



Rep. Michael J. Zalewski

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LRB100 18739 RPS 40014 a

1 AMENDMENT TO SENATE BILL 3119

2 AMENDMENT NO. _____. Amend Senate Bill 3119 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 4-112, 7-109, and 7-109.3 as follows:

6 (40 ILCS 5/4-112) (from Ch. 108 1/2, par. 4-112)

7 Sec. 4-112. Determination of disability; restoration to
8 active service; disability cannot constitute cause for
9 discharge. A disability pension shall not be paid until
10 disability has been established by the board by examinations of
11 the firefighter at pension fund expense by 3 physicians
12 selected by the board and such other evidence as the board
13 deems necessary. The 3 physicians selected by the board need
14 not agree as to the existence of any disability or the nature
15 and extent of a disability. Medical examination of a
16 firefighter receiving a disability pension shall be made at

1 least once each year prior to attainment of age 50 in order to
2 verify continuance of disability, except that a medical
3 examination of a firefighter receiving a disability pension for
4 post-traumatic stress disorder (PTSD) related to his or her
5 service as a firefighter shall not be made if: (1) the
6 firefighter has provided to the board documentation approving
7 the discontinuance of the medical examination from at least 2
8 physicians; and (2) at least 4 members of the board have voted
9 in the affirmative to allow the firefighter to discontinue the
10 medical examination. No examination shall be required after age
11 50. No physical or mental disability that constitutes, in whole
12 or in part, the basis of an application for benefits under this
13 Article may be used, in whole or in part, by any municipality
14 or fire protection district employing firefighters, emergency
15 medical technicians, or paramedics as cause for discharge.

16 Upon satisfactory proof to the board that a firefighter on
17 the disability pension has recovered from disability, the board
18 shall terminate the disability pension. The firefighter shall
19 report to the marshal or chief of the fire department, who
20 shall thereupon order immediate reinstatement into active
21 service, and the municipality shall immediately return the
22 firefighter to its payroll, in the same rank or grade held at
23 the date he or she was placed on disability pension. If the
24 firefighter must file a civil action against the municipality
25 to enforce his or her mandated return to payroll under this
26 paragraph, then the firefighter is entitled to recovery of

1 reasonable court costs and attorney's fees.

2 The firefighter shall be entitled to 10 days notice before
3 any hearing or meeting of the board at which the question of
4 his or her disability is to be considered, and shall have the
5 right to be present at any such hearing or meeting, and to be
6 represented by counsel; however, the board shall not have any
7 obligation to provide such fireman with counsel.

8 (Source: P.A. 95-681, eff. 10-11-07.)

9 (40 ILCS 5/7-109) (from Ch. 108 1/2, par. 7-109)

10 Sec. 7-109. Employee.

11 (1) "Employee" means any person who:

12 (a) 1. Receives earnings as payment for the performance
13 of personal services or official duties out of the general
14 fund of a municipality, or out of any special fund or funds
15 controlled by a municipality, or by an instrumentality
16 thereof, or a participating instrumentality, including, in
17 counties, the fees or earnings of any county fee office;
18 and

19 2. Under the usual common law rules applicable in
20 determining the employer-employee relationship, has the
21 status of an employee with a municipality, or any
22 instrumentality thereof, or a participating
23 instrumentality, including aldermen, county supervisors
24 and other persons (excepting those employed as independent
25 contractors) who are paid compensation, fees, allowances

1 or other emolument for official duties, and, in counties,
2 the several county fee offices.

3 (b) Serves as a township treasurer appointed under the
4 School Code, as heretofore or hereafter amended, and who
5 receives for such services regular compensation as
6 distinguished from per diem compensation, and any regular
7 employee in the office of any township treasurer whether or
8 not his earnings are paid from the income of the permanent
9 township fund or from funds subject to distribution to the
10 several school districts and parts of school districts as
11 provided in the School Code, or from both such sources; or
12 is the chief executive officer, chief educational officer,
13 chief fiscal officer, or other employee of a Financial
14 Oversight Panel established pursuant to Article 1H of the
15 School Code, other than a superintendent or certified
16 school business official, except that such person shall not
17 be treated as an employee under this Section if that person
18 has negotiated with the Financial Oversight Panel, in
19 conjunction with the school district, a contractual
20 agreement for exclusion from this Section.

21 (c) Holds an elective office in a municipality,
22 instrumentality thereof or participating instrumentality.

23 (2) "Employee" does not include persons who:

24 (a) Are eligible for inclusion under any of the
25 following laws:

26 1. "An Act in relation to an Illinois State

1 Teachers' Pension and Retirement Fund", approved May
2 27, 1915, as amended;

3 2. Articles 15 and 16 of this Code.

4 However, such persons shall be included as employees to
5 the extent of earnings that are not eligible for inclusion
6 under the foregoing laws for services not of an
7 instructional nature of any kind.

8 However, any member of the armed forces who is employed
9 as a teacher of subjects in the Reserve Officers Training
10 Corps of any school and who is not certified under the law
11 governing the certification of teachers shall be included
12 as an employee.

13 (b) Are designated by the governing body of a
14 municipality in which a pension fund is required by law to
15 be established for policemen or firemen, respectively, as
16 performing police or fire protection duties, except that
17 when such persons are the heads of the police or fire
18 department and are not eligible to be included within any
19 such pension fund, they shall be included within this
20 Article; provided, that such persons shall not be excluded
21 to the extent of concurrent service and earnings not
22 designated as being for police or fire protection duties.
23 However, (i) any head of a police department who was a
24 participant under this Article immediately before October
25 1, 1977 and did not elect, under Section 3-109 of this Act,
26 to participate in a police pension fund shall be an

1 "employee", and (ii) any chief of police who became a
2 participating employee under this Article before January
3 1, 2019 and who elects to participate in this Fund under
4 Section 3-109.1 of this Code, regardless of whether such
5 person continues to be employed as chief of police or is
6 employed in some other rank or capacity within the police
7 department, shall be an employee under this Article for so
8 long as such person is employed to perform police duties by
9 a participating municipality and has not lawfully
10 rescinded that election.

11 (b-5) Were not participating employees under this
12 Article before the effective date of this amendatory Act of
13 the 100th General Assembly and participated as a chief of
14 police in a fund under Article 3 and return to work in any
15 capacity with the police department, with any oversight of
16 the police department, or in an advisory capacity for the
17 police department with the same municipality with which
18 that pension was earned, regardless of whether they are
19 considered an employee of the police department or are
20 eligible for inclusion in the municipality's Article 3
21 fund.

22 (c) Are contributors to or eligible to contribute to a
23 Taft-Hartley pension plan to which the participating
24 municipality is required to contribute as the person's
25 employer based on earnings from the municipality. Nothing
26 in this paragraph shall affect service credit or creditable

1 service for any period of service prior to the effective
2 date of this amendatory Act of the 98th General Assembly,
3 and this paragraph shall not apply to individuals who are
4 participating in the Fund prior to the effective date of
5 this amendatory Act of the 98th General Assembly.

6 (d) Become an employee of any of the following
7 participating instrumentalities on or after the effective
8 date of this amendatory Act of the 99th General Assembly:
9 the Illinois Municipal League; the Illinois Association of
10 Park Districts; the Illinois Supervisors, County
11 Commissioners and Superintendents of Highways Association;
12 an association, or not-for-profit corporation, membership
13 in which is authorized under Section 85-15 of the Township
14 Code; the United Counties Council; or the Will County
15 Governmental League.

16 (3) All persons, including, without limitation, public
17 defenders and probation officers, who receive earnings from
18 general or special funds of a county for performance of
19 personal services or official duties within the territorial
20 limits of the county, are employees of the county (unless
21 excluded by subsection (2) of this Section) notwithstanding
22 that they may be appointed by and are subject to the direction
23 of a person or persons other than a county board or a county
24 officer. It is hereby established that an employer-employee
25 relationship under the usual common law rules exists between
26 such employees and the county paying their salaries by reason

1 of the fact that the county boards fix their rates of
2 compensation, appropriate funds for payment of their earnings
3 and otherwise exercise control over them. This finding and this
4 amendatory Act shall apply to all such employees from the date
5 of appointment whether such date is prior to or after the
6 effective date of this amendatory Act and is intended to
7 clarify existing law pertaining to their status as
8 participating employees in the Fund.

9 (Source: P.A. 99-830, eff. 1-1-17; 100-281, eff. 8-24-17.)

10 (40 ILCS 5/7-109.3) (from Ch. 108 1/2, par. 7-109.3)

11 Sec. 7-109.3. "Sheriff's Law Enforcement Employees".

12 (a) "Sheriff's law enforcement employee" or "SLEP" means:

13 (1) A county sheriff and all deputies, other than
14 special deputies, employed on a full time basis in the
15 office of the sheriff.

16 (2) A person who has elected to participate in this
17 Fund under Section 3-109.1 of this Code, and who is
18 employed by a participating municipality to perform police
19 duties.

20 (3) A law enforcement officer employed on a full time
21 basis by a Forest Preserve District, provided that such
22 officer shall be deemed a "sheriff's law enforcement
23 employee" for the purposes of this Article, and service in
24 that capacity shall be deemed to be service as a sheriff's
25 law enforcement employee, only if the board of

1 commissioners of the District have so elected by adoption
2 of an affirmative resolution. Such election, once made, may
3 not be rescinded.

4 (4) A person not eligible to participate in a fund
5 established under Article 3 of this Code who is employed on
6 a full-time basis by a participating municipality or
7 participating instrumentality to perform police duties at
8 an airport, but only if the governing authority of the
9 employer has approved sheriff's law enforcement employee
10 status for its airport police employees by adoption of an
11 affirmative resolution. Such approval, once given, may not
12 be rescinded.

13 (5) A person first hired on or after January 1, 2011
14 who (i) is employed by a participating municipality that
15 has both 30 or more full-time police officers and 50 or
16 more full-time firefighters and has not established a fund
17 under Article 3 or Article 4 of this Code and (ii) is
18 employed on a full-time basis by that participating
19 municipality to perform police duties or firefighting and
20 EMS duties; but only if the governing authority of that
21 municipality has approved sheriff's law enforcement
22 employee status for its police officer or firefighter
23 employees by adoption of an affirmative resolution. The
24 resolution must specify that SLEP status shall be
25 applicable to such employment occurring on or after the
26 adoption of the resolution. Such resolution shall be

1 irrevocable, but shall automatically terminate upon the
2 establishment of an Article 3 or 4 fund by the
3 municipality.

4 (b) An employee who is a sheriff's law enforcement employee
5 and is granted military leave or authorized leave of absence
6 shall receive service credit in that capacity. Sheriff's law
7 enforcement employees shall not be entitled to out-of-State
8 service credit under Section 7-139.

9 (Source: P.A. 100-354, eff. 8-25-17.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."