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2017 Year in Review

By Maurice Scholten

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BUDGET

In late June this year, the credit rating agencies were getting ready to downgrade Illinois' credit rating to noninvestment grade, otherwise known as junk status. This may have been the final straw, putting enough pressure on lawmakers to pass a budget and a tax increase. Within five days, both chambers voted on the measures, the Governor vetoed them, and the General Assembly voted to override the veto. There were three parts to the package—an appropriation bill, an implementation bill, and the tax increase. The school funding appropriation was for an "evidence based model" which had not become law yet and was highly controversial. An agreement on the evidence based model was reached in late August, thereby completing the budget process. SB 6, sponsored by Sen. Heather Steans and Rep. Gregory Harris appropriated $34.458 billion out of the general funds and appropriated a total of $98.6 billion out of all funds. Public Act 100-0021

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TAXPAYERS' FEDERATION OF ILLINOIS

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NOTES FROM THE INSIDE. . .

By Carol S. Portman

This month's issue of *Tax Facts* is our annual summary of budget and tax-related legislation passed during the year. As you can see from Maurice's article, the tax bill passed this summer as part of the overall budget package—referred to as SB 9 by most of us—was by far the most significant and far-reaching.

TFI reads each and every tax-related bill that is introduced. The bills that became law in 2017 are in many ways a good representation of what we see. Most are only relevant to a fairly small group of taxpayers, but for them, these bills are of huge importance. Some are good tax policy; some aren't. TFI works with the sponsors and supporters of bills to make sure there are no unintended consequences and to advocate for good tax policy, and our handiwork can be found in several of the bills discussed here.

As we write this, federal tax reform seems very nearly a sure thing. What will that mean for Illinois? We are looking at that question, and many others, for future *Tax Facts* issues. If there's something you'd like to see us tackle in 2018, let us know!

SB 9 Tax Increase

SB 9, sponsored by Sen. Toi W. Hutchinson and Rep. William Davis, increased the personal and corporate income tax rates to 4.95% and 7% (9.5% with the PPRT surcharge) respectively. The new rates became effective on July 1. The rate increases were the highest-profile and most publicly-discussed component of the bill, but it made many other changes. The bill:

- Makes significant changes, many of them controversial, to the State's Revised Uniform Unclaimed Property Act, effective January 1, 2018.

- Creates the State Tax Lien Registration Act, a long-time goal of the Department of Revenue, so that tax liens can be centrally recorded rather than recorded in the 102 county seats throughout the state.

- Reinstates the Research and Development tax credit through the 2021 tax year. The credit had expired, and the reinstatement was retroactive.

- Increases the maximum education expense credit from $500 to $750.

- Precludes high income taxpayers from claiming the standard deduction and certain credits. Married taxpayers with an adjusted gross income of more than $500,000 are now precluded from claiming the standard deduction, the education expense credit, and the residential real property tax credit ($250,000 for single taxpayers).

- Requires taxpayers to add back the domestic production activities deduction (taken pursuant to Internal Revenue Code §199) starting with the 2017 tax year.

- Increases the earned income tax credit to 14% of the federal credit in 2017 and 18% in 2018.

- Creates an income tax credit for teachers that purchase instructional materials and supplies for classroom use up to $250.

- Repeals the non-combination rule, a corporate income tax provision applicable to unitary business groups using different apportionment methods, starting with the 2017 tax year.

- Expands the definition of the United States to include areas where the United States has asserted jurisdiction for the exploration of natural resources. (Typically, the outer continental shelf.)

- Accelerates the repeal of a preferential sales tax rate for certain biofuels.

- Expands the manufacturing and assembly machinery and equipment sales tax exemption to include graphic arts machinery and equipment.

Senate Bill 9 went through many iterations before the final version, including several that would have subjected certain consumer services to sales tax (or a sales tax-like excise tax). However, the final bill did not create any tax on services. Public Act 100-0022

Budget Implementation Bill

SB 42, sponsored by Sen. Donne E. Trotter and Rep. Gregory Harris, is the Budget Implementation Act which makes statutory changes needed for the budget. The bill authorized $1.2 billion of interfund borrowing for the General Revenue Fund (“GRF”) and authorized $300 million in fund sweeps. The bill also allowed the State to issue $6 billion of bonds to pay down the bill backlog. The bill also created a new Tier III pension plan. The bill created a 5 year actuarial assumption that allows the State to phase in increased or decreased contributions due to changes in actuarial assumptions over five years. The pension changes reduced the State’s pension contribution from $8.9 billion to $8.0 billion, a reduction of $908.4 million. However, next year’s pension contribution is estimated to be $8.5 billion, an increase of $542.5 million. The State’s pension contribution is estimated to increase by $500 million each year until FY2023, when it finally levels out at slightly more than $10 billion. The unfunded liabilities are projected to keep growing until FY 2028.

Previously, the Department of Revenue collected a 2% fee for some local sales taxes that it collected. This bill made that 2% apply to all local sales taxes. This resulted in a 2% reduction in sales tax revenues for municipalities, the RTA, and other local governments. The bill set the rates for transfers for the refund fund at 9.8% for personal income taxes and 17.5% for corporate. The bill also decreased the amount municipalities receive from income taxes by 10% for FY2018 only. The General Assembly tried to keep the GRF appropriation number as low as possible. One change they made was that money that goes to the Local Government Distributive Fund would be directly deposited into the account. Previously, the money would go to GRF and then be transferred to the Local Government Distributive Fund. This has the effect of lowering the appropriation amount for GRF, but does not actually affect the amount of money the State spends. Public Act 100-0023

INCOME TAX

EDGE Credit

HB 162, sponsored by Rep. Michael Zalewski and Sen. Melinda Bush, reinstates and reforms the Economic Development for a Growing Economy Tax Credit Act. The maximum credit for businesses is now equal to the lesser of (i) 50% of the incremental income tax attributable to the new employees and 10% of the training costs for the new employees or (ii) 100% of the incremental income tax attributable to the new employees. The amount is increased if the project is in an underserved area. If a company hires the requisite number of new employees, they can also receive a credit equal to 25% of the incremental income tax attributable to retained employees. The act will sunset June 30, 2022. Public Act 100-0511

SB 1567, sponsored by Sen. Christina Castro and Rep. William Davis, requires taxpayers that claim an EDGE credit to submit annual reports to DCEO detailing their female-owned, minority-owned, veteran-owned, and small business enterprise spending and future goals. Public Act 100-0451

Invest in Kids Credit

SB 1947, sponsored by Sen. Andy Manar and Rep. William Davis, creates an evidence based formula for school funding as required in the budget bill, as discussed above. Additionally, the bill creates the Invest in Kids Act which allows taxpayers to receive an income tax credit equal to 75% of contributions made to scholarship granting organizations. The total amount of credits is $75 million and donors must receive a contribution authorization certificate from the Department of Revenue prior to making the contribution. A taxpayer cannot use the credit if they took a federal tax deduction for the contribution. Public Act 100-0465

River Edge Redevelopment Zone Tax Credit

SB 1783, sponsored by Sen. Steve Stadelman and Rep. Litesa E. Wallace, extends the River Edge Redevelopment Zone Tax Credit through the 2021 tax year. Public Act 100-0236

Angel Investment Credit

SB 2012, sponsored by Sen. Chuck Weaver and Rep. Caron Sente, extends the Angel Investment Tax Credit by five years and also makes a number of changes to the credit, such as setting a minimum investment level of $10,000 to obtain the credit and requiring the business to maintain a minimum number of employees for three years. Public Act 100-0328

New Markets Development Program

SB 652, sponsored by Sen. James F. Clayborne, Jr. and Rep. Lou Lang, extends the sunset of the New Markets Development Program Act through fiscal year 2021. The bill makes other changes to the program, such as requiring annual reports from each qualified community development entity and allows the credits to be used against insurance retaliatory taxes. Public Act 100-0408

Live Theater Production Credit

SB 852, sponsored by Sen. Toi W. Hutchinson and Rep. Michael J. Zalewski, extends the Live Theater Production Credit through 2021. Public Act 100-0415

Natural Disaster Credit

SB 403, sponsored by Sen. Melinda Bush and Rep. Sam Yingling, creates the natural disaster credit which allows for a $750 income tax credit for taxpayers that (i) own property in counties that were declared a State disaster area; (ii) sustained flood damage during 2017; and (iii) the damage was not covered by the government or an insurance company. Covered properties are homesteads and property owned by a small business. Public Act 100-0555

SALES TAX

Rolling Stock

SB 1871, sponsored by Sen. Pat McGuire and Rep. Jerry Costello, II, simplifies the requirements for motor vehicles to qualify for the rolling stock sales tax exemption. Public Act 100-0321

Rental Purchase Agreements

SB 1434, sponsored by Sen. Thomas Cullerton and Rep. Jay Hoffman, creates the Rental Purchase Agreement Occupation and Use Tax Act and changes the way personal property that is rented under a rental purchase agreement is taxed. Currently, the merchant pays use tax on the value of the personal property. Under the new act, the 6.25% tax is paid on the gross receipts of the merchant. Public Act 100-437

ROTA Registration Renewal

HB 819, sponsored by Rep. Michael J. Zalewski and Sen. Pamela J. Althoff, requires annual renewal of future certificates of registration under the Retailers' Occupation Tax Act. Previously, the certificates were valid for five years before being renewed. Public Act 100-0302

Electronic Filing

HB 821, sponsored by Rep. Barbara Flynn Currie and Sen. Pamela J. Althoff, deals with electronic filing of forms with the Department of Revenue. The bill allows the Department to adopt rules to require returns showing withheld amounts and W-2s to be filed electronically or by magnetic media. For sales and automobile renting sales tax, the bill requires certain retailers to file electronically in order to receive the vendor's discount. The bill does not apply to retailers with annual gross receipts of less than $20,000. Additionally, the bill does not apply to returns for titled personal property. There is a provision for the Department to waive the provision for taxpayers that demonstrate hardship. Public Act 100-0303

PROPERTY TAX

Homestead Exemptions

SB 473, sponsored by Sen. Antonio Munoz and Rep. Robert Martwick, increases homestead exemptions in Cook County and increases the income limitation for the Senior Citizens Assessment Freeze Homestead Exemption. The General Homestead Exemption is increased from $6,000 to $10,000 and the Senior Citizens Homestead Exemption is increased from $5,000 to $8,000. The income limitation for the senior freeze is increased from $55,000 to $65,000. The bill also creates a minimum freeze exemption of $2,000 for those in Cook County. Public Act 100-401

Keystone Property

SB 1775, sponsored by Sen. Toi W. Hutchinson and Rep. Anthony DeLuca, allows for an industrial property in Forest Park to be designated as a keystone property. After receiving the designation, the property will only be taxed on its land value, with a maximum aggregate tax liability in the first three years of $75,000. Subsequent increases in its tax liability will match the increase in assessed value in the village. Public Act 100-0510

Petition for Decrease in Education Levy

SB 1947, sponsored by Sen. Andy Manar and Rep. William Davis, creates an evidence based formula for school funding as required in the budget bill, as discussed above. Additionally, the bill created a provision that would allow voters to put a question on the ballot to reduce the education levy for a school district by up to 10% if the school district is at 110% or more of their adequacy target. The petition would need to be signed by 10% of the registered voters in the district. Public Act 100-0465

PTAB Appeals

SB 609, sponsored by Sen. Julie A. Morrison and Rep. Elaine Nekritz, allows a property owner to file appeals for subsequent years within the same assessment period with the Property Tax Appeal Board immediately upon receiving a favorable decision by the Board. Previously, property owners could only file one appeal at a time. Public Act 100-0216

Illinois Tax Facts

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TIF Extensions

SB 588, sponsored by Sen. Tim Bivins and Rep. Brian W. Stewart, allows for a twelve-year extension of a tax increment financing district in Milledgeville. Public Act 100-0214

HB 465, sponsored by Rep. Brian W. Stewart and Sen. Tim Bivins, allows for a twelve-year extension of a tax increment financing district in Pearl City. Public Act 100-0249

Cook County Property Tax Sale

HB 155, sponsored by Rep. Elgie R. Sims Jr. and Sen. Toi W. Hutchinson, sets April 1 as the deadline for Cook County to file applications for judgment and order of sale for taxes and special assessments following the tax year. This means that property taxes levied in 2016, which are payable in 2017, and are delinquent will be sold in May of 2018. Public Act 100-0243

Mobile Home Local Services Tax

HB 466, sponsored by Rep. David A. Welter and Sen. Jason A. Barickman, amends the Mobile Home Local Services Tax Enforcement Act to mirror the Property Tax Code. Tax buyers have to give property owners notice of the expiration of the period of redemption at least 3 months before the date of expiration but not more than 6 months (previously 5 months). Public Act 100-0296

Wooded Acreage

HB 2813, sponsored by Rep. Norine K. Hammond and Sen. Jil Tracy, makes a technical correction to the definition of wooded acreage in the Property Tax Code. The law now refers to the definition of woodlands as defined by the U.S. Department of the Interior Land Management Bureau opposed to wooded acreage as defined by the U.S. Department of Labor Bureau of Land Management. Public Act 100-0379

Religious Parking Lots

SB 1593, sponsored by Sen. Karen McConnaughay and Rep. Linda Chapa LaVia, allows parking lots that are owned by a religious institution, leased to a municipality for nominal consideration, and pursuant to that lease are used for free public parking, to be exempt from property taxes. Public Act 100-0455

PPV Leases

SB 1598, sponsored by Sen. Terry Link and Rep. Rita Mayfield, extends the method for assessing U.S. Military Public/Private Developments through 2055. Additionally, the bill changes the definition of net operating income to all revenues received minus the actual expenses before interest, taxes, depreciation, and amortization. Public Act 100-0456

Property Tax Liens

SB 1795, sponsored by Sen. Steve Stadelman and Rep. Litesa E. Wallace, extinguishes property tax liens for properties acquired by a local government through a blight reduction or abandoned property program administered by the Illinois Housing Development Authority. Public Act 100-0314

SB 1493, sponsored by Sen. Emil Jones, III and Rep. Justin Slaughter, adds forest preserve districts to a list of local governments that can extinguish unpaid property taxes on land that they acquire through a judicial deed or similar process. Public Act 100-0445

OTHER TAXES

LNG Motor Fuel Tax

HB 2801, sponsored by Rep. Michael J. Zalewski and Sen. Don Harmon, establishes a diesel gallon equivalent for liquified natural gas and propane and a gasoline gallon equivalent for compressed natural gas. Previously, users of these fuels would pay more in motor fuel taxes as the tax is measured by volume and these fuels are not as energy dense as diesel or gasoline. Public Act 100-0009

Hotel Operators' Occupation Tax

SB 587, sponsored by Sen. Tim Bivins and Rep. Peter Breen, creates an exemption for the Hotel Operators' Occupation Tax for religious retreats. To qualify, the organization must have an Exemption Identification Number under the Retailers' Occupation Tax Act, and the leasing of the room must either further the religious purpose of the owner or of the lessee. The bill also clarifies that retreat centers, conference centers, and hunting lodges are covered by the act. Public Act 100-0213

Tax Collection

SB 751, sponsored by Sen. Emil Jones, III and Rep. Juliana Stratton, allows Cook and the collar counties to collect any non-property tax or fee using collection agencies or any other means once the debt is final and non-appealable. The counties can also add the cost of collecting the debt to the amount owed. This is currently done for fines and other amounts due to the counties. Public Act 100-221

Expatriated Entities

HB 3419, sponsored by Rep. Jaime M. Andrade, Jr. and Sen. Michael E. Hastings, prohibits expatriated entities from bidding or entering into a contract with the State, unless they meet one of the exceptions. An expatriated entity means a foreign incorporated entity which is treated as an inverted domestic company by 6 U.S.C. 395(b) or any subsidiary of such entity. Illinois pension systems would be unable to invest in these companies unless they believe that shareholder activism would be more impactful. Public Act 100-0551

Unclaimed Property

HB 1808, sponsored by Rep. Marcus C. Evans Jr. and Sen. Thomas Cullerton, allows the Department of Revenue to share taxpayer information with the State Treasurer in order to help locate apparent owners of unclaimed property. Public Act 100-0047

SB 868, sponsored by Sen. Toi W. Hutchinson and Rep. Michael J. Zalewski, makes some technical improvements to the Revised Uniform Unclaimed Property Act. The bill makes changes related to gift and stored-value cards, filing deadlines, and interest paid by the administrator for interest bearing demand, savings or time deposit. Public Act 100-0566

LOCAL GOVERNMENT CONSOLIDATION

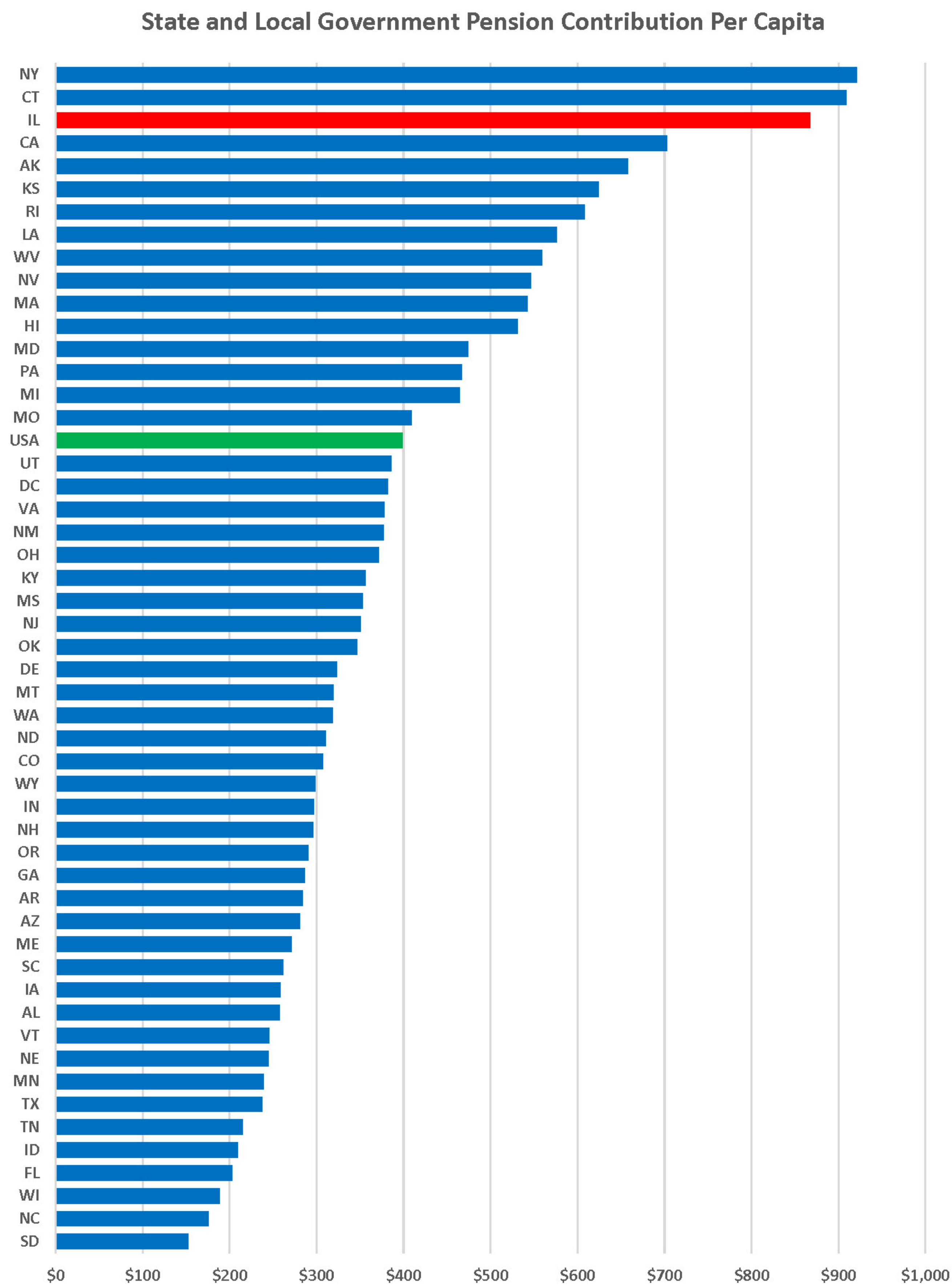
HB 607, sponsored by Rep. Sam Yingling and Sen. Julie A. Morrison, allows a township to submit to voters a referendum that would abolish the road district and transfer the responsibilities of the road district to the township. Public Act 100-0106

SB 3, sponsored by Sen. Thomas Cullerton and Rep. Sam Yingling, allows townships to merge upon approval of a majority of voters in each township. Additionally, it allows a coterminous township to merge into municipality, again, upon approval of the voters. The bill allows for the consolidation of other types of governments and expands DuPage County's pilot Local Government Reduction and Efficiency Division to all counties in the State. Public Act 100-0107

HB 3521, sponsored by Rep. Tim Butler and Sen. William E. Brady, eliminates the offices of the township collectors in Sangamon County beginning in 2022. Public Act 100-0187

CHART OF THE MONTH

This chart shows how much each state contributed to its pension systems per capita for FY2016. It includes actual state and local government pension contributions (opposed to what governments should be contributing) and does not include employee contributions. Illinois contributes $867 per capita whereas the average is $399. In total, taxpayers in Illinois contribute $11.1 billion a year to its pension systems. If Illinois' contributions were at the national average, we would save $5.2 billion a year. This shows that Illinois is clearly an outlier and contributes more than twice the national average. This shouldn't be too surprising to anyone who been paying attention to Illinois' pension problems. But there are some reasons why Illinois would presumably still be higher than average even if our pension systems were adequately funded. For example, teachers in Illinois do not contribute to Social Security, thereby they would be expected to have higher benefits (and higher cost) than states where teachers participate in Social Security. We would also assume that those states would contribute more money to Social Security than Illinois does. That being said, Illinois still contributes a staggering amount to its pension systems each year.



Source: US Census Bureau, 2016 Annual Survey of Public Pensions

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