

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing  
5 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  
17 least once each year prior to attainment of age 50 in order to  
18 verify continuance of disability, except that a medical  
19 examination of a firefighter receiving a disability pension for  
20 post-traumatic stress disorder (PTSD) related to his or her  
21 service as a firefighter shall not be made if: (1) the  
22 firefighter has attained age 45; (2) the firefighter has  
23 provided to the board documentation approving the

1 discontinuance of the medical examination from at least 2  
2 physicians; and (3) at least 4 members of the board have voted  
3 in the affirmative to allow the firefighter to discontinue the  
4 medical examination. No examination shall be required after age  
5 50. No physical or mental disability that constitutes, in whole  
6 or in part, the basis of an application for benefits under this  
7 Article may be used, in whole or in part, by any municipality  
8 or fire protection district employing firefighters, emergency  
9 medical technicians, or paramedics as cause for discharge.

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

22       The firefighter shall be entitled to 10 days notice before  
23 any hearing or meeting of the board at which the question of  
24 his or her disability is to be considered, and shall have the  
25 right to be present at any such hearing or meeting, and to be  
26 represented by counsel; however, the board shall not have any

1 obligation to provide such fireman with counsel.

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

3 (40 ILCS 5/7-109) (from Ch. 108 1/2, par. 7-109)

4 Sec. 7-109. Employee.

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

6 (a) 1. Receives earnings as payment for the performance  
7 of personal services or official duties out of the general  
8 fund of a municipality, or out of any special fund or funds  
9 controlled by a municipality, or by an instrumentality  
10 thereof, or a participating instrumentality, including, in  
11 counties, the fees or earnings of any county fee office;  
12 and

13 2. Under the usual common law rules applicable in  
14 determining the employer-employee relationship, has the  
15 status of an employee with a municipality, or any  
16 instrumentality thereof, or a participating  
17 instrumentality, including aldermen, county supervisors  
18 and other persons (excepting those employed as independent  
19 contractors) who are paid compensation, fees, allowances  
20 or other emolument for official duties, and, in counties,  
21 the several county fee offices.

22 (b) Serves as a township treasurer appointed under the  
23 School Code, as heretofore or hereafter amended, and who  
24 receives for such services regular compensation as  
25 distinguished from per diem compensation, and any regular

1 employee in the office of any township treasurer whether or  
2 not his earnings are paid from the income of the permanent  
3 township fund or from funds subject to distribution to the  
4 several school districts and parts of school districts as  
5 provided in the School Code, or from both such sources; or  
6 is the chief executive officer, chief educational officer,  
7 chief fiscal officer, or other employee of a Financial  
8 Oversight Panel established pursuant to Article 1H of the  
9 School Code, other than a superintendent or certified  
10 school business official, except that such person shall not  
11 be treated as an employee under this Section if that person  
12 has negotiated with the Financial Oversight Panel, in  
13 conjunction with the school district, a contractual  
14 agreement for exclusion from this Section.

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

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

18 (a) Are eligible for inclusion under any of the  
19 following laws:

20 1. "An Act in relation to an Illinois State  
21 Teachers' Pension and Retirement Fund", approved May  
22 27, 1915, as amended;

23 2. Articles 15 and 16 of this Code.

24 However, such persons shall be included as employees to  
25 the extent of earnings that are not eligible for inclusion  
26 under the foregoing laws for services not of an

1 instructional nature of any kind.

2 However, any member of the armed forces who is employed  
3 as a teacher of subjects in the Reserve Officers Training  
4 Corps of any school and who is not certified under the law  
5 governing the certification of teachers shall be included  
6 as an employee.

7 (b) Are designated by the governing body of a  
8 municipality in which a pension fund is required by law to  
9 be established for policemen or firemen, respectively, as  
10 performing police or fire protection duties, except that  
11 when such persons are the heads of the police or fire  
12 department and are not eligible to be included within any  
13 such pension fund, they shall be included within this  
14 Article; provided, that such persons shall not be excluded  
15 to the extent of concurrent service and earnings not  
16 designated as being for police or fire protection duties.  
17 However, (i) any head of a police department who was a  
18 participant under this Article immediately before October  
19 1, 1977 and did not elect, under Section 3-109 of this Act,  
20 to participate in a police pension fund shall be an  
21 "employee", and (ii) any chief of police who became a  
22 participating employee under this Article before January  
23 1, 2019 and who elects to participate in this Fund under  
24 Section 3-109.1 of this Code, regardless of whether such  
25 person continues to be employed as chief of police or is  
26 employed in some other rank or capacity within the police

1 department, shall be an employee under this Article for so  
2 long as such person is employed to perform police duties by  
3 a participating municipality and has not lawfully  
4 rescinded that election.

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

16 (c) Are contributors to or eligible to contribute to a  
17 Taft-Hartley pension plan to which the participating  
18 municipality is required to contribute as the person's  
19 employer based on earnings from the municipality. Nothing  
20 in this paragraph shall affect service credit or creditable  
21 service for any period of service prior to the effective  
22 date of this amendatory Act of the 98th General Assembly,  
23 and this paragraph shall not apply to individuals who are  
24 participating in the Fund prior to the effective date of  
25 this amendatory Act of the 98th General Assembly.

26 (d) Become an employee of any of the following

1 participating instrumentalities on or after the effective  
2 date of this amendatory Act of the 99th General Assembly:  
3 the Illinois Municipal League; the Illinois Association of  
4 Park Districts; the Illinois Supervisors, County  
5 Commissioners and Superintendents of Highways Association;  
6 an association, or not-for-profit corporation, membership  
7 in which is authorized under Section 85-15 of the Township  
8 Code; the United Counties Council; or the Will County  
9 Governmental League.

10 (3) All persons, including, without limitation, public  
11 defenders and probation officers, who receive earnings from  
12 general or special funds of a county for performance of  
13 personal services or official duties within the territorial  
14 limits of the county, are employees of the county (unless  
15 excluded by subsection (2) of this Section) notwithstanding  
16 that they may be appointed by and are subject to the direction  
17 of a person or persons other than a county board or a county  
18 officer. It is hereby established that an employer-employee  
19 relationship under the usual common law rules exists between  
20 such employees and the county paying their salaries by reason  
21 of the fact that the county boards fix their rates of  
22 compensation, appropriate funds for payment of their earnings  
23 and otherwise exercise control over them. This finding and this  
24 amendatory Act shall apply to all such employees from the date  
25 of appointment whether such date is prior to or after the  
26 effective date of this amendatory Act and is intended to

1 clarify existing law pertaining to their status as  
2 participating employees in the Fund.

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

4 (40 ILCS 5/7-109.3) (from Ch. 108 1/2, par. 7-109.3)

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

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

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

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

14 (3) A law enforcement officer employed on a full time  
15 basis by a Forest Preserve District, provided that such  
16 officer shall be deemed a "sheriff's law enforcement  
17 employee" for the purposes of this Article, and service in  
18 that capacity shall be deemed to be service as a sheriff's  
19 law enforcement employee, only if the board of  
20 commissioners of the District have so elected by adoption  
21 of an affirmative resolution. Such election, once made, may  
22 not be rescinded.

23 (4) A person not eligible to participate in a fund  
24 established under Article 3 of this Code who is employed on  
25 a full-time basis by a participating municipality or



1 participating instrumentality to perform police duties at  
2 an airport, but only if the governing authority of the  
3 employer has approved sheriff's law enforcement employee  
4 status for its airport police employees by adoption of an  
5 affirmative resolution. Such approval, once given, may not  
6 be rescinded.

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

24 (b) An employee who is a sheriff's law enforcement employee  
25 and is granted military leave or authorized leave of absence  
26 shall receive service credit in that capacity. Sheriff's law

1 enforcement employees shall not be entitled to out-of-State  
2 service credit under Section 7-139.

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

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.