



Sen. Terry Link

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1 AMENDMENT TO HOUSE BILL 157

2 AMENDMENT NO. _____. Amend House Bill 157 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 7-109.3 and 7-132 as follows:

6 (40 ILCS 5/7-109.3) (from Ch. 108 1/2, par. 7-109.3)

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

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

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

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

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24 not be rescinded.

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9 ~~given, may not be rescinded.~~

10 (5) A person not eligible to participate in a fund
11 established under Article 3 of this Code who is employed on
12 a full-time basis by a participating city, village, or
13 incorporated town to perform police duties.

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

19 (c) The changes to this Section made by this amendatory Act
20 of the 94th General Assembly apply to collective bargaining
21 agreements entered into on or after the effective date of this
22 amendatory Act of the 94th General Assembly.

23 (Source: P.A. 92-16, eff. 6-28-01.)

24 (40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)
25 Sec. 7-132. Municipalities, instrumentalities and
26 participating instrumentalities included and effective dates.

27 (A) Municipalities and their instrumentalities.

28 (a) The following described municipalities, but not
29 including any with more than 1,000,000 inhabitants, and the
30 instrumentalities thereof, shall be included within and be
31 subject to this Article beginning upon the effective dates
32 specified by the Board:

1 (1) Except as to the municipalities and
2 instrumentalities thereof specifically excluded under this
3 Article, every county shall be subject to this Article, and
4 all cities, villages and incorporated towns having a
5 population in excess of 5,000 inhabitants as determined by
6 the last preceding decennial or subsequent federal census,
7 shall be subject to this Article following publication of
8 the census by the Bureau of the Census. Within 90 days
9 after publication of the census, the Board shall notify any
10 municipality that has become subject to this Article as a
11 result of that census, and shall provide information to the
12 corporate authorities of the municipality explaining the
13 duties and consequences of participation. The notification
14 shall also include a proposed date upon which participation
15 by the municipality will commence.

16 However, for any city, village or incorporated town
17 that attains a population over 5,000 inhabitants after
18 having provided social security coverage for its employees
19 under the Social Security Enabling Act, participation
20 under this Article shall not be mandatory (except as
21 provided in subdivision (A)(a-5) of this Section) but may
22 be elected in accordance with subparagraph (3) or (4) of
23 this paragraph (a), whichever is applicable.

24 (2) School districts, other than those specifically
25 excluded under this Article, shall be subject to this
26 Article, without election, with respect to all employees
27 thereof.

28 (3) Towns and all other bodies politic and corporate
29 which are formed by vote of, or are subject to control by,
30 the electors in towns and are located in towns which are
31 not participating municipalities on the effective date of
32 this Act, may become subject to this Article by election
33 pursuant to Section 7-132.1.

34 (4) Any other municipality (together with its

1 instrumentalities), other than those specifically excluded
2 from participation and those described in paragraph (3)
3 above, may elect to be included either by referendum under
4 Section 7-134 or by the adoption of a resolution or
5 ordinance by its governing body. A copy of such resolution
6 or ordinance duly authenticated and certified by the clerk
7 of the municipality or other appropriate official of its
8 governing body shall constitute the required notice to the
9 board of such action.

10 (a-5) Notwithstanding the other provisions of this
11 Section, a city, village, or incorporated town with a
12 population of less than 1,000,000 that (i) does not otherwise
13 participate in the Fund and (ii) employs one or more full-time
14 police officers who do not participate in an Article 3 police
15 pension fund shall begin to participate in this Fund with
16 respect to those police officers no later than 6 months after
17 the effective date of this amendatory Act of the 94th General
18 Assembly. A city, village, or incorporated town required to
19 participate in the Fund with respect to its full-time police
20 officers under this subdivision (a-5) need not participate in
21 the Fund with respect to its other officers and employees.
22 Participation in this Fund by a city, village, or incorporated
23 town with a population of less than 1,000,000 with respect to
24 its full-time police officers who do not participate in an
25 Article 3 police pension fund is a matter of exclusive State
26 power; this subdivision (a-5) is a denial and limitation of
27 home rule power under subsection (h) of Section 6 of Article
28 VII of the Illinois Constitution.

29 (b) A municipality that is about to begin participation
30 shall submit to the Board an application to participate, in a
31 form acceptable to the Board, not later than 90 days prior to
32 the proposed effective date of participation. The Board shall
33 act upon the application within 90 days, and if it finds that
34 the application is in conformity with its requirements and the

1 requirements of this Article, participation by the applicant
2 shall commence on a date acceptable to the municipality and
3 specified by the Board, but in no event more than one year from
4 the date of application.

5 (c) A participating municipality which succeeds to the
6 functions of a participating municipality which is dissolved or
7 terminates its existence shall assume and be transferred the
8 net accumulation balance in the municipality reserve and the
9 municipality account receivable balance of the terminated
10 municipality.

11 (d) In the case of a Veterans Assistance Commission whose
12 employees were being treated by the Fund on January 1, 1990 as
13 employees of the county served by the Commission, the Fund may
14 continue to treat the employees of the Veterans Assistance
15 Commission as county employees for the purposes of this
16 Article, unless the Commission becomes a participating
17 instrumentality in accordance with subsection (B) of this
18 Section.

19 (B) Participating instrumentalities.

20 (a) The participating instrumentalities designated in
21 paragraph (b) of this subsection shall be included within and
22 be subject to this Article if:

23 (1) an application to participate, in a form acceptable
24 to the Board and adopted by a two-thirds vote of the
25 governing body, is presented to the Board not later than 90
26 days prior to the proposed effective date; and

27 (2) the Board finds that the application is in
28 conformity with its requirements, that the applicant has
29 reasonable expectation to continue as a political entity
30 for a period of at least 10 years and has the prospective
31 financial capacity to meet its current and future
32 obligations to the Fund, and that the actuarial soundness
33 of the Fund may be reasonably expected to be unimpaired by

1 approval of participation by the applicant.

2 The Board shall notify the applicant of its findings within
3 90 days after receiving the application, and if the Board
4 approves the application, participation by the applicant shall
5 commence on the effective date specified by the Board.

6 (b) The following participating instrumentalities, so long
7 as they meet the requirements of Section 7-108 and the area
8 served by them or within their jurisdiction is not located
9 entirely within a municipality having more than one million
10 inhabitants, may be included hereunder:

11 i. Township School District Trustees.

12 ii. Multiple County and Consolidated Health
13 Departments created under Division 5-25 of the Counties
14 Code or its predecessor law.

15 iii. Public Building Commissions created under the
16 Public Building Commission Act, and located in counties of
17 less than 1,000,000 inhabitants.

18 iv. A multitype, consolidated or cooperative library
19 system created under the Illinois Library System Act. Any
20 library system created under the Illinois Library System
21 Act that has one or more predecessors that participated in
22 the Fund may participate in the Fund upon application. The
23 Board shall establish procedures for implementing the
24 transfer of rights and obligations from the predecessor
25 system to the successor system.

26 v. Regional Planning Commissions created under
27 Division 5-14 of the Counties Code or its predecessor law.

28 vi. Local Public Housing Authorities created under the
29 Housing Authorities Act, located in counties of less than
30 1,000,000 inhabitants.

31 vii. Illinois Municipal League.

32 viii. Northeastern Illinois Metropolitan Area Planning
33 Commission.

34 ix. Southwestern Illinois Metropolitan Area Planning

1 Commission.

2 x. Illinois Association of Park Districts.

3 xi. Illinois Supervisors, County Commissioners and
4 Superintendents of Highways Association.

5 xii. Tri-City Regional Port District.

6 xiii. An association, or not-for-profit corporation,
7 membership in which is authorized under Section 85-15 of
8 the Township Code.

9 xiv. Drainage Districts operating under the Illinois
10 Drainage Code.

11 xv. Local mass transit districts created under the
12 Local Mass Transit District Act.

13 xvi. Soil and water conservation districts created
14 under the Soil and Water Conservation Districts Law.

15 xvii. Commissions created to provide water supply or
16 sewer services or both under Division 135 or Division 136
17 of Article 11 of the Illinois Municipal Code.

18 xviii. Public water districts created under the Public
19 Water District Act.

20 xix. Veterans Assistance Commissions established under
21 Section 9 of the Military Veterans Assistance Act that
22 serve counties with a population of less than 1,000,000.

23 xx. The governing body of an entity, other than a
24 vocational education cooperative, created under an
25 intergovernmental cooperative agreement established
26 between participating municipalities under the
27 Intergovernmental Cooperation Act, which by the terms of
28 the agreement is the employer of the persons performing
29 services under the agreement under the usual common law
30 rules determining the employer-employee relationship. The
31 governing body of such an intergovernmental cooperative
32 entity established prior to July 1, 1988 may make
33 participation retroactive to the effective date of the
34 agreement and, if so, the effective date of participation

1 shall be the date the required application is filed with
2 the fund. If any such entity is unable to pay the required
3 employer contributions to the fund, then the participating
4 municipalities shall make payment of the required
5 contributions and the payments shall be allocated as
6 provided in the agreement or, if not so provided, equally
7 among them.

8 xxi. The Illinois Municipal Electric Agency.

9 xxii. The Waukegan Port District.

10 xxiii. The Fox Waterway Agency created under the Fox
11 Waterway Agency Act.

12 xxiv. The Illinois Municipal Gas Agency.

13 xxv. The Kaskaskia Regional Port District.

14 xxvi. The Southwestern Illinois Development Authority.

15 xxvii. The Cairo Public Utility Company.

16 (c) The governing boards of special education joint
17 agreements created under Section 10-22.31 of the School Code
18 without designation of an administrative district shall be
19 included within and be subject to this Article as participating
20 instrumentalities when the joint agreement becomes effective.
21 However, the governing board of any such special education
22 joint agreement in effect before September 5, 1975 shall not be
23 subject to this Article unless the joint agreement is modified
24 by the school districts to provide that the governing board is
25 subject to this Article, except as otherwise provided by this
26 Section.

27 The governing board of the Special Education District of
28 Lake County shall become subject to this Article as a
29 participating instrumentality on July 1, 1997. Notwithstanding
30 subdivision (a)1 of Section 7-139, on the effective date of
31 participation, employees of the governing board of the Special
32 Education District of Lake County shall receive creditable
33 service for their prior service with that employer, up to a
34 maximum of 5 years, without any employee contribution.

1 Employees may establish creditable service for the remainder of
2 their prior service with that employer, if any, by applying in
3 writing and paying an employee contribution in an amount
4 determined by the Fund, based on the employee contribution
5 rates in effect at the time of application for the creditable
6 service and the employee's salary rate on the effective date of
7 participation for that employer, plus interest at the effective
8 rate from the date of the prior service to the date of payment.
9 Application for this creditable service must be made before
10 July 1, 1998; the payment may be made at any time while the
11 employee is still in service. The employer may elect to make
12 the required contribution on behalf of the employee.

13 The governing board of a special education joint agreement
14 created under Section 10-22.31 of the School Code for which an
15 administrative district has been designated, if there are
16 employees of the cooperative educational entity who are not
17 employees of the administrative district, may elect to
18 participate in the Fund and be included within this Article as
19 a participating instrumentality, subject to such application
20 procedures and rules as the Board may prescribe.

21 The Boards of Control of cooperative or joint educational
22 programs or projects created and administered under Section
23 3-15.14 of the School Code, whether or not the Boards act as
24 their own administrative district, shall be included within and
25 be subject to this Article as participating instrumentalities
26 when the agreement establishing the cooperative or joint
27 educational program or project becomes effective.

28 The governing board of a special education joint agreement
29 entered into after June 30, 1984 and prior to September 17,
30 1985 which provides for representation on the governing board
31 by less than all the participating districts shall be included
32 within and subject to this Article as a participating
33 instrumentality. Such participation shall be effective as of
34 the date the joint agreement becomes effective.

1 The governing boards of educational service centers
2 established under Section 2-3.62 of the School Code shall be
3 included within and subject to this Article as participating
4 instrumentalities. The governing boards of vocational
5 education cooperative agreements created under the
6 Intergovernmental Cooperation Act and approved by the State
7 Board of Education shall be included within and be subject to
8 this Article as participating instrumentalities. If any such
9 governing boards or boards of control are unable to pay the
10 required employer contributions to the fund, then the school
11 districts served by such boards shall make payment of required
12 contributions as provided in Section 7-172. The payments shall
13 be allocated among the several school districts in proportion
14 to the number of students in average daily attendance for the
15 last full school year for each district in relation to the
16 total number of students in average attendance for such period
17 for all districts served. If such educational service centers,
18 vocational education cooperatives or cooperative or joint
19 educational programs or projects created and administered
20 under Section 3-15.14 of the School Code are dissolved, the
21 assets and obligations shall be distributed among the districts
22 in the same proportions unless otherwise provided.

23 (d) The governing boards of special recreation joint
24 agreements created under Section 8-10b of the Park District
25 Code, operating without designation of an administrative
26 district or an administrative municipality appointed to
27 administer the program operating under the authority of such
28 joint agreement shall be included within and be subject to this
29 Article as participating instrumentalities when the joint
30 agreement becomes effective. However, the governing board of
31 any such special recreation joint agreement in effect before
32 January 1, 1980 shall not be subject to this Article unless the
33 joint agreement is modified, by the districts and
34 municipalities which are parties to the agreement, to provide

1 that the governing board is subject to this Article.

2 If the Board returns any employer and employee
3 contributions to any employer which erroneously submitted such
4 contributions on behalf of a special recreation joint
5 agreement, the Board shall include interest computed from the
6 end of each year to the date of payment, not compounded, at the
7 rate of 7% per annum.

8 (e) Each multi-township assessment district, the board of
9 trustees of which has adopted this Article by ordinance prior
10 to April 1, 1982, shall be a participating instrumentality
11 included within and subject to this Article effective December
12 1, 1981. The contributions required under Section 7-172 shall
13 be included in the budget prepared under and allocated in
14 accordance with Section 2-30 of the Property Tax Code.

15 (f) Beginning January 1, 1992, each prospective
16 participating municipality or participating instrumentality
17 shall pay to the Fund the cost, as determined by the Board, of
18 a study prepared by the Fund or its actuary, detailing the
19 prospective costs of participation in the Fund to be expected
20 by the municipality or instrumentality.

21 (g) The changes to this Section made by this amendatory Act
22 of the 94th General Assembly apply to collective bargaining
23 agreements entered into on or after the effective date of this
24 amendatory Act of the 94th General Assembly.

25 (Source: P.A. 92-424, eff. 8-17-01; 93-777, eff. 7-21-04.)

26 Section 90. The State Mandates Act is amended by adding
27 Section 8.29 as follows:

28 (30 ILCS 805/8.29 new)

29 Sec. 8.29. 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 94th General Assembly.

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