



Sen. Sue Rezin

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1 AMENDMENT TO SENATE BILL 1030

2 AMENDMENT NO. _____. Amend Senate Bill 1030 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Local
5 Government Protection Authority Act.

6 Section 5. Findings and purpose.

7 (a) The General Assembly finds that:

8 (1) The State and units of local government are in
9 financial distress, evidenced by reductions in government
10 services. These reductions have been spurred by the
11 escalating costs of promised services, salaries,
12 retirement annuities, and healthcare benefits.

13 (2) Certain goods, services, pensions, and retiree
14 health care costs are expected to grow at a faster rate of
15 inflation in the coming years.

16 (3) Illinois taxpayers have supported tax caps in the

1 past, compelling units of local government to manage within
2 existing tax and revenue limitations.

3 (4) If sufficient revenue is not raised to pay for
4 services and costs or, in the case of pensions, irrevocably
5 set aside and prudently invested, a unit of local
6 government's unfunded liabilities including pension and
7 other post-employment benefit obligations continue to grow
8 at a staggering rate;

9 (5) As a matter of law, demands from retirees for both
10 pension and other post-employment benefit payments have
11 the same priority for payment as those of ordinary
12 suppliers of goods and services, employees necessary for
13 normal operations, and perhaps many bondholders.

14 (6) A cooperative effort between the State and a
15 financially challenged unit of local government that
16 involves local elected officials and local governmental
17 bodies and taxpayers, workers, and business entities
18 developing a plan of financial recovery is the best way to
19 find a permanent solution to current financial challenges.

20 (b) Therefore, the purpose of this Act is to:

21 (1) provide voluntary resolution and assist units of
22 local government to find affordable solutions so that basic
23 services can be provided on a long term basis;

24 (2) aid in achieving solutions to the problems set
25 forth in this Section and aid units of local government to
26 fully fund essential government services and make

1 sustainable contributions to pensions and other
2 post-employment benefit obligations to maintain the
3 credibility of units of local government;

4 (3) provide a forum in which taxpayers, elected
5 officials, public employers, and employees can address
6 issues relating to essential government services,
7 financial difficulties relating to costs, judgments,
8 liabilities and post-employment benefit rates, and payment
9 structures and provide transparency to the public as to the
10 affordability and sustainability of these services and
11 benefits; and

12 (4) offer an alternative to bankruptcy.

13 Section 10. When used in this Act:

14 "Significant Past Due Creditor" means a creditor that has
15 not been paid on a liquidated debt obligation (unpaid for 6
16 months or more) of \$5,000,000 or 10% of the annual revenues of
17 the unit of local government, whichever is greater.

18 "Uniform Calculation Method" means the funding ratio for
19 pension plans determined based on uniform actuarial
20 methodology, including assumptions based on comparable returns
21 on investment (such as the discount rate) from information
22 annually required to be provided to the Authority.

23 "Unit of local government" means all units of local
24 government with funding responsibilities for operating costs,
25 such as contract costs for goods and services, labor, and the

1 pensions and other benefits for their employees.

2 Section 15. Creation. The Local Government Protection
3 Authority is created for the purposes set forth in Section 5 of
4 this Act.

5 Section 20. Board of Trustees. The Authority shall consist
6 of a 9-member board of trustees, who shall be appointed as
7 follows:

8 (1) Four trustees representing the Illinois Municipal
9 League, appointed by the Governor.

10 (2) One trustee shall be appointed by the Governor.

11 (3) One trustee shall be appointed by the Speaker of the
12 House of Representatives.

13 (4) One trustee shall be appointed by the President of the
14 Senate.

15 (5) One trustee shall be appointed by the Minority Leader
16 of the House of Representatives.

17 (6) One trustee shall be appointed by the Minority Leader
18 of the Senate.

19 After the first appointment of trustees under this Act, the
20 trustees shall determine, by lot, 2 trustees to serve for terms
21 of 2 years, 2 trustees to serve for terms of 4 years, and 3
22 trustees to serve for terms of 6 years. Thereafter, all
23 trustees appointed under this Act shall serve for 6-year terms
24 and until their respective successors are appointed and

1 qualified.

2 Section 25. Funding; fees. The Authority shall accept and
3 expend appropriations for the purposes set forth in this Act.
4 The Authority shall establish and implement a fee schedule that
5 shall be paid by participating units of local government. The
6 Authority may alter the fee schedule at any time. The State
7 Comptroller's Office shall collect unit of local government
8 reports required by the Authority and provide administrative
9 and operational support for Authority and its functions.

10 Section 30. Duties. The Authority shall provide a
11 supervised forum to assist with the determination of the
12 following issues resulting from underfunded government
13 services and unaffordable costs and liabilities for units of
14 local government:

15 (1) what essential government services and post-employment
16 benefits are affordable and sustainable;

17 (2) what cost-cutting measures are necessary to achieve
18 affordable services and benefits;

19 (3) whether a tax increase is necessary to provide
20 additional funding;

21 (4) what contribution increases, by both public employers
22 and employees, are necessary to maintain the viability of
23 pensions or other employee benefit programs;

24 (5) what amount of State revenue is necessary to pay for

1 required services, indebtedness, and benefits so that
2 essential governmental services can be provided and the unit of
3 local government can maintain access to the unit of local
4 government's debt market at relatively low cost;

5 (6) whether the unit of local government should engage in
6 voluntary or mandatory arbitration regarding contractual or
7 labor disputes;

8 (7) whether services or costs of the unit of local
9 government should be transferred to other governmental bodies;

10 (8) whether certain services should be consolidated with
11 other governmental bodies or transferred to a regional or
12 multi-jurisdictional authority;

13 (9) whether the unit of local government should be
14 authorized to file for Chapter 9 proceedings under the United
15 States Bankruptcy Code;

16 (10) whether, given the findings of Authority, the unit of
17 local government's plan of a debt adjustment can be prepackaged
18 or pre-negotiated;

19 (11) whether consolidation with other governmental bodies
20 by public-private partnerships or by leasing, sale of assets,
21 or granting the rights to provide the services within defined
22 parameters of costs and services is an effective option to cut
23 costs; and

24 (12) whether popular solutions from private industry to
25 solve post-employment benefit funding problems may have some
26 applicability to situations facing units of local government,

1 including:

2 (A) changing retirement promises for new hires from
3 defined benefit plans to reduced defined benefit plans,
4 cash balance plans, or defined contribution plans and
5 variations thereto, whereby the public employer's
6 contribution is fixed and the employee's contribution can
7 vary based on the benefit desired by the employee subject
8 to State and federal law;

9 (B) transferring other post-employment benefit
10 obligations from employers to trusts administered by
11 employees, funded with a one-time employer contribution
12 and ongoing employee contributions or transfer retirees to
13 an exchange created under the Affordable Care Act; and

14 (C) requiring representatives of public employees and
15 employers negotiate affordable cost reductions to existing
16 plans.

17 In addition, the Authority shall develop criteria for
18 measuring the financial health of units of local government and
19 make public comment on whether costs of operation, including
20 services, labor, and pension and Other Post Employment Benefits
21 obligations, can be paid from reasonably available sources
22 without impairing a unit of local government's primary mission
23 of providing essential services.

24 Section 35. Powers. The Authority shall have the power to:

25 (a) Provide recommendations consistent with the purposes

1 of funding and enforcing reasonable and affordable government
2 services and costs of operation, labor and post-employment
3 benefits for employees of a unit of local government.

4 (b) Obtain information required under this Section and
5 Section 45 from all participating units of local government.

6 (c) Create a funding target and set an acceptable level of
7 essential governmental services and increasing percentage
8 targets for an appropriate level of annual funding for pension
9 funds so that by a specified date, full or appropriate funding
10 is realized by the participating funds.

11 (d) Encourage units of local government that fail to meet
12 the Authority's annual funding targets to enter into cost
13 reduction negotiations between public employers and their
14 employees. The Authority shall provide assistance with these
15 cost reduction efforts, including employer-employee benefit
16 adjustment discussions.

17 (e) Mediate discussions regarding appropriate levels of
18 local government services, costs, taxes, pension funding, and
19 benefits to ensure that they are within an acceptable range of
20 the funding target.

21 (f) Make findings regarding affordable levels of services
22 and costs, including labor costs and employee benefits, that
23 allow adequate funding for essential governmental services.

24 (g) Approve settlements.

25 (h) Recommend a tax increase that requires a vote by the
26 unit of local government on the tax increase. Home rule units

1 of local government shall have their representative body vote
2 on the recommended tax increase. The Authority may require a
3 referendum regarding the tax increase for non-home rule units
4 of local government.

5 (i) Recommend a diversion of State revenues in order to
6 fund specified costs of operation, labor, and post-retirement
7 benefits.

8 (j) Recommend voluntary mediation.

9 (k) Require annual work plans, along with quarterly
10 progress reports, from units of local government that have not
11 met the cost reductions or pension funding target.

12 (l) Require participating units of local government that
13 have individual budgets that are not affordable or specific
14 pension plans with funded ratios below a level determined by
15 Authority and have not met the funding target for 2 consecutive
16 years to submit an explanation to their electors. The
17 affordability of the budget and acceptable levels for essential
18 governmental services shall be determined by standards
19 established by General Assembly based on recommendations by
20 Authority. The funding ratio for pension plans shall be
21 determined according to the Uniform Calculation Method. The
22 required explanation to the electors shall include a Statement
23 of the impact of the underfunding of obligations and pensions
24 on the provision of essential governmental services and shall
25 be published in a newspaper of general circulation. The
26 Authority shall establish rules and guidelines for the

1 reporting and publication by units of local government.

2 (m) Consider and make recommendations to the General
3 Assembly legislation regarding an economic safety net whereby
4 the State shall provide a set of fallback post-employment
5 benefits for employees if a public employer has not resolved
6 the underfunding of its pension plan and thereafter is unable
7 to pay its retirees. The program shall use the federal Pension
8 Benefit Guaranty Corporation as its model. Contractual
9 benefits would have to meet affordability tests prior to being
10 approved for safety net funding. The outcomes of the
11 affordability tests may result in smaller benefit payments than
12 were initially promised to the employees by the defaulted
13 employer.

14 Section 40. Petition and criteria.

15 (a) The Authority may exercise its authority over a unit of
16 local government under this Act if the Authority is petitioned
17 and the Authority accepts the participation of the unit of
18 local government identified in the petition. The Authority has
19 absolute discretion regarding acceptance or denial of any
20 petition and participation of a unit of local government. The
21 Authority shall create rules regarding the petition,
22 procedure, format, and required documentation.

23 (b) The following parties may petition the Authority:

- 24 (1) the Illinois Comptroller;
25 (2) a unit of local government;

1 (3) a significant past due creditor; or

2 (4) a pension fund.

3 If the Illinois Comptroller, a significant past due
4 creditor, or a pension fund petitions the Authority, their
5 petition shall include documentation of the unit of local
6 government's approval of the petition and participation.

7 (c) The Authority may seek declaratory and injunctive
8 relief regarding the exercise of its powers and implementation
9 of its findings and recommendations.

10 (d) The Authority may consider any of the following
11 criteria regarding the unit of local government or its
12 individual pension plan in its determination to accept or deny
13 the party's petition:

14 (1) past due debt obligations or judgments of more than
15 a specified percentage of the annual revenues of the unit
16 of local government that have been unpaid for more than 6
17 months without an agreement by the creditors to forbear or
18 standstill as to prosecution of the claims;

19 (2) failure to make statutory or Annual Required
20 Contributions (or a suitable similar substitute concept)
21 to pension funds from existing operating revenues for 2
22 consecutive years;

23 (3) funded ratio for an individual pension plan falls
24 below a threshold set by Authority;

25 (4) failure to pass a budget by a date established by
26 Authority after the start of the fiscal year;

1 (5) bills of a specified percentage of annual current
2 revenues are left unpaid for a period greater than 180
3 days, as defined by a payment period;

4 (6) failure to maintain at least 30 days cash on hand
5 in the General Fund at end of the fiscal year for 2
6 consecutive years;

7 (7) debts or judgments that are past due for more than
8 6 months or pension liabilities exceed a given percent of
9 the fair market value of taxable real property in the
10 taxing district;

11 (8) financial statements are not published within 6
12 months of the close of the fiscal year;

13 (9) the unit of local government has defaulted on debt
14 securities;

15 (10) the sum of the Annual Required Contributions and
16 the annual debt service on any outstanding pension
17 obligation bonds has exceeded a thresholds set by the
18 Authority for the last 3 consecutive years; and

19 (11) any other criteria that the Authority determines
20 is necessary to accomplish its mission.

21 The Authority shall develop standards for interpreting
22 these criteria and how it shall grant participation to a unit
23 of local government.

24 Section 45. Participation requirements. If a unit of local
25 government is selected, it must fully cooperate with the

1 requests of the Authority, including, but not limited to: (1)
2 submitting any documents required under Section 35; (2)
3 providing information regarding its budget, revenue sources,
4 and liabilities, including pension funds; (3) annually filing
5 information with the Authority demonstrating their budgets,
6 revenues, costs, liabilities, and funding level for their
7 actuarially determined pension and other post employment
8 benefit liabilities; and (d) providing access to the records of
9 the pension funds for each participating unit of local
10 government for the purpose of confirming this information."