



Rep. Michael J. Zalewski

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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 attained age 45; (2) the firefighter has  
7 provided to the board documentation approving the  
8 discontinuance of the medical examination from at least 2  
9 physicians; and (3) at least 4 members of the board have voted  
10 in the affirmative to allow the firefighter to discontinue the  
11 medical examination. No examination shall be required after age  
12 50. No physical or mental disability that constitutes, in whole  
13 or in part, the basis of an application for benefits under this  
14 Article may be used, in whole or in part, by any municipality  
15 or fire protection district employing firefighters, emergency  
16 medical technicians, or paramedics as cause for discharge.

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

1 paragraph, then the firefighter is entitled to recovery of  
2 reasonable court costs and attorney's fees.

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

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

10 (40 ILCS 5/7-109) (from Ch. 108 1/2, par. 7-109)

11 Sec. 7-109. Employee.

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

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

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

1 contractors) who are paid compensation, fees, allowances  
2 or other emolument for official duties, and, in counties,  
3 the several county fee offices.

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

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

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

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

1           1. "An Act in relation to an Illinois State  
2 Teachers' Pension and Retirement Fund", approved May  
3 27, 1915, as amended;

4           2. Articles 15 and 16 of this Code.

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

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

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

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

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

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

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

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

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

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

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

11 (40 ILCS 5/7-109.3) (from Ch. 108 1/2, par. 7-109.3)

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

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

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

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

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



1 law enforcement employee, only if the board of  
2 commissioners of the District have so elected by adoption  
3 of an affirmative resolution. Such election, once made, may  
4 not be rescinded.

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

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

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

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

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

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