The Employer understands that it is the Employer's responsibility to ensure that the prior plan met all applicable state and federal requirements.

C. CUSTODY OF ASSETS. Code Section 457(g) shall be satisfied by setting aside Plan assets for the exclusive benefit of Participants and Beneficiaries in a Trust pursuant to the terms of the Plan.

D. PARTICIPATION. An Employee may become a Participant in the Plan for purposes of Elective Deferrals and Discretionary Employer Contributions immediately upon commencement of employment with the Employer. "Employee" means an individual who is an employee, as defined in Section 15-107 of the Illinois Pension Code, of an Employer. An Employee does not include an individual who is a leased employee under Code Section 414(n)(2).

E. ELECTIVE DEFERRALS. All Employees of the Employer shall be permitted to make Elective Deferrals to the Plan. Elective Deferrals include Pre-Tax Contributions and Roth Contributions. A Participant shall be 100% Vested in his or her Elective Deferrals at all times.

F. DISCRETIONARY MATCHING CONTRIBUTIONS.

1. The Employer shall (check and complete one only):

a. not make Discretionary Matching Contributions.

b. match ___% of Elective Deferrals of up to ___% of Compensation each pay period annually.

c. match ___% of the first \$_____ each pay period of Elective Deferrals annually.

d. match the percentage or amount of Elective Deferrals that the Employer determines in its discretion for the Plan Year.

Check this box if the Discretionary Matching Contributions match elective deferrals made to another plan, and enter the name of the plan:

NOTE: Any Discretionary Matching Contribution will reduce, dollar for dollar, the Elective Deferrals that a Participant can contribute.

2. The Employer shall make Discretionary Matching Contributions for the following Employees (complete only if Discretionary Matching Contributions will be made to the Plan; check and complete as many as applicable):

a. any full-time Employee, defined as an Employee who has ___ or more Hours of Service per week.

b. any permanent part-time Employee, defined as an Employee who is not a full-time Employee and who has ____ or more Hours of Service per week.

c. any Employee in the following class(es) of Employees:

3. A Participant shall be 100% vested in his or her Discretionary Matching Contributions at all times; provided, however, that if SURS enacts an Eligible Automatic Enrollment Arrangement under Section 4.2(e) of the Plan, Discretionary Matching Contributions related to a withdrawal of Automatic Pre- Tax Contributions in accordance with Section 4.2(e)(4) will be placed in a forfeiture account and used first to reduce the Employer's Discretionary Matching Contributions, if any, and then to reduce the Employer's Discretionary Nonelective Contributions, if any.

G. DISCRETIONARY NONELECTIVE CONTRIBUTIONS.

1. The Employer shall (*check and complete one only*):

a. not make Discretionary Nonelective Contributions.

b. contribute ____% of Compensation on behalf of each Participant each pay period annually.

c. contribute \$_____ on behalf of each Participant each pay period annually.

d. contribute the percentage or amount that the Employer determines in its discretion for the Plan Year.

NOTE: Any Discretionary Nonelective Contribution will reduce, dollar for dollar, the amount a Participant can contribute.

2. The Employer shall make Discretionary Nonelective Contributions for the following Employees (*complete only if Discretionary Nonelective Contributions will be made to the Plan; check and complete as many as applicable*):

a. any full-time Employee, defined as an Employee who has ____ or more Hours of Service per week.

b. any permanent part-time Employee, defined as an Employee who is not a full-time Employee and who has ____ or more Hours of Service per week.

c. any Employee in the following class(es) of Employees:

3. A Participant shall be 100% Vested in his or her Discretionary Nonelective Contributions at all times.

H. ADMINISTRATIVE INFORMATION.

In executing this Employer Participation Agreement, the Employer agrees:

- that it is eligible to adopt the Plan, and that its governing body has adopted a resolution to approve the adoption of the Plan for its eligible employees, which resolution has been provided to SURS or its designee;
- to be bound by all terms of the Plan document, as applicable, the terms of this Employer Participation Agreement, and the rules and regulations of SURS, all as may be amended from time to time, and that no oral understanding not incorporated into this Agreement is binding on any party;
- to provide any information reasonably requested by SURS or a service provider from time to time to properly administer the Plan in accordance with its terms and applicable law;
- to allow SURS and/or the service providers reasonable access to eligible employees to assist with enrollment in and administration of the Plan;
- to be solely responsible for the correction of any operational or compliance errors resulting from the Employer's failure to perform its responsibilities or provide accurate information to SURS or a service provider;
- that all contributions to the Plan will be deposited in the State Universities Retirement System Master Trust for the exclusive benefit of participants and beneficiaries, and that the Employer shall have no right to Trust assets;
- that participants in the Plan have the right to direct the investment of their accounts by choosing among the investment options selected by SURS and offered under the Plan, and that any participant who does not provide timely investment direction will be deemed to have elected the Plan's default investment, as selected by SURS;
- that participants will be charged fees for the investment and administration services provided by SURS and the service providers, which will be offset against investment returns or deducted from participant accounts periodically; and
- that the Employer has consulted, to the extent necessary, with its own legal and tax advisors.

The Employer further agrees that it is responsible for the following areas of compliance:

- determining and monitoring employee eligibility in accordance with the terms of the Plan and the Employer Participation Agreement;
- entering into salary reduction agreements with Employees and timely remitting all Elective Deferrals and Discretionary Employer Contributions, if any, to the Plan; and

- complying with the applicable contribution limits under the Code as such limits apply to the Plan and any other Code Section 457(b) plan in which Employer's employees participate.

This Employer Participation Agreement is duly executed on behalf of the Employer by the undersigned authorized signatories and shall be effective as indicated in Section B.

EMPLOYER'S AUTHORIZED SIGNATORIES:

By: _____

By: _____

Print: Ginger Ostro _____

Print: Nyle Robinson _____

Title: Executive Director _____

Title: Deputy Director for Fiscal Affairs & Budgeting

Date: _____

Date: _____

**ACCEPTANCE OF EMPLOYER'S PARTICIPATION IN THE STATE UNIVERSITIES
RETIREMENT SYSTEM DEFERRED COMPENSATION PLAN:**

By: Martin M. Noven, Executive Director _____

Date: _____