



Rep. Michael J. Madigan

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1 AMENDMENT TO SENATE BILL 958

2 AMENDMENT NO. _____. Amend Senate Bill 958 by replacing
3 the title with the following:

4 "AN ACT concerning public employee benefits."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Illinois Pension Code is amended by
8 changing Sections 4-109.3, 4-110, 4-110.1, 4-111, and 4-114 as
9 follows:

10 (40 ILCS 5/4-109.3)

11 Sec. 4-109.3. Employee creditable service.

12 (a) As used in this Section:

13 "Final monthly salary" means the monthly salary attached to
14 the rank held by the firefighter at the time of his or her last
15 withdrawal from service under a particular pension fund.

16 "Last pension fund" means the pension fund in which the
17 firefighter was participating at the time of his or her last
18 withdrawal from service.

19 (b) The benefits provided under this Section are available
20 only to a firefighter who:

21 (1) is a firefighter at the time of withdrawal from the
22 last pension fund and for at least the final 3 years of
23 employment prior to that withdrawal;

1 (2) has established service credit with at least one
2 pension fund established under this Article other than the
3 last pension fund;

4 (3) has a total of at least 20 years of service under
5 the various pension funds established under this Article
6 and has attained age 50; and

7 (4) is in service on or after the effective date of
8 this amendatory Act of the 93rd General Assembly.

9 (c) A firefighter who is eligible for benefits under this
10 Section may elect to receive a retirement pension from each
11 pension fund under this Article in which the firefighter has at
12 least one year of service credit but has not received a refund
13 under Section 4-116 (unless the firefighter repays that refund
14 under subsection (g)) or subsection (c) of Section 4-118.1, by
15 applying in writing and paying the contribution required under
16 subsection (i).

17 (d) From each such pension fund other than the last pension
18 fund, in lieu of any retirement pension otherwise payable under
19 this Article, a firefighter to whom this Section applies may
20 elect to receive a monthly pension of 1/12th of 2.5% of his or
21 her final monthly salary under that fund for each month of
22 service in that fund, subject to a maximum of 75% of that final
23 monthly salary.

24 (e) From the last pension fund, in lieu of any retirement
25 pension otherwise payable under this Article, a firefighter to
26 whom this Section applies may elect to receive a monthly
27 pension calculated as follows:

28 The last pension fund shall calculate the retirement
29 pension that would be payable to the firefighter under
30 subsection (a) of Section 4-109 as if he or she had
31 participated in that last pension fund during his or her entire
32 period of service under all pension funds established under
33 this Article (excluding any period of service for which the
34 firefighter has received a refund under Section 4-116, unless

1 the firefighter repays that refund under subsection (g), or for
2 which the firefighter has received a refund under subsection
3 (c) of Section 4-118.1). From this hypothetical pension there
4 shall be subtracted the original amounts of the retirement
5 pensions payable to the firefighter by all other pension funds
6 under subsection (d). The remainder is the retirement pension
7 payable to the firefighter by the last pension fund under this
8 subsection (e).

9 (f) Pensions elected under this Section shall be subject to
10 increases as provided in subsection (d) of Section 4-109.1.

11 (g) A current firefighter may reinstate creditable service
12 in a pension fund established under this Article that was
13 terminated upon receipt of a refund, by payment to that pension
14 fund of the amount of the refund together with interest thereon
15 at the rate of 6% per year, compounded annually, from the date
16 of the refund to the date of payment. A repayment of a refund
17 under this Section may be made in equal installments over a
18 period of up to 10 years, but must be paid in full prior to
19 retirement.

20 (h) As a condition of being eligible for the benefits
21 provided in this Section, a person who is hired to a position
22 as a firefighter on or after July 1, 2004 ~~the effective date of~~
23 ~~this amendatory Act of the 93rd General Assembly, a firefighter~~
24 must, within 21 months after being hired, notify the new
25 employer, all of his or her previous employers under this
26 Article, and the Public Pension Division of the Division
27 ~~Department~~ of Insurance of the Department of Financial and
28 Professional Regulation, ~~within one year of being hired,~~ of his
29 or her intent to receive the benefits provided under this
30 Section ~~all periods of service of at least one year under a~~
31 ~~pension fund established under this Article.~~

32 (i) In order to receive a pension under this Section or an
33 occupational disease disability pension for which he or she
34 becomes eligible due to the application of subsection (m) of

1 this Section, a firefighter must pay to each pension fund from
2 which he or she has elected to receive a pension under this
3 Section a contribution equal to ~~1/12th of~~ 1% of monthly salary
4 for each month of service credit that the firefighter has in
5 that fund (other than service credit for which the firefighter
6 has already paid the additional contribution required under
7 subsection (c) of Section 4-118.1), together with interest
8 thereon at the rate of 6% per annum, compounded annually, from
9 the firefighter's first day of employment with that fund or the
10 first day of the fiscal year of that fund that immediately
11 precedes the firefighter's first day of employment with that
12 fund, whichever is earlier.

13 In order for a firefighter who, as of the effective date of
14 this amendatory Act of the 93rd General Assembly, has not begun
15 to receive a pension under this Section or an occupational
16 disease disability pension under subsection (m) of this Section
17 and who has contributed 1/12th of 1% of monthly salary for each
18 month of service credit that the firefighter has in that fund
19 (other than service credit for which the firefighter has
20 already paid the additional contribution required under
21 subsection (c) of Section 4-118.1), together with the required
22 interest thereon, to receive a pension under this Section or an
23 occupational disease disability pension for which he or she
24 becomes eligible due to the application of subsection (m) of
25 this Section, the firefighter must, within one year after the
26 effective date of this amendatory Act of the 93rd General
27 Assembly, make an additional contribution equal to 11/12ths of
28 1% of monthly salary for each month of service credit that the
29 firefighter has in that fund (other than service credit for
30 which the firefighter has already paid the additional
31 contribution required under subsection (c) of Section
32 4-118.1), together with interest thereon at the rate of 6% per
33 annum, compounded annually, from the firefighter's first day of
34 employment with that fund or the first day of the fiscal year

1 of that fund that immediately precedes the firefighter's first
2 day of employment with the fund, whichever is earlier. A
3 firefighter who, as of the effective date of this amendatory
4 Act of the 93rd General Assembly, has not begun to receive a
5 pension under this Section or an occupational disease
6 disability pension under subsection (m) of this Section and who
7 has contributed 1/12th of 1% of monthly salary for each month
8 of service credit that the firefighter has in that fund (other
9 than service credit for which the firefighter has already paid
10 the additional contribution required under subsection (c) of
11 Section 4-118.1), together with the required interest thereon,
12 in order to receive a pension under this Section or an
13 occupational disease disability pension under subsection (m)
14 of this Section, may elect, within one year after the effective
15 date of this amendatory Act of the 93rd General Assembly to
16 forfeit the benefits provided under this Section and receive a
17 refund of that contribution. ~~time the service was rendered to~~
18 ~~the date of payment.~~

19 (j) A retired firefighter who is receiving pension payments
20 under Section 4-109 may reenter active service under this
21 Article. Subject to the provisions of Section 4-117, the
22 firefighter may receive credit for service performed after the
23 reentry if the firefighter (1) applies to receive credit for
24 that service, (2) suspends his or her pensions under this
25 Section, and (3) makes the contributions required under
26 subsection (i).

27 (k) A firefighter who is newly hired or promoted to a
28 position as a firefighter shall not be denied participation in
29 a fund under this Article based on his or her age.

30 (l) If a firefighter who elects to make contributions under
31 subsection (c) of Section 4-118.1 for the pension benefits
32 provided under this Section becomes entitled to a disability
33 pension under Section 4-110, the last pension fund is
34 responsible to pay that disability pension and the amount of

1 that disability pension shall be based only on the
2 firefighter's service with the last pension fund.

3 (m) Notwithstanding any provision in Section 4-110.1 to the
4 contrary, if a firefighter who elects to make contributions
5 under subsection (c) of Section 4-118.1 for the pension
6 benefits provided under this Section becomes entitled to an
7 occupational disease disability pension under Section 4-110.1,
8 each pension fund to which the firefighter has made
9 contributions under subsection (c) of Section 4-118.1 must pay
10 a portion of that occupational disease disability pension equal
11 to the proportion that the firefighter's service credit with
12 that pension fund for which the contributions under subsection
13 (c) of Section 4-118.1 have been made bears to the
14 firefighter's total service credit with all of the pension
15 funds for which the contributions under subsection (c) of
16 Section 4-118.1 have been made. A firefighter who has made
17 contributions under subsection (c) of Section 4-118.1 for at
18 least 5 years of creditable service shall be deemed to have met
19 the 5-year creditable service requirement under Section
20 4-110.1, regardless of whether the firefighter has 5 years of
21 creditable service with the last pension fund.

22 (n) If a firefighter who elects to make contributions under
23 subsection (c) of Section 4-118.1 for the pension benefits
24 provided under this Section becomes entitled to a disability
25 pension under Section 4-111, the last pension fund is
26 responsible to pay that disability pension, provided that the
27 firefighter has at least 7 years of creditable service with the
28 last pension fund.

29 (Source: P.A. 93-689, eff. 7-1-04.)

30 (40 ILCS 5/4-110) (from Ch. 108 1/2, par. 4-110)

31 Sec. 4-110. Disability pension - Line of duty. If a
32 firefighter, as the result of sickness, accident or injury
33 incurred in or resulting from the performance of an act of duty

1 or from the cumulative effects of acts of duty, is found,
2 pursuant to Section 4-112, to be physically or mentally
3 permanently disabled for service in the fire department, so as
4 to render necessary his or her being placed on disability
5 pension, the firefighter shall be entitled to a disability
6 pension equal to the greater of (1) 65% of the monthly salary
7 attached to the rank held by him or her in the fire department
8 at the date he or she is removed from the municipality's fire
9 department payroll or (2) the retirement pension that the
10 firefighter would be eligible to receive if he or she retired
11 (but not including any automatic annual increase in that
12 retirement pension). A firefighter shall be considered "on
13 duty" while on any assignment approved by the chief of the fire
14 department, even though away from the municipality he or she
15 serves as a firefighter, if the assignment is related to the
16 fire protection service of the municipality.

17 Such firefighter shall also be entitled to a child's
18 disability benefit of \$20 a month on account of each unmarried
19 child less than 18 years of age and dependent upon the
20 firefighter for support, either the issue of the firefighter or
21 legally adopted by him or her. The total amount of child's
22 disability benefit payable to the firefighter, when added to
23 his or her disability pension, shall not exceed 75% of the
24 amount of salary which the firefighter was receiving at the
25 date of retirement.

26 Benefits payable on account of a child under this Section
27 shall not be reduced or terminated by reason of the child's
28 attainment of age 18 if he or she is then dependent by reason
29 of a physical or mental disability but shall continue to be
30 paid as long as such dependency continues. Individuals over the
31 age of 18 and adjudged to be disabled persons pursuant to
32 Article XIa of the Probate Act of 1975, except for persons
33 receiving benefits under Article III of the Illinois Public Aid
34 Code, shall be eligible to receive benefits under this Act.

1 If a firefighter dies while still disabled and receiving a
2 disability pension under this Section, the disability pension
3 shall continue to be paid to the firefighter's survivors in the
4 sequence provided in Section 4-114 ~~but shall, from the date of~~
5 ~~death, become subject to the requirements, including~~
6 ~~limitations on amount, that are provided for pensions to~~
7 ~~survivors under Section 4-114.~~ A pension previously granted
8 under Section 4-114 to a survivor of a firefighter who died
9 while receiving a disability pension under this Section shall
10 be deemed to be a continuation of the pension provided under
11 this Section and shall be deemed to be in the nature of
12 worker's compensation payments. The changes to this Section
13 made by this amendatory Act of 1995 are intended to be
14 retroactive and are not limited to persons in service on or
15 after its effective date.

16 (Source: P.A. 91-466, eff. 8-6-99.)

17 (40 ILCS 5/4-110.1) (from Ch. 108 1/2, par. 4-110.1)

18 Sec. 4-110.1. Occupational disease disability pension.
19 The General Assembly finds that service in the fire department
20 requires firefighters in times of stress and danger to perform
21 unusual tasks; that firefighters are subject to exposure to
22 extreme heat or extreme cold in certain seasons while
23 performing their duties; that they are required to work in the
24 midst of and are subject to heavy smoke fumes, and
25 carcinogenic, poisonous, toxic or chemical gases from fires;
26 and that these conditions exist and arise out of or in the
27 course of employment.

28 An active firefighter with 5 or more years of creditable
29 service who is found, pursuant to Section 4-112, unable to
30 perform his or her duties in the fire department by reason of
31 heart disease, stroke, tuberculosis, or any disease of the
32 lungs or respiratory tract, resulting from service as a
33 firefighter, is entitled to an occupational disease disability

1 pension during any period of such disability for which he or
2 she has no right to receive salary.

3 Any active firefighter who has completed 5 or more years of
4 service and is unable to perform his or her duties in the fire
5 department by reason of a disabling cancer, which develops or
6 manifests itself during a period while the firefighter is in
7 the service of the fire department, shall be entitled to
8 receive an occupational disease disability benefit during any
9 period of such disability for which he or she does not have a
10 right to receive salary. In order to receive this occupational
11 disease disability benefit, (i) the type of cancer involved
12 must be a type which may be caused by exposure to heat,
13 radiation or a known carcinogen as defined by the International
14 Agency for Research on Cancer and (ii) the cancer must (and is
15 rebuttably presumed to) arise as a result of service as a
16 firefighter.

17 A firefighter who enters the service after August 27, 1971
18 shall be examined by one or more practicing physicians
19 appointed by the board. If the examination discloses impairment
20 of the heart, lungs or respiratory tract, or the existence of
21 any cancer, the firefighter shall not be entitled to the
22 occupational disease disability pension unless and until a
23 subsequent examination reveals no such impairment or cancer.

24 The occupational disease disability pension shall be equal
25 to the greater of (1) 65% of the salary attached to the rank
26 held by the firefighter in the fire service at the time of his
27 or her removal from the municipality's fire department payroll
28 or (2) the retirement pension that the firefighter would be
29 eligible to receive if he or she retired (but not including any
30 automatic annual increase in that retirement pension).

31 The firefighter is also entitled to a child's disability
32 benefit of \$20 a month for each natural or legally adopted
33 unmarried child less than age 18 dependent upon the firefighter
34 for support. The total child's disability benefit when added to

1 the occupational disease disability pension shall not exceed
2 75% of the firefighter's salary at the time of the grant of
3 occupational disease disability pension.

4 The occupational disease disability pension is payable to
5 the firefighter during the period of the disability. If the
6 disability ceases before the death of the firefighter, the
7 disability pension payable under this Section shall also cease
8 and the firefighter thereafter shall receive such pension
9 benefits as are provided in accordance with other provisions of
10 this Article.

11 If a firefighter dies while still disabled and receiving a
12 disability pension under this Section, the disability pension
13 shall continue to be paid to the firefighter's survivors in the
14 sequence provided in Section 4-114 ~~but shall, from the date of~~
15 ~~death, become subject to the requirements, including~~
16 ~~limitations on amount, that are provided for pensions to~~
17 ~~survivors under Section 4-114.~~ A pension previously granted
18 under Section 4-114 to a survivor of a firefighter who died
19 while receiving a disability pension under this Section shall
20 be deemed to be a continuation of the pension provided under
21 this Section and shall be deemed to be in the nature of
22 worker's occupational disease compensation payments. The
23 changes to this Section made by this amendatory Act of 1995 are
24 intended to be retroactive and are not limited to persons in
25 service on or after its effective date.

26 The child's disability benefit shall terminate if the
27 disability ceases while the firefighter is alive or when the
28 child or children attain age 18 or marry, whichever event
29 occurs first, except that benefits payable on account of a
30 child under this Section shall not be reduced or terminated by
31 reason of the child's attainment of age 18 if he or she is then
32 dependent by reason of a physical or mental disability but
33 shall continue to be paid as long as such dependency continues.
34 Individuals over the age of 18 and adjudged as a disabled

1 person pursuant to Article XIa of the Probate Act of 1975,
2 except for persons receiving benefits under Article III of the
3 Illinois Public Aid Code, shall be eligible to receive benefits
4 under this Act.

5 (Source: P.A. 91-466, eff. 8-6-99.)

6 (40 ILCS 5/4-111) (from Ch. 108 1/2, par. 4-111)

7 Sec. 4-111. Disability pension - Not in duty. A firefighter
8 having at least 7 years of creditable service who becomes
9 disabled as a result of any cause other than an act of duty,
10 and who is found, pursuant to Section 4-112, to be physically
11 or mentally permanently disabled so as to render necessary his
12 or her being placed on disability pension, shall be granted a
13 disability pension of 50% of the monthly salary attached to the
14 rank held by the firefighter in the fire service at the date he
15 or she is removed from the municipality's fire department
16 payroll. If a firefighter dies while still disabled and
17 receiving a disability pension under this Section, the
18 disability pension shall continue to be paid to the
19 firefighter's survivors in the sequence provided in Section
20 4-114 if that disability pension is greater than the survivors
21 pension provided under subsection (a) of Section 4-114.

22 (Source: P.A. 83-1440.)

23 (40 ILCS 5/4-114) (from Ch. 108 1/2, par. 4-114)

24 Sec. 4-114. Pension to survivors. If a firefighter who is
25 not receiving a disability pension under Section 4-110 or
26 4-110.1 dies (1) as a result of any illness or accident, or (2)
27 from any cause while in receipt of a disability pension under
28 this Article, or (3) during retirement after 20 years service,
29 or (4) while vested for or in receipt of a pension payable
30 under subsection (b) of Section 4-109, or (5) while a deferred
31 pensioner, having made all required contributions, a pension
32 shall be paid to his or her survivors, based on the monthly

1 salary attached to the firefighter's rank on the last day of
2 service in the fire department, as follows:

3 (a) (1) To the surviving spouse, a monthly pension of
4 40% of the monthly salary, and to the guardian of any minor
5 child or children including a child which has been
6 conceived but not yet born, 12% of such monthly salary for
7 each such child until attainment of age 18 or until the
8 child's marriage, whichever occurs first. Beginning July
9 1, 1993, the monthly pension to the surviving spouse shall
10 be 54% of the monthly salary for all persons receiving a
11 surviving spouse pension under this Article, regardless of
12 whether the deceased firefighter was in service on or after
13 the effective date of this amendatory Act of 1993.

14 (2) Beginning July 1, 2004, unless the amount provided
15 under paragraph (1) of this subsection (a) is greater, the
16 total monthly pension payable under this paragraph (a),
17 including any amount payable on account of children, to the
18 surviving spouse of a firefighter who died (i) while
19 receiving a retirement pension, (ii) while he or she was a
20 deferred pensioner with at least 20 years of creditable
21 service, or (iii) while he or she was in active service
22 having at least 20 years of creditable service, regardless
23 of age, including any amount payable on account of
24 children, shall be no less than 100% of the monthly
25 retirement pension earned by that the deceased firefighter
26 at the time of death, regardless of whether death occurs
27 before or after attainment of age 50, was receiving at the
28 time of death, including any increases under Section
29 4-109.1. This minimum applies to all such surviving spouses
30 who are eligible to receive a surviving spouse pension,
31 regardless of whether the deceased firefighter was in
32 service on or after the effective date of this amendatory
33 Act of the 93rd General Assembly, and notwithstanding any
34 limitation on maximum pension under paragraph (d) or any

1 other provision of this Article.

2 (3) If the pension paid on and after July 1, 2004 to
3 the surviving spouse of a firefighter who died on or after
4 July 1, 2004 and before the effective date of this
5 amendatory Act of the 93rd General Assembly was less than
6 the minimum pension payable under paragraph (1) or (2) of
7 this subsection (a), the fund shall pay a lump sum equal to
8 the difference within 90 days after the effective date of
9 this amendatory Act of the 93rd General Assembly.

10 The pension to the surviving spouse shall terminate in the
11 event of the surviving spouse's remarriage prior to July 1,
12 1993; remarriage on or after that date does not affect the
13 surviving spouse's pension, regardless of whether the deceased
14 firefighter was in service on or after the effective date of
15 this amendatory Act of 1993.

16 The surviving spouse's pension shall be subject to the
17 minimum established in Section 4-109.2.

18 (b) Upon the death of the surviving spouse leaving one or
19 more minor children, to the duly appointed guardian of each
20 such child, for support and maintenance of each such child
21 until the child reaches age 18 or marries, whichever occurs
22 first, a monthly pension of 20% of the monthly salary.

23 (c) If a deceased firefighter leaves no surviving spouse or
24 unmarried minor children under age 18, but leaves a dependent
25 father or mother, to each dependent parent a monthly pension of
26 18% of the monthly salary. To qualify for the pension, a
27 dependent parent must furnish satisfactory proof that the
28 deceased firefighter was at the time of his or her death the
29 sole supporter of the parent or that the parent was the
30 deceased's dependent for federal income tax purposes.

31 (d) The total pension provided under paragraphs (a), (b)
32 and (c) of this Section shall not exceed 75% of the monthly
33 salary of the deceased firefighter (1) when paid to the
34 survivor of a firefighter who has attained 20 or more years of

1 service credit and who receives or is eligible to receive a
2 retirement pension under this Article, or (2) when paid to the
3 survivor of a firefighter who dies as a result of illness or
4 accident, or (3) when paid to the survivor of a firefighter who
5 dies from any cause while in receipt of a disability pension
6 under this Article, or (4) when paid to the survivor of a
7 deferred pensioner. For all other survivors of deceased
8 firefighters, the total pension provided under paragraphs (a),
9 (b) and (c) of this Section shall not exceed 50% of the
10 retirement annuity the firefighter would have received on the
11 date of death.

12 The maximum pension limitations in this paragraph (d) do
13 not control over any contrary provision of this Article
14 explicitly establishing a minimum amount of pension or granting
15 a one-time or annual increase in pension.

16 (e) If a firefighter leaves no eligible survivors under
17 paragraphs (a), (b) and (c), the board shall refund to the
18 firefighter's estate the amount of his or her accumulated
19 contributions, less the amount of pension payments, if any,
20 made to the firefighter while living.

21 (f) An adopted child is eligible for the pension provided
22 under paragraph (a) if the child was adopted before the
23 firefighter attained age 50.

24 (g) If a judgment of dissolution of marriage between a
25 firefighter and spouse is judicially set aside subsequent to
26 the firefighter's death, the surviving spouse is eligible for
27 the pension provided in paragraph (a) only if the judicial
28 proceedings are filed within 2 years after the date of the
29 dissolution of marriage and within one year after the
30 firefighter's death and the board is made a party to the
31 proceedings. In such case the pension shall be payable only
32 from the date of the court's order setting aside the judgment
33 of dissolution of marriage.

34 (h) Benefits payable on account of a child under this

1 Section shall not be reduced or terminated by reason of the
2 child's attainment of age 18 if he or she is then dependent by
3 reason of a physical or mental disability but shall continue to
4 be paid as long as such dependency continues. Individuals over
5 the age of 18 and adjudged as a disabled person pursuant to
6 Article XIa of the Probate Act of 1975, except for persons
7 receiving benefits under Article III of the Illinois Public Aid
8 Code, shall be eligible to receive benefits under this Act.

9 (i) Beginning January 1, 2000, the pension of the surviving
10 spouse of a firefighter who dies on or after January 1, 1994 as
11 a result of sickness, accident, or injury incurred in or
12 resulting from the performance of an act of duty or from the
13 cumulative effects of acts of duty shall not be less than 100%
14 of the salary attached to the rank held by the deceased
15 firefighter on the last day of service, notwithstanding
16 subsection (d) or any other provision of this Article.

17 (j) Beginning July 1, 2004, the pension of the surviving
18 spouse of a firefighter who dies on or after January 1, 1988 as
19 a result of sickness, accident, or injury incurred in or
20 resulting from the performance of an act of duty or from the
21 cumulative effects of acts of duty shall not be less than 100%
22 of the salary attached to the rank held by the deceased
23 firefighter on the last day of service, notwithstanding
24 subsection (d) or any other provision of this Article.

25 (Source: P.A. 93-689, eff. 7-1-04.)

26 Section 90. The State Mandates Act is amended by adding
27 Section 8.28 as follows:

28 (30 ILCS 805/8.28 new)

29 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8
30 of this Act, no reimbursement by the State is required for the
31 implementation of any mandate created by this amendatory Act of
32 the 93rd General Assembly.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".