



Rep. Elaine Nekritz

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LRB100 05358 RPS 26718 a

1 AMENDMENT TO SENATE BILL 701

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 701 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by  
5 changing Sections 7-114 and 7-172 as follows:

6 (40 ILCS 5/7-114) (from Ch. 108 1/2, par. 7-114)

7 (Text of Section WITHOUT the changes made by P.A. 98-599,  
8 which has been held unconstitutional)

9 Sec. 7-114. Earnings. "Earnings":

10 (a) An amount to be determined by the board, equal to the  
11 sum of:

12 1. The total amount of money paid to an employee for  
13 personal services or official duties as an employee (except  
14 those employed as independent contractors) paid out of the  
15 general fund, or out of any special funds controlled by the  
16 municipality, or by any instrumentality thereof, or

1 participating instrumentality, including compensation,  
2 fees, allowances (but not including amounts associated  
3 with a vehicle allowance payable to an employee who first  
4 becomes a participating employee on or after the effective  
5 date of this amendatory Act of the 100th General Assembly),  
6 or other emolument paid for official duties (but not  
7 including automobile maintenance, travel expense, or  
8 reimbursements for expenditures incurred in the  
9 performance of duties) and, for fee offices, the fees or  
10 earnings of the offices to the extent such fees are paid  
11 out of funds controlled by the municipality, or  
12 instrumentality or participating instrumentality; and

13 2. The money value, as determined by rules prescribed  
14 by the governing body of the municipality, or  
15 instrumentality thereof, of any board, lodging, fuel,  
16 laundry, and other allowances provided an employee in lieu  
17 of money.

18 (b) For purposes of determining benefits payable under this  
19 fund payments to a person who is engaged in an independently  
20 established trade, occupation, profession or business and who  
21 is paid for his service on a basis other than a monthly or  
22 other regular salary, are not earnings.

23 (c) If a disabled participating employee is eligible to  
24 receive Workers' Compensation for an accidental injury and the  
25 participating municipality or instrumentality which employed  
26 the participating employee when injured continues to pay the

1 participating employee regular salary or other compensation or  
2 pays the employee an amount in excess of the Workers'  
3 Compensation amount, then earnings shall be deemed to be the  
4 total payments, including an amount equal to the Workers'  
5 Compensation payments. These payments shall be subject to  
6 employee contributions and allocated as if paid to the  
7 participating employee when the regular payroll amounts would  
8 have been paid if the participating employee had continued  
9 working, and creditable service shall be awarded for this  
10 period.

11 (d) If an elected official who is a participating employee  
12 becomes disabled but does not resign and is not removed from  
13 office, then earnings shall include all salary payments made  
14 for the remainder of that term of office and the official shall  
15 be awarded creditable service for the term of office.

16 (e) If a participating employee is paid pursuant to "An Act  
17 to provide for the continuation of compensation for law  
18 enforcement officers, correctional officers and firemen who  
19 suffer disabling injury in the line of duty", approved  
20 September 6, 1973, as amended, the payments shall be deemed  
21 earnings, and the participating employee shall be awarded  
22 creditable service for this period.

23 (f) Additional compensation received by a person while  
24 serving as a supervisor of assessments, assessor, deputy  
25 assessor or member of a board of review from the State of  
26 Illinois pursuant to Section 4-10 or 4-15 of the Property Tax

1 Code shall not be earnings for purposes of this Article and  
2 shall not be included in the contribution formula or  
3 calculation of benefits for such person pursuant to this  
4 Article.

5 (Source: P.A. 87-740; 88-670, eff. 12-2-94.)

6 (40 ILCS 5/7-172) (from Ch. 108 1/2, par. 7-172)

7 Sec. 7-172. Contributions by participating municipalities  
8 and participating instrumentalities.

9 (a) Each participating municipality and each participating  
10 instrumentality shall make payment to the fund as follows:

11 1. municipality contributions in an amount determined  
12 by applying the municipality contribution rate to each  
13 payment of earnings paid to each of its participating  
14 employees;

15 2. an amount equal to the employee contributions  
16 provided by paragraph (a) of Section 7-173, whether or not  
17 the employee contributions are withheld as permitted by  
18 that Section;

19 3. all accounts receivable, together with interest  
20 charged thereon, as provided in Section 7-209, and any  
21 amounts due under subsection (a-5) of Section 7-144;

22 4. if it has no participating employees with current  
23 earnings, an amount payable which, over a closed period of  
24 20 years for participating municipalities and 10 years for  
25 participating instrumentalities, will amortize, at the

1 effective rate for that year, any unfunded obligation. The  
2 unfunded obligation shall be computed as provided in  
3 paragraph 2 of subsection (b);

4 5. if it has fewer than 7 participating employees or a  
5 negative balance in its municipality reserve, the greater  
6 of (A) an amount payable that, over a period of 20 years,  
7 will amortize at the effective rate for that year any  
8 unfunded obligation, computed as provided in paragraph 2 of  
9 subsection (b) or (B) the amount required by paragraph 1 of  
10 this subsection (a).

11 (b) A separate municipality contribution rate shall be  
12 determined for each calendar year for all participating  
13 municipalities together with all instrumentalities thereof.  
14 The municipality contribution rate shall be determined for  
15 participating instrumentalities as if they were participating  
16 municipalities. The municipality contribution rate shall be  
17 the sum of the following percentages:

18 1. The percentage of earnings of all the participating  
19 employees of all participating municipalities and  
20 participating instrumentalities which, if paid over the  
21 entire period of their service, will be sufficient when  
22 combined with all employee contributions available for the  
23 payment of benefits, to provide all annuities for  
24 participating employees, and the \$3,000 death benefit  
25 payable under Sections 7-158 and 7-164, such percentage to  
26 be known as the normal cost rate.

1           2. The percentage of earnings of the participating  
2 employees of each participating municipality and  
3 participating instrumentalities necessary to adjust for  
4 the difference between the present value of all benefits,  
5 excluding temporary and total and permanent disability and  
6 death benefits, to be provided for its participating  
7 employees and the sum of its accumulated municipality  
8 contributions and the accumulated employee contributions  
9 and the present value of expected future employee and  
10 municipality contributions pursuant to subparagraph 1 of  
11 this paragraph (b). This adjustment shall be spread over a  
12 period determined by the Board, not to exceed 30 years for  
13 participating municipalities or 10 years for participating  
14 instrumentalities.

15           3. The percentage of earnings of the participating  
16 employees of all municipalities and participating  
17 instrumentalities necessary to provide the present value  
18 of all temporary and total and permanent disability  
19 benefits granted during the most recent year for which  
20 information is available.

21           4. The percentage of earnings of the participating  
22 employees of all participating municipalities and  
23 participating instrumentalities necessary to provide the  
24 present value of the net single sum death benefits expected  
25 to become payable from the reserve established under  
26 Section 7-206 during the year for which this rate is fixed.

1           5. The percentage of earnings necessary to meet any  
2           deficiency arising in the Terminated Municipality Reserve.

3           (c) A separate municipality contribution rate shall be  
4           computed for each participating municipality or participating  
5           instrumentality for its sheriff's law enforcement employees.

6           A separate municipality contribution rate shall be  
7           computed for the sheriff's law enforcement employees of each  
8           forest preserve district that elects to have such employees.  
9           For the period from January 1, 1986 to December 31, 1986, such  
10          rate shall be the forest preserve district's regular rate plus  
11          2%.

12          In the event that the Board determines that there is an  
13          actuarial deficiency in the account of any municipality with  
14          respect to a person who has elected to participate in the Fund  
15          under Section 3-109.1 of this Code, the Board may adjust the  
16          municipality's contribution rate so as to make up that  
17          deficiency over such reasonable period of time as the Board may  
18          determine.

19          (d) The Board may establish a separate municipality  
20          contribution rate for all employees who are program  
21          participants employed under the federal Comprehensive  
22          Employment Training Act by all of the participating  
23          municipalities and instrumentalities. The Board may also  
24          provide that, in lieu of a separate municipality rate for these  
25          employees, a portion of the municipality contributions for such  
26          program participants shall be refunded or an extra charge

1 assessed so that the amount of municipality contributions  
2 retained or received by the fund for all CETA program  
3 participants shall be an amount equal to that which would be  
4 provided by the separate municipality contribution rate for all  
5 such program participants. Refunds shall be made to prime  
6 sponsors of programs upon submission of a claim therefor and  
7 extra charges shall be assessed to participating  
8 municipalities and instrumentalities. In establishing the  
9 municipality contribution rate as provided in paragraph (b) of  
10 this Section, the use of a separate municipality contribution  
11 rate for program participants or the refund of a portion of the  
12 municipality contributions, as the case may be, may be  
13 considered.

14 (e) Computations of municipality contribution rates for  
15 the following calendar year shall be made prior to the  
16 beginning of each year, from the information available at the  
17 time the computations are made, and on the assumption that the  
18 employees in each participating municipality or participating  
19 instrumentality at such time will continue in service until the  
20 end of such calendar year at their respective rates of earnings  
21 at such time.

22 (f) Any municipality which is the recipient of State  
23 allocations representing that municipality's contributions for  
24 retirement annuity purposes on behalf of its employees as  
25 provided in Section 12-21.16 of the Illinois Public Aid Code  
26 shall pay the allocations so received to the Board for such



1 purpose. Estimates of State allocations to be received during  
2 any taxable year shall be considered in the determination of  
3 the municipality's tax rate for that year under Section 7-171.  
4 If a special tax is levied under Section 7-171, none of the  
5 proceeds may be used to reimburse the municipality for the  
6 amount of State allocations received and paid to the Board. Any  
7 multiple-county or consolidated health department which  
8 receives contributions from a county under Section 11.2 of "An  
9 Act in relation to establishment and maintenance of county and  
10 multiple-county health departments", approved July 9, 1943, as  
11 amended, or distributions under Section 3 of the Department of  
12 Public Health Act, shall use these only for municipality  
13 contributions by the health department.

14 (g) Municipality contributions for the several purposes  
15 specified shall, for township treasurers and employees in the  
16 offices of the township treasurers who meet the qualifying  
17 conditions for coverage hereunder, be allocated among the  
18 several school districts and parts of school districts serviced  
19 by such treasurers and employees in the proportion which the  
20 amount of school funds of each district or part of a district  
21 handled by the treasurer bears to the total amount of all  
22 school funds handled by the treasurer.

23 From the funds subject to allocation among districts and  
24 parts of districts pursuant to the School Code, the trustees  
25 shall withhold the proportionate share of the liability for  
26 municipality contributions imposed upon such districts by this

1 Section, in respect to such township treasurers and employees  
2 and remit the same to the Board.

3 The municipality contribution rate for an educational  
4 service center shall initially be the same rate for each year  
5 as the regional office of education or school district which  
6 serves as its administrative agent. When actuarial data become  
7 available, a separate rate shall be established as provided in  
8 subparagraph (i) of this Section.

9 The municipality contribution rate for a public agency,  
10 other than a vocational education cooperative, formed under the  
11 Intergovernmental Cooperation Act shall initially be the  
12 average rate for the municipalities which are parties to the  
13 intergovernmental agreement. When actuarial data become  
14 available, a separate rate shall be established as provided in  
15 subparagraph (i) of this Section.

16 (h) Each participating municipality and participating  
17 instrumentality shall make the contributions in the amounts  
18 provided in this Section in the manner prescribed from time to  
19 time by the Board and all such contributions shall be  
20 obligations of the respective participating municipalities and  
21 participating instrumentalities to this fund. The failure to  
22 deduct any employee contributions shall not relieve the  
23 participating municipality or participating instrumentality of  
24 its obligation to this fund. Delinquent payments of  
25 contributions due under this Section may, with interest, be  
26 recovered by civil action against the participating

1 municipalities or participating instrumentalities.  
2 Municipality contributions, other than the amount necessary  
3 for employee contributions, for periods of service by employees  
4 from whose earnings no deductions were made for employee  
5 contributions to the fund, may be charged to the municipality  
6 reserve for the municipality or participating instrumentality.

7 (i) Contributions by participating instrumentalities shall  
8 be determined as provided herein except that the percentage  
9 derived under subparagraph 2 of paragraph (b) of this Section,  
10 and the amount payable under subparagraph 4 of paragraph (a) of  
11 this Section, shall be based on an amortization period of 10  
12 years.

13 (j) Notwithstanding the other provisions of this Section,  
14 the additional unfunded liability accruing as a result of this  
15 amendatory Act of the 94th General Assembly shall be amortized  
16 over a period of 30 years beginning on January 1 of the second  
17 calendar year following the calendar year in which this  
18 amendatory Act takes effect, except that the employer may  
19 provide for a longer amortization period by adopting a  
20 resolution or ordinance specifying a 35-year or 40-year period  
21 and submitting a certified copy of the ordinance or resolution  
22 to the fund no later than June 1 of the calendar year following  
23 the calendar year in which this amendatory Act takes effect.

24 (k) If the amount of a participating employee's reported  
25 earnings for any of the 12-month periods used to determine the  
26 final rate of earnings exceeds the employee's 12 month reported

1 earnings with the same employer for the previous year by the  
2 greater of 6% or 1.5 times the annual increase in the Consumer  
3 Price Index-U, as established by the United States Department  
4 of Labor for the preceding September, the participating  
5 municipality or participating instrumentality that paid those  
6 earnings shall pay to the Fund, in addition to any other  
7 contributions required under this Article, the present value of  
8 the increase in the pension resulting from the portion of the  
9 increase in salary that is in excess of the greater of 6% or  
10 1.5 times the annual increase in the Consumer Price Index-U, as  
11 determined by the Fund. This present value shall be computed on  
12 the basis of the actuarial assumptions and tables used in the  
13 most recent actuarial valuation of the Fund that is available  
14 at the time of the computation.

15 Whenever it determines that a payment is or may be required  
16 under this subsection (k), the fund shall calculate the amount  
17 of the payment and bill the participating municipality or  
18 participating instrumentality for that amount. The bill shall  
19 specify the calculations used to determine the amount due. If  
20 the participating municipality or participating  
21 instrumentality disputes the amount of the bill, it may, within  
22 30 days after receipt of the bill, apply to the fund in writing  
23 for a recalculation. The application must specify in detail the  
24 grounds of the dispute. Upon receiving a timely application for  
25 recalculation, the fund shall review the application and, if  
26 appropriate, recalculate the amount due. The participating

1 municipality and participating instrumentality contributions  
2 required under this subsection (k) may be paid in the form of a  
3 lump sum within 90 days after receipt of the bill. If the  
4 participating municipality and participating instrumentality  
5 contributions are not paid within 90 days after receipt of the  
6 bill, then interest will be charged at a rate equal to the  
7 fund's annual actuarially assumed rate of return on investment  
8 compounded annually from the 91st day after receipt of the  
9 bill. Payments must be concluded within 3 years after receipt  
10 of the bill by the participating municipality or participating  
11 instrumentality.

12 When assessing payment for any amount due under this  
13 subsection (k), the fund shall exclude earnings increases  
14 resulting from overload or overtime earnings.

15 When assessing payment for any amount due under this  
16 subsection (k), the fund shall exclude earnings increases  
17 resulting from payments for unused vacation time, but only for  
18 payments for unused vacation time made in the final 3 months of  
19 the final rate of earnings period.

20 When assessing payment for any amount due under this  
21 subsection (k), the fund shall also exclude earnings increases  
22 attributable to standard employment promotions resulting in  
23 increased responsibility and workload.

24 This subsection (k) does not apply to earnings increases  
25 paid to individuals under contracts or collective bargaining  
26 agreements entered into, amended, or renewed before January 1,

1 2012 (the effective date of Public Act 97-609), earnings  
2 increases paid to members who are 10 years or more from  
3 retirement eligibility, or earnings increases resulting from  
4 an increase in the number of hours required to be worked.

5 When assessing payment for any amount due under this  
6 subsection (k), the fund shall also exclude earnings  
7 attributable to personnel policies adopted before January 1,  
8 2012 (the effective date of Public Act 97-609) as long as those  
9 policies are not applicable to employees who begin service on  
10 or after January 1, 2012 (the effective date of Public Act  
11 97-609).

12 (Source: P.A. 98-218, eff. 8-9-13; 99-745, eff. 8-5-16.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law."