STATE OF ILLINOIS

OFFICE OF THE AUDITOR GENERAL

ANNUAL REVIEW

INFORMATION SUBMITTED BY THE CHICAGO TRANSIT AUTHORITY'S RETIREE HEALTH CARE TRUST

DECEMBER 2009

WILLIAM G. HOLLAND

AUDITOR GENERAL

SPRINGFIELD OFFICE:
ILES PARK PLAZA
740 EAST ASH • 62703-3154
PHONE: 217/782-6046
FAX: 217/785-8222 • TTY: 888/261-2887

CHICAGO OFFICE:
MICHAEL A. BILANDIC BLDG. • SUITE S-900
160 NORTH LASALLE • 60601-3103
PHONE: 312/814-4000
FAX: 312/814-4006

OFFICE OF THE AUDITOR GENERAL
WILLIAM G. HOLLAND

To the Legislative Audit Commission, the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, the members of the General Assembly, and the Governor:

This is our Annual Review of Information Submitted by the Chicago Transit Authority Retiree Health Care Trust.

The review was conducted pursuant to Public Act 95-708 which amended the Illinois State Auditing Act by adding a requirement for the Auditor General to annually review and report on information submitted by the Board of Trustees of the Chicago Transit Authority Retiree Health Care Trust.

The report for this review is transmitted in conformance with Section 5/22-101B(b)(3)(iv) of the Illinois Pension Code.

WILLIAM G. HOLLAND
Auditor General

Springfield, Illinois
December 2009

REPORT DIGEST

Annual Review

INFORMATION SUBMITTED BY THE CTA RETIREE HEALTH CARE TRUST

Released: December 2009

State of Illinois
Office of the Auditor General

WILLIAM G. HOLLAND
AUDITOR GENERAL

To obtain a copy of the report contact:
Office of the Auditor General
Iles Park Plaza
740 East Ash Street
Springfield, IL 62703
(217) 782-6046
or
TTY: (888) 261-2887

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SYNOPSIS

The Board of Trustees of the Chicago Transit Authority Retiree Health Care Trust (Health Care Trust) is required by the Illinois Pension Code to submit a report to the Office of the Auditor General (OAG). The report is intended to annually assess the funding level of the Health Care Trust.

The Illinois State Auditing Act (Section 5/3-2.3(f)) requires the OAG to examine the information on the funding level of the Health Care Trust submitted pursuant to Section 22-101B(b)(3)(iii) of the Illinois Pension Code.

The OAG is required to review the Health Care Trust's assumptions to ensure they are *not unreasonable in the aggregate*. Our review was limited to the specific conclusions required by the State Auditing Act. This report does not constitute an audit as that term is defined in generally accepted government auditing standards. This is our second year of review.

- The Health Care Trust submitted its Actuarial Report to the Office of the Auditor General on September 30, 2009, as required by the Pension Code.
- The Report concluded that the actuarial present value of projected contributions, trust income, and assets in excess of the statutory reserve, exceeded the actuarial present value of the projected benefits. Consequently, no change in benefits or contributions was required.
- We examined the Health Care Trust's assumptions and did not find them to be unreasonable in the aggregate.
- In its calculation of the statutorily required reserve, the Actuarial Report deducted \$25 million for expected retiree and dependent contributions from the \$62 million of expected claims, for a reserve of \$37 million. The subtraction of expected contributions is not delineated in the Pension Code. If not netted, the actuarial present value of projected income and assets is 99.4 percent of the actuarial present value of projected benefits.

STATUTORY REQUIREMENTS

The Illinois State Auditing Act (Section 5/3-2.3(f)) requires the Auditor General to annually examine the information on the funding level of the Health Care Trust submitted pursuant to the Illinois Pension Code. The Pension Code requires the Health Care Trust to prepare a report that meets the requirements delineated in the inset and submit it to the Auditor General at least 90 days before the end of its fiscal year.

If the Health Care Trust projects a funding shortfall, it **shall** provide a plan to (1) increase contributions, or (2) decrease benefits, or (3) both to cure the shortfall within 10 years. If it projects a surplus, it **may** decrease contributions, increase benefits, or both, to the extent of the surplus.

If the OAG review determines the Health Care Trust's assumptions are *not unreasonable in the aggregate*, the Trust shall implement the plan.

Our review was limited to the specific conclusions required by the State Auditing Act. This report does not constitute an audit as that term is defined in generally accepted government auditing standards. This is our second year of review.

ILLINOIS PENSION CODE REQUIREMENTS
(iii) The Board of Trustees shall make an annual assessment of the funding levels of the Retiree Health Care Trust and shall submit a report to the Auditor General at least 90 days prior to the end of the fiscal year. The report shall provide the following: (A) the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors; (B) the actuarial present value of projected contributions and trust income plus assets; (C) the reserve required by subsection (b)(3)(ii); and (D) an assessment of whether the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors exceeds or is less than the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii). If the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors exceeds the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii), then the report **<u>shall</u>** provide a plan of increases in employee, retiree, dependent, or survivor contribution levels, decreases in benefit levels, or both, which is projected to cure the shortfall over a period of not more than 10 years. If the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors is less than the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii), then the report **<u>may</u>** provide a plan of decreases in employee, retiree, dependent, or survivor contribution levels, increases in benefit levels, or both, to the extent of the surplus. [emphasis added]
Source: 40 ILCS 5/22-101B(b)(3)(iii).

REPORT DETERMINATION

The Health Care Trust submitted its Report to the OAG on September 30, 2009. The Actuarial Report as of January 1, 2009 included information required by the Pension Code.

As shown in Digest Exhibit 1, the Report concluded that the actuarial present value of projected contributions and trust income plus assets in excess of the statutory reserve exceeded the actuarial present value of the projected benefits:

Digest Exhibit 1
RETIREE HEALTH CARE TRUST ANNUAL ASSESSMENT OF ADEQUACY OF TRUST FUNDING

ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS		ACTUARIAL PRESENT VALUE OF PROJECTED INCOME AND ASSETS	
Actuarial present value of projected benefits prior to reduction for retiree contributions	$1,256,295,988	Actuarial present value of projected active contributions and trust income plus assets	$789,983,611
Less: Projected retiree and dependent contributions	($523,595,924)	Less Statutory Reserve[1]	($36,690,856)[1]
Net actuarial present value of projected benefits	$732,700,064	Present value of projected income and assets, net of statutory reserve	$753,292,755
Projected Income and Assets Exceed Projected Benefits by 2.8%			

Note: [1] Statutory Reserve is net of retiree contributions
Source: RHCT Actuarial Report as of January 1, 2009

Projected income and assets exceed projected benefit payments, thus no changes are required to benefits or contributions.

- Net actuarial present value of projected benefits: $732,700,064.
- Actuarial present value of projected contributions, trust income, and assets: $753,292,755 (after $36,690,856 for reserve).
- Projected income and assets **exceeded** projected benefits by 2.8 percent and as such, no reduction in benefits or increase in contributions was necessary. The Pension Code gives the Health Care Trust the option to make changes if projected benefits are lower than income and assets; no changes were proposed.

The Health Care Trust's assumptions in its Actuarial Report were not unreasonable in the aggregate.

With the assistance of our consulting actuary, Aon Consulting, we examined the Health Care Trust's assumptions in its Actuarial Report and did not find them to be unreasonable in the aggregate.

Calculation of the Statutory Reserve

The Pension Code requires the Health Care Trust to establish a statutory reserve (40 ILCS 5/22-101B(b)(3)(ii)). The Trust's Actuarial Report calculated the statutory reserve to be $36.7 million, which was computed by taking the $61.7 million for expected claims and administrative expenses and deducting $25 million for expected retiree and dependent contributions. The netting or subtraction of expected retiree contributions is not delineated in the Pension Code. If it is not netted, the statutory reserve increases from $36.7 million to $61.7 million which results in the actuarial present value of projected income and assets to be 99.4 percent of the actuarial present value of projected benefits.

Our actuarial advisors, Aon Consulting, indicated that it is not unreasonable to subtract contributions from anticipated benefit payments when calculating a reserve, because no benefits could be paid without corresponding contributions being received.

Incurred and Unreported Claims

The Actuarial Report's calculation of the statutory reserve shows $0 for *"incurred and unreported claims"* because the Health Care Trust had not started paying benefits by January 1, 2009. We inquired of Trust officials as to whether there were incurred or unreported claims from 2008, when the retiree health care plan was administered by the Retirement Plan, that would reasonably be expected to become the responsibility of the Health Care Trust in 2009. The Health Care Trust's actuary said they *"had no information as to whether any incurred and unreported claims from 2008 may or may not become the responsibility of the RHCT in 2009. Therefore, the valuation included only the costs associated with the plan of benefits adopted by the RHCT."*

When asked whether the Health Care Trust has paid claims incurred but not reported in 2008, the Health Care Trust's Executive Director (who also serves as the Executive Director of the CTA Retirement Plan) responded that he could not verify whether any portion of such claims were paid by the Retiree Health Care Trust.

Limitation on Retiree Contributions

The Pension Code (40 ILCS 5/22-101B(b)(5)) requires that the *"aggregate amount of retiree, dependent and survivor contributions to the cost of their health care benefits shall not exceed more than 45% of the total cost of such benefits."* The Pension Code goes on to define *"total cost of such benefits"* as the *"total amount expended by the retiree health benefit program in the prior plan year, as calculated and certified in writing by the Retiree Health Care Trust's enrolled actuary . . ."* [emphasis added].

The Health Care Trust's actuary did not address compliance with the requirements in Section 22-101B(b)(5). The Health Care Trust's actuary said the limitation on contributions is effective January 1, 2009; therefore, the actuary's understanding is that the first certification will compare contributions for 2009 to gross retiree health benefit costs and expenses for 2008. The comparison and certification will be completed in 2010 when the 2009 figures become available.

WILLIAM G. HOLLAND
Auditor General

WGH:AD
December 2009

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CTA Retiree Health Care Trust

The Board of Trustees of the Chicago Transit Authority Retiree Health Care Trust (Health Care Trust) is required by the Illinois Pension Code to submit a report to the Office of the Auditor General (OAG) each year. The report is intended to annually assess the funding level of the Health Care Trust.

STATUTORY REQUIREMENTS

The Illinois State Auditing Act (Section 5/3-2.3(f)) requires the Auditor General to annually examine the information on the funding level of the Health Care Trust submitted pursuant to Section 22-101B(b)(3)(iii) of the Illinois Pension Code. The Pension Code requires the Health Care Trust to prepare a report that meets the requirements delineated in the Code (see inset) and to submit it to the Auditor General at least 90 days prior to the end of its fiscal year.

The Pension Code (Section 22-101B(b)(3)(iv)) provides the OAG 90 days to review the information submitted by the Health Care Trust. If the Health Care Trust projects a funding shortfall, it **shall** provide a plan to (1) increase contributions by employees, retirees, dependents, or survivors, or (2) decrease benefits, or (3) both to cure the shortfall within 10 years. If the Health Care Trust projects a surplus, it **may** decrease contributions, increase benefits, or both, to the extent of the surplus.

If the OAG review determines the Health Care Trust's assumptions are *not unreasonable in the aggregate*, the Trust shall implement the plan. Otherwise, the OAG shall explain the basis for its determination to the Health Care Trust and may recommend an alternative plan.

ILLINOIS PENSION CODE REQUIREMENTS
(iii) The Board of Trustees shall make an annual assessment of the funding levels of the Retiree Health Care Trust and shall submit a report to the Auditor General at least 90 days prior to the end of the fiscal year. The report shall provide the following: (A) the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors; (B) the actuarial present value of projected contributions and trust income plus assets; (C) the reserve required by subsection (b)(3)(ii); and (D) an assessment of whether the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors exceeds or is less than the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii).
Source: 40 ILCS 5/22-101B(b)(3)(iii).

REPORT DETERMINATION

ILLINOIS PENSION CODE
If the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors exceeds the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii), then the report **shall** provide a plan of increases in employee, retiree, dependent, or survivor contribution levels, decreases in benefit levels, or both, which is projected to cure the shortfall over a period of not more than 10 years. If the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors is less than the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii), then the report **may** provide a plan of decreases in employee, retiree, dependent, or survivor contribution levels, increases in benefit levels, or both, to the extent of the surplus. [emphasis added]
Source: 40 ILCS 5/22-101B(b)(3)(iii).

The Board of Trustees of the Chicago Transit Authority Retiree Health Care Trust submitted its Report to the Office of the Auditor General on September 30, 2009. The Actuarial Report as of January 1, 2009 included information required by the Pension Code. As shown in Exhibit 1, the Report concluded that the actuarial present value of **projected contributions** and trust income plus assets in excess of the statutory reserve **exceeded** the actuarial present value of the **projected benefits**:

- The net actuarial present value of projected benefits was $732,700,064.
- The actuarial present value of projected active contributions, trust income, and assets was $753,292,755 (after subtracting $36,690,856 for the required statutory reserve).
- Consequently, projected income and assets exceeded projected benefits by 2.8 percent, and as such, no reduction in benefits or increase in contributions was necessary. The Pension Code gives the Health Care Trust the option to make changes if projected benefits are lower than the projected contributions and assets; no changes were proposed this year.

<table>
<tr><th colspan="4">Exhibit 1
RETIREE HEALTH CARE TRUST ANNUAL ASSESSMENT
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Source: RHCT Actuarial Report as of January 1, 2009</td></tr>
</table>

Calculation of the Statutory Reserve

The Pension Code requires the Retiree Health Care Trust to establish *"an appropriate funding reserve level which* ***shall not be less than the amount of incurred and unreported claims plus 12 months of expected claims and administrative expenses****"* (40 ILCS 5/22-101B(b)(3)(ii)) [emphasis added]. The Actuarial Report submitted by the Trust contains a calculation of the statutory reserve. While the calculation includes $61.7 million for *"12 months of expected claims and administrative expenses,"* it subtracts $24.98 million from the $61.7 million for *"12 months of expected retiree and dependent contributions."* The netting or subtraction of expected contributions from the expected claims and administrative expenses is not specifically delineated in the Pension Code.

The statutory reserve is one of the figures used in the annual assessment of the Trust funding level required by Section 22-101B(b)(3)(iii) of the Pension Code. A change in the statutory reserve figure therefore impacts the calculation as to whether the Trust is adequately funded. As shown in Exhibit 1, when the statutory reserve is calculated by netting expected retiree contributions from expected claims (benefit payments), the actuarial present value of projected income and assets exceeds the actuarial present value of projected benefits by 2.8 percent. However, the statutory reserve increases from $36.7 million to $61.7 million when expected claims are not reduced by expected retiree contributions, which results in the actuarial present value of projected income and assets to be 99.4 percent of the actuarial present value of projected benefits.

We inquired of Trust officials as to why the statutory reserve was calculated by netting out expected retiree contributions. The Trust's actuary responded that they interpreted *"12 months of expected claims and administrative expenses"* to mean 12 months of net expenses. They noted that their understanding is that "contributions" mean active contributions and "benefits" or "claims" to be net of retiree and dependent self-pay contributions. The actuary stated they used this interpretation for the initial January 1, 2008 actuarial valuation under Section 3-2.3(a)(7) of the Auditing Act as well as the current January 1, 2009 actuarial valuation under Section 22-101B(b)(3) of the Pension Code. Our actuarial advisors, Aon Consulting, indicated that it is not unreasonable to subtract out the contributions from the anticipated benefit payments when calculating a reserve, because no benefits could be paid without corresponding contributions being received.

Incurred and Unreported Claims

The Actuarial Report's calculation of the statutory reserve also has $0 for *"incurred and unreported claims."* The Report notes that the amount of incurred and unreported claims is $0 because the Trust had not yet started paying benefits as of January 1, 2009. We inquired of Trust officials as to whether there were incurred or unreported claims from 2008, when the retiree health care plan was administered by the Retirement Plan, that would reasonably be expected to become the responsibility of the Health Care Trust in 2009. The Trust's actuary responded that they *"had no information as to whether any incurred and unreported claims from 2008 may or may not become the responsibility of the RHCT in 2009. Therefore, the valuation included only the costs associated with the plan of benefits adopted by the RHCT."*

We followed up with Trust officials on whether the Trust paid for claims incurred but not reported (IBNR) in 2008. The Trust's Executive Director (who also serves as the Executive Director of the CTA Retirement Plan) responded that he did not know the amount of the incurred but not reported claims of the Retirement Plan as of December 31, 2008. He noted that the Retirement Plan did pay claims during the early part of 2009, but was not certain whether the amount paid by the Retirement Plan was more or less than the IBNR amount as of December 31, 2008. Therefore, he could not verify whether any portion of such IBNR claims were paid by the Retiree Health Care Trust. He stated that an IBNR reserve account for the Retiree Health Care Trust was not set up at the beginning of 2009 for 2008 claims, as the Trust did not anticipate paying 2008 claims from such an account.

The Retirement Plan utilized a 401(h) account to pay health care claims. For 2009, the 401(h) account was funded with approximately $9.5 million. The Trust's Executive Director stated the $9.5 million set aside in the Retirement Plan's 401(h) account was used to pay claims beginning January 1, 2009 through roughly the third week in February, 2009. After the 3rd week in February, the assets of the Retiree Health Care Trust were used to pay claims. The Retiree Health Care Trust's new contribution rates and benefits programs became effective July 1, 2009.

Actuarial Assumptions

With the assistance of our consulting actuary, Aon Consulting, we examined the Retiree Health Care Trust's assumptions as disclosed in the Actuarial Report. Overall, we find these assumptions are not unreasonable in the aggregate. However, while not unreasonable in the aggregate, we did have the following observations:

- The net investment return assumption is seven percent. Based on a review of the Trust's investment policy, the seven percent return assumption is not unreasonable in the aggregate.
- The five percent Salary Scale is consistent with the assumed rate from the Retirement Plan for those with more than five years of experience. The Retiree Health Care Trust's actuary may wish to use assumptions that are completely consistent with those of the Retirement Plan.
- The post-retirement mortality rates follow the 1994 Group Annuity Mortality Table, which while reasonable, could be updated with a more current table, such as the one used by the Retirement Plan and based on recent plan experience.
- The PPO medical cost curve undergoes a 90 percent decrease from age 64 to 65, which is much greater than the expected 70 percent to 75 percent decrease due to Medicare. Upon consultation with the Trust's actuary and further clarification of the Medicare coordination provisions of the plan, we found that this assumption is not unreasonable in the aggregate.
- The nine percent combined Medical and RX trend rates for 2009 are about two percent below the national averages, but still within reason.
- The Actuarial Report included an assumption that the Retiree Health Care Trust would begin paying retiree health care benefits on July 1, 2009. As is discussed later in this report, the Trust actually began paying claims prior to July 1, 2009. A reconciliation between the Retirement Plan (which was previously responsible for paying health care claims) and the Trust will be included in their financial statements as of the end of 2009. Consequently, the actuarial valuation for January 1, 2010 will reflect the actual amounts paid and will be considered in next year's report.

Other Issues

In our review of the Actuarial Report submitted to the Trust, we identified other matters of note.

Limitation on Retiree Contributions

The Pension Code (40 ILCS 5/22-101B(b)(5)) requires that the *"aggregate amount of retiree, dependent and survivor contributions to the cost of their health care benefits shall not exceed more than 45% of the total cost of such benefits."* The Pension Code goes on to define *"total cost of such benefits"* as the *"total amount expended by the retiree health benefit program in the prior plan year, as calculated and certified in writing by the Retiree Health Care Trust's enrolled actuary . . . ."*

The Actuarial Report submitted by the Trust to the Auditor General did not contain an explicit calculation to show that the Trust was complying with this requirement. Furthermore, while the Actuarial Report contained a certification from the actuary, it addressed compliance with the requirements found in Section 22-101B(b)(3)(iii) of the Code, and not in Section 22-101B(b)(5) which contains the 45 percent certification requirement.

We asked Trust officials whether the Actuarial Valuation contained the calculation and certification required by the Pension Code. The Trust's actuary responded that the 45 percent limitation on retiree/dependent/survivor self-pay contributions is effective January 1, 2009. Therefore, it is the actuary's understanding that the first certification will compare total retiree, dependent, and survivor self-pay contributions for calendar year 2009 to gross retiree health benefit costs and expenses (paid through the Retirement Plan) for calendar year 2008. Since 2009 isn't over yet, the comparison has not yet been made nor certified, and these figures do not appear in the January 1, 2009 Actuarial Valuation. The comparison and certification will be competed in 2010 once the 2009 figures become available.

Limitation of 90 Percent Coverage for In-Network Services

Section 22-101B(b)(2) of the Pension Code states that any plan offered by the Trust shall not provide for more than 90 percent coverage for in-network services. The Plan offers an HMO. The Plan's 2009 Enrollment Guide shows that the HMO covers 100 percent of costs after co-pay. We inquired of the Trust as to whether they interpreted this provision to apply only to PPOs, or also include HMOs. The Trust's actuary responded that the Trust believes that the *"90% in network/70% out-of-network"* provision of Section 22-101B(b)(2) is intended to apply to PPO options only, and does not apply to HMO coverage. In this regard, a bill which would clarify the statutory language is pending before the Illinois legislature (House Bill 2449). The Trust's actuary also noted that the HMO options generally cost less than the PPO option and, therefore, it would be contrary to a fundamental purpose of the statute to eliminate the HMO options.

SCOPE OF ANNUAL REVIEW

The Office of the Auditor General conducted an annual review of information submitted by the Board of Trustees of the Chicago Transit Authority Retiree Health Care Trust pursuant to the Illinois State Auditing Act and the Illinois Pension Code. We will be conducting this review annually as required by the Illinois State Auditing Act (30 ILCS 5/3-2.3(f)): *"(f) The Auditor General shall annually examine the information submitted pursuant to Section 22-101B(b)(3)(iii) of the Illinois Pension Code and shall prepare the determination specified in Section 22-101B(b)(3)(iv) of the Illinois Pension Code."*

This report does not constitute an audit as that term is defined in generally accepted government auditing standards. The OAG's review, the scope of which is established by the Pension Code, focused on whether the actuarial assumptions used in the Retiree Health Care Trust's report were not unreasonable in the aggregate. The OAG performed the review with assistance from our consultants, Aon Consulting actuaries. Aon's review of the Health Care Trust's Actuarial Report concluded that:

- The Board of Trustees of the Retiree Health Care Trust has made an assessment of the funding levels of the Retiree Health Care Trust which concludes that the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and their survivors is less than the actuarial present value of projected contributions and Trust income plus assets in excess of the reserve required by Section 22-101B(b)(3)(ii) of the Illinois Pension Code, and

- The assumptions stated in the Actuarial Report submitted pursuant to Section 22-101B(b)(3)(iii) of the Pension Code are not unreasonable in the aggregate.

In addition to reviewing the actuarial assumptions used in the Actuarial Report, we also selected certain statutory requirements to review. Matters arising from that review are discussed in this report.

The Retiree Health Care Trust was provided a draft of this report to review.

APPENDIX A
Statutory Authority

ILLINOIS STATE AUDITING ACT

30 ILCS 5/3-2.3

(f) The Auditor General shall annually examine the information submitted pursuant to Section 22-101B(b)(3)(iii) of the Illinois Pension Code and shall prepare the determination specified in Section 22-101B(b)(3)(iv) of the Illinois Pension Code.

(g) In fulfilling the duties under Sections 3-2.3(e) and (f) the Auditor General may request additional information and support pertaining to the data and conclusions contained in the submitted documents and the Authority, the Board of Trustees of the Retirement Plan and the Board of Trustees of the Retiree Health Care Trust shall cooperate with the Auditor General and provide additional information as requested in a timely manner. The Auditor General's review shall not be in the nature of a post-audit or examination and shall not lead to the issuance of an opinion as that term is defined in generally accepted government auditing standards. Upon request of the Auditor General, the Commission on Government Forecasting and Accountability and the Public Pension Division of the Illinois Department of Financial and Professional Regulation shall cooperate with and assist the Auditor General in the conduct of his review.

(h) The Auditor General shall submit a bill to the Authority for costs associated with the examinations and reports specified in subsections (b) and (c) of this Section 3-2.3, which the Authority shall reimburse in a timely manner. The costs associated with the examinations and reports which are reimbursed by the Authority shall constitute a cost of issuance of the bonds or notes under Section 12c(b)(1) and (2) of the Metropolitan Transit Authority Act. The amount received shall be deposited into the fund or funds from which such costs were paid by the Auditor General. The Auditor General shall submit a bill to the Retirement Plan for Chicago Transit Authority Employees for costs associated with the examinations and reports specified in subsection (e) of this Section, which the Retirement Plan for Chicago Transit Authority Employees shall reimburse in a timely manner. The amount received shall be deposited into the fund or funds from which such costs were paid by the Auditor General. The Auditor General shall submit a bill to the Retiree Health Care Trust for costs associated with the determination specified in subsection (f) of this Section, which the Retiree Health Care Trust shall reimburse in a timely manner. The amount received shall be deposited into the fund or funds from which such costs were paid by the Auditor General. (Source: P.A. 95-708, eff. 1-18-08.)

ILLINOIS PENSION CODE

40 ILCS 5/22-101B

(a) The Chicago Transit Authority (hereinafter referred to in this Section as the "Authority") shall take all actions lawfully available to it to separate the funding of health care benefits for retirees and their dependents and survivors from the funding for its retirement system. The Authority shall endeavor to achieve this separation as soon as possible, and in any event no later than July 1, 2009.

(b) Effective 90 days after the effective date of this amendatory Act of the 95th General Assembly, a Retiree Health Care Trust is established for the purpose of providing health care benefits to eligible retirees and their dependents and survivors in accordance with the terms and conditions set forth in this Section 22-101B. The Retiree Health Care Trust shall be solely responsible for providing health care benefits to eligible retirees and their dependents and survivors by no later than July 1, 2009, but no earlier than January 1, 2009.

(1) The Board of Trustees shall consist of 7 members appointed as follows:
(i) 3 trustees shall be appointed by the Chicago Transit Board;
(ii) one trustee shall be appointed by an organization representing the highest number of Chicago Transit Authority participants;
(iii) one trustee shall be appointed by an organization representing the second-highest number of Chicago Transit Authority participants;
(iv) one trustee shall be appointed by the recognized coalition representatives of participants who are not represented by an organization with the highest or second-highest number of Chicago Transit Authority participants; and
(v) one trustee shall be selected by the Regional Transportation Authority Board of Directors, and the trustee shall be a professional fiduciary who has experience in the area of collectively bargained retiree health plans. Trustees shall serve until a successor has been appointed and qualified, or until resignation, death, incapacity, or disqualification.

Any person appointed as a trustee of the board shall qualify by taking an oath of office that he or she will diligently and honestly administer the affairs of the system, and will not knowingly violate or willfully permit the violation of any of the provisions of law applicable to the Plan, including Sections 1-109, 1-109.1, 1-109.2, 1-110, 1-111, 1-114, and 1-115 of Article 1 of the Illinois Pension Code.

Each trustee shall cast individual votes, and a majority vote shall be final and binding upon all interested parties, provided that the Board of Trustees may require a supermajority vote with respect to the investment of the assets of the Retiree Health Care Trust, and may set forth that requirement in the trust agreement or by-laws of the Board of Trustees. Each trustee shall have the rights, privileges, authority and obligations as are usual and customary for such fiduciaries.

(2) The Board of Trustees shall establish and administer a health care benefit program for eligible retirees and their dependents and survivors. The health care benefit program for eligible retirees and their dependents and survivors shall not contain any plan which provides for more than 90% coverage for in-network services or 70% coverage for out-of-network services after any deductible has been paid.

(3) The Retiree Health Care Trust shall be administered by the Board of Trustees according to the following requirements:

(i) The Board of Trustees may cause amounts on deposit in the Retiree Health Care Trust to be invested in those investments that are permitted investments for the investment of moneys held under any one or more of the pension or retirement systems of the State, any unit of local government or school district, or any agency or instrumentality thereof. The Board, by a vote of at least two-thirds of the trustees, may transfer investment management to the Illinois State Board of Investment, which is hereby authorized to manage these investments when so requested by the Board of Trustees.

(ii) The Board of Trustees shall establish and maintain an appropriate funding reserve level which shall not be less than the amount of incurred and unreported claims plus 12 months of expected claims and administrative expenses.

(iii) The Board of Trustees shall make an annual assessment of the funding levels of the Retiree Health Care Trust and shall submit a report to the Auditor General at least 90 days prior to the end of the fiscal year. The report shall provide the following:

(A) the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors;

(B) the actuarial present value of projected contributions and trust income plus assets;

(C) the reserve required by subsection (b)(3)(ii); and

(D) an assessment of whether the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors exceeds or is less than the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii).

If the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors exceeds the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii), then the report shall provide a plan of increases in employee, retiree, dependent, or survivor contribution levels, decreases in benefit levels, or both, which is projected to cure the shortfall over a period of not more than 10 years. If the actuarial present value of projected benefits expected to be paid to current and future retirees and their dependents and survivors is less than the actuarial present value of projected contributions and trust income plus assets in excess of the reserve required by subsection (b)(3)(ii), then the report may provide a plan of decreases in employee, retiree, dependent, or survivor contribution levels, increases in benefit levels, or both, to the extent of the surplus.

(iv) The Auditor General shall review the report and plan provided in subsection (b)(3)(iii) and issue a determination within 90 days after receiving the report and plan, with a copy of such determination provided to the General Assembly and the Regional Transportation Authority, as follows:

(A) In the event of a projected shortfall, if the Auditor General determines that the assumptions stated in the report are not unreasonable in the aggregate and that the plan of increases in employee, retiree, dependent, or survivor contribution levels, decreases in benefit levels, or both, is reasonably projected to cure the shortfall over a period of not more than 10 years, then the Board of Trustees shall implement the plan. If the Auditor General determines that the assumptions stated in the report are unreasonable in the aggregate, or that the plan of increases in employee, retiree, dependent, or survivor contribution levels, decreases in benefit levels, or both, is not reasonably projected to cure the shortfall over a period of not more than 10 years, then the Board of Trustees shall not implement the plan, the Auditor General shall explain the basis for such determination to the Board of Trustees, and the Auditor General may make recommendations as to an alternative report and plan.

(B) In the event of a projected surplus, if the Auditor General determines that the assumptions stated in the report are not unreasonable in the aggregate and that the plan of decreases in employee, retiree, dependent, or survivor contribution levels, increases in benefit levels, or both, is not unreasonable in the aggregate, then the Board of Trustees shall implement the plan. If the Auditor General determines that the assumptions stated in the report are unreasonable in the aggregate, or that the plan of decreases in employee, retiree, dependent, or survivor contribution levels, increases in benefit levels, or both, is unreasonable in the aggregate, then the Board of Trustees shall not implement the plan, the Auditor General shall explain the basis for such determination to the Board of Trustees, and the Auditor General may make recommendations as to an alternative report and plan.

(C) The Board of Trustees shall submit an alternative report and plan within 45 days after receiving a rejection determination by the Auditor General. A determination by the Auditor General on any alternative report and plan submitted by the Board of Trustees shall be made within 90 days after receiving the alternative report and plan, and shall be accepted or rejected according to the requirements of this subsection (b)(3)(iv). The Board of Trustees shall continue to submit alternative reports and plans to the Auditor General, as necessary, until a favorable determination is made by the Auditor General.

(4) For any retiree who first retires effective on or after January 18, 2008, to be eligible for retiree health care benefits upon retirement, the retiree must be at least 55 years of age, retire with 10 or more years of continuous service and satisfy the preconditions established by Public Act 95-708 in addition to any rules or regulations promulgated by the Board of Trustees. Notwithstanding the foregoing, any retiree who retired prior to the effective date of this amendatory Act with 25 years or more of continuous service, or who retires within 90 days after the effective date of this amendatory Act or by January 1, 2009, whichever is later, with 25 years or more of continuous service, shall be eligible for retiree health care benefits upon retirement. This paragraph (4) shall not apply to a disability allowance.

(5) Effective January 1, 2009, the aggregate amount of retiree, dependent and survivor contributions to the cost of their health care benefits shall not exceed more than 45% of the total cost of such benefits. The Board of Trustees shall have the discretion to provide different contribution levels for retirees, dependents and survivors based on their years of service, level of coverage or Medicare eligibility, provided that the total contribution from all retirees, dependents, and survivors shall be not more than 45% of the total cost of such benefits. The term "total cost of such benefits" for purposes of this subsection shall be the total amount expended by the retiree health benefit program in the prior plan year, as calculated and certified in writing by the Retiree Health Care Trust's enrolled actuary to be appointed and paid for by the Board of Trustees.

(6) Effective January 18, 2008, all employees of the Authority shall contribute to the Retiree Health Care Trust in an amount not less than 3% of compensation.

(7) No earlier than January 1, 2009 and no later than July 1, 2009 as the Retiree Health Care Trust becomes solely responsible for providing health care benefits to eligible retirees and their dependents and survivors in accordance with subsection (b) of this Section 22-101B, the Authority shall not have any obligation to provide health care to current or future retirees and their dependents or survivors. Employees, retirees, dependents, and survivors who are required to make contributions to the Retiree Health Care Trust shall make contributions at the level set by the Board of Trustees pursuant to the requirements of this Section 22-101B.

(Source: P.A. 95-708, eff. 1-18-08; 95-906, eff. 8-26-08.)