



Sen. Iris Y. Martinez

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1 AMENDMENT TO SENATE BILL 439

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 439 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by  
5 changing Sections 6-111 and 6-211 as follows:

6 (40 ILCS 5/6-111) (from Ch. 108 1/2, par. 6-111)

7 Sec. 6-111. Salary. "Salary": Subject to Section 6-211, the  
8 annual salary of a fireman, as follows:

9 (a) For age and service annuity, minimum annuity, and  
10 disability benefits, the actual amount of the annual salary,  
11 except as otherwise provided in this Article.

12 (b) For prior service annuity, widow's annuity, widow's  
13 prior service annuity and child's annuity to and including  
14 August 31, 1957, the amount of the annual salary up to a  
15 maximum of \$3,000.

16 (c) Except as otherwise provided in Section 6-141.1, for

1 widow's annuity, beginning September 1, 1957, the amount of  
2 annual salary up to a maximum of \$6,000.

3 (d) "Salary" means the actual amount of the annual salary  
4 attached to the permanent career service rank held by the  
5 fireman, except as provided in subsection (e).

6 (e) In the case of a fireman who holds an exempt position  
7 above career service rank:

8 (1) For the purpose of computing employee and city  
9 contributions, "salary" means the actual salary attached  
10 to the exempt rank position held by the fireman.

11 (2) For the purpose of computing benefits: "salary"  
12 means the actual salary attached to the exempt rank  
13 position held by the fireman, if (i) the contributions  
14 specified in Section 6-211 have been made and, (ii) the  
15 fireman has held one or more exempt positions for at least  
16 5 consecutive years and has held the rank of battalion  
17 chief or field officer for at least 5 years during the  
18 exempt period, ~~and (iii) the fireman was born before 1955;~~  
19 otherwise, "salary" means the salary attached to the  
20 permanent career service rank held by the fireman, as  
21 provided in subsection (d).

22 (f) Beginning on the effective date of this amendatory Act  
23 of the 93rd General Assembly, and for any prior periods for  
24 which contributions have been paid under subsection (g) of this  
25 Section, all salary payments made to any active or former  
26 fireman who holds or previously held the permanent assigned

1 position or classified career service rank, grade, or position  
2 of ambulance commander shall be included as salary for all  
3 purposes under this Article.

4 (g) Any active or former fireman who held the permanent  
5 assigned position or classified career service rank, grade, or  
6 position of ambulance commander may elect to have the full  
7 amount of the salary attached to that permanent assigned  
8 position or classified career service rank, grade, or position  
9 included in the calculation of his or her salary for any period  
10 during which the fireman held the permanent assigned position  
11 or classified career service rank, grade, or position of  
12 ambulance commander by applying in writing and making all  
13 employee and employer contributions, without interest, related  
14 to the actual salary payments corresponding to the permanent  
15 assigned position or classified career service rank, grade, or  
16 position of ambulance commander for all periods beginning on or  
17 after January 1, 1995. All applicable contributions must be  
18 paid in full to the Fund before January 1, 2006 before the  
19 payment of any benefit under this subsection (g) will be made.

20 Any former fireman or widow of a fireman who (i) held the  
21 permanent assigned position or classified career service rank,  
22 grade, or position of ambulance commander, (ii) is in receipt  
23 of annuity on the effective date of this amendatory Act of the  
24 93rd General Assembly, and (iii) pays to the Fund contributions  
25 under this subsection (g) for salary payments at the permanent  
26 assigned position or classified career service rank, grade, or

1 position of ambulance commander shall have his or her annuity  
2 recalculated to reflect the ambulance commander salary and the  
3 resulting increase shall become payable on the next annuity  
4 payment date following the date the contribution is received by  
5 the Fund.

6 In the case of an active or former fireman who (i) dies  
7 before January 1, 2006 without making an election under this  
8 subsection and (ii) was eligible to make an election under this  
9 subsection at the time of death (or would have been eligible  
10 had the death occurred after the effective date of this  
11 amendatory Act), any surviving spouse, child, or parent of the  
12 fireman who is eligible to receive a benefit under this Article  
13 based on the fireman's salary may make that election and pay  
14 the required contributions on behalf of the deceased fireman.  
15 If the death occurs within the 30 days immediately preceding  
16 January 1, 2006, the deadline for application and payment is  
17 extended to January 31, 2006.

18 Any portion of the compensation received for service as an  
19 ambulance commander for which the corresponding contributions  
20 have not been paid shall not be included in the calculation of  
21 salary.

22 (h) Beginning January 1, 1999, with respect to a fireman  
23 who is licensed by the State as an Emergency Medical  
24 Technician, references in this Article to the fireman's salary  
25 or the salary attached to or appropriated for the permanent  
26 assigned position or classified career service rank, grade, or

1 position of the fireman shall be deemed to include any  
2 additional compensation payable to the fireman by virtue of  
3 being licensed as an Emergency Medical Technician, as provided  
4 under a collective bargaining agreement with the city.

5 (i) Beginning on the effective date of this amendatory Act  
6 of the 93rd General Assembly (and for any period prior to that  
7 date for which contributions have been paid under subsection  
8 (j) of this Section), the salary of a fireman, as calculated  
9 for any purpose under this Article, shall include any duty  
10 availability pay received by the fireman (i) pursuant to a  
11 collective bargaining agreement or (ii) pursuant to an  
12 appropriation ordinance in an amount equivalent to the amount  
13 of duty availability pay received by other firemen pursuant to  
14 a collective bargaining agreement, and references in this  
15 Article to the salary attached to or appropriated for the  
16 permanent assigned position or classified career service rank,  
17 grade, or position of the fireman shall be deemed to include  
18 that duty availability pay.

19 (j) An active or former fireman who received duty  
20 availability pay at any time after December 31, 1994 and before  
21 the effective date of this amendatory Act of the 93rd General  
22 Assembly and who either (1) retired during that period or (2)  
23 had attained age 46 and at least 16 years of service by the  
24 effective date of this amendatory Act may elect to have that  
25 duty availability pay included in the calculation of his or her  
26 salary for any portion of that period for which the pay was

1 received, by applying in writing and paying to the Fund, before  
2 January 1, 2006, the corresponding employee contribution,  
3 without interest.

4 In the case of an applicant who is receiving an annuity at  
5 the time the application and contribution are received by the  
6 Fund, the annuity shall be recalculated and the resulting  
7 increase shall become payable on the next annuity payment date  
8 following the date the contribution is received by the Fund.

9 In the case of an active or former fireman who (i) dies  
10 before January 1, 2006 without making an election under this  
11 subsection and (ii) was eligible to make an election under this  
12 subsection at the time of death (or would have been eligible  
13 had the death occurred after the effective date of this  
14 amendatory Act), any surviving spouse, child, or parent of the  
15 fireman who is eligible to receive a benefit under this Article  
16 based on the fireman's salary may make that election and pay  
17 the required contribution on behalf of the deceased fireman. If  
18 the death occurs within the 30 days immediately preceding  
19 January 1, 2006, the deadline for application and payment is  
20 extended to January 31, 2006.

21 Any duty availability pay for which the corresponding  
22 employee contribution has not been paid shall not be included  
23 in the calculation of salary.

24 (k) The changes to this Section made by this amendatory Act  
25 of the 93rd General Assembly are not limited to firemen in  
26 service on or after the effective date of this amendatory Act.

1 (Source: P.A. 93-654, eff. 1-16-04.)

2 (40 ILCS 5/6-211) (from Ch. 108 1/2, par. 6-211)

3 Sec. 6-211. Permanent and temporary positions; exempt  
4 positions above career service rank.

5 (a) Except as specified in subsection (b), no annuity,  
6 pension or other benefit shall be paid to a fireman or widow,  
7 under this Article, based upon any salary paid by virtue of a  
8 temporary appointment, and all contributions, annuities and  
9 benefits shall be related to the salary which attaches to the  
10 permanent position of the fireman.

11 Any fireman temporarily serving in a position or rank other  
12 than that to which he has received permanent appointment shall  
13 be considered, while so serving, as though he were in his  
14 permanent position or rank, except that no increase in any  
15 pension, annuity or other benefit hereunder shall accrue to him  
16 by virtue of any service performed by him subsequent to  
17 attaining the compulsory retirement age provided by law or  
18 ordinance.

19 This Section does not apply to any person certified to the  
20 fire department by the civil service commission of the city,  
21 during the period of probationary service.

22 A fireman who holds a position at the will of the Fire  
23 Commissioner or other appointing authority, whether or not such  
24 position is an "exempt" position, shall be deemed to hold a  
25 temporary position.

1 (b) Beginning on the effective date of this amendatory Act  
2 of the 93rd General Assembly, for service in an exempt position  
3 above career service rank, employee contributions shall be  
4 based on the actual full salary attached to the exempt rank  
5 position held by the fireman.

6 For service in an exempt position above career service  
7 rank, benefit computations under this Article shall be based on  
8 the actual full salary attached to the exempt rank position  
9 held by the fireman if and only if:

10 (1) employee contributions have been paid on the actual  
11 full salary attached to the exempt rank position held by  
12 the fireman for all service on or after January 1, 1994 in  
13 an exempt position above career service rank; and

14 (2) the fireman has held one or more exempt positions  
15 for at least 5 consecutive years (or, in the case of a  
16 fireman who retired due to attainment of compulsory  
17 retirement age before December 1, 2003, held one or more  
18 exempt positions for a consecutive period of at least 3  
19 years and 9 months and made the payment required under  
20 subsection (c) for a period of at least 5 years) and has  
21 held the rank of battalion chief or field officer for at  
22 least 5 years (at least 3 years and 9 months in the case of  
23 a fireman who retired due to attainment of compulsory  
24 retirement age before December 1, 2003) during the exempt  
25 period. ~~and~~

26 ~~(3) the fireman was born before 1955.~~



1           (c) For service prior to the effective date of this  
2 amendatory Act of the 93rd General Assembly in an exempt  
3 position above career service rank for which contributions have  
4 been paid only on the salary attached to the fireman's  
5 permanent career service rank, a fireman may make the  
6 contributions required under subsection (b) by paying to the  
7 Fund before the later of the date of retirement or 6 months  
8 after the effective date of this amendatory Act, but in no  
9 event later than July 1, 2016 ~~2005~~, an amount equal to the  
10 difference between the employee contributions actually made  
11 for that service and the employee contributions that would have  
12 been made based on the actual full salary attached to the  
13 exempt rank position held by the fireman on or after January 1,  
14 1994, plus interest thereon at the rate of 4% per year,  
15 compounded annually, from the date of the service to the date  
16 of payment (or to the date of retirement if retirement is  
17 before the effective date of this amendatory Act). In the case  
18 of a fireman who retired in an exempt rank position after  
19 January 1, 1994 and before January 1, 1999 and in the case of a  
20 fireman who retired due to attaining compulsory retirement age  
21 before December 1, 2003, the payment under this subsection (c)  
22 shall be for a period of at least 5 years.

23           If a fireman dies while eligible to make the contributions  
24 required under subsection (b) but before the contributions are  
25 paid, the fireman's widow may elect to make the contributions.

26           (d) Subsection (e) of Section 6-111 and the changes made to

1 this Section by this amendatory Act of the 93rd General  
2 Assembly apply to a fireman who retires (or becomes disabled)  
3 on or after January 1, 1994. In the case of a benefit payable  
4 on the effective date of this amendatory Act, the resulting  
5 increase in benefit shall begin to accrue with the first  
6 benefit payment period commencing after the required  
7 contributions are paid.

8 (e) If a fireman or his survivors do not qualify to have  
9 benefits computed on the full amount of salary received for  
10 service in an exempt position as provided in subsection (b),  
11 benefits shall be computed on the basis of the salary attached  
12 to the permanent career service rank, and a refund of any  
13 employee contributions paid on the difference between the  
14 actual salary and the salary attached to the permanent career  
15 service rank shall be payable to the fireman upon termination  
16 of service, or to the fireman's widow or estate upon the  
17 fireman's death.

18 (f) The tax levy computed under Section 6-165 shall be  
19 based on employee contributions, including the payments of  
20 employee contributions under subsections (a), (b), and (c) of  
21 this Section 6-211.

22 (g) The city shall pay to the Fund on an annual basis, in  
23 addition to the usual city contributions, an amount at least  
24 equal to the sum of (1) the increase in normal cost resulting  
25 from subsection (e) of Section 6-111 and the changes made to  
26 this Section by this amendatory Act of the 93rd General

1 Assembly, plus (2) amortization (over a period of 30 years from  
2 the effective date of this amendatory Act) of the initial  
3 unfunded liability resulting from subsection (e) of Section  
4 6-111 and the changes made to this Section by this amendatory  
5 Act of the 93rd General Assembly. The payment required under  
6 this subsection shall be no less than \$400,000 per year.  
7 Payment shall begin with the first calendar year commencing  
8 after the effective date of this amendatory Act and shall be in  
9 addition to the tax levy otherwise calculated under Section  
10 6-165. The city may increase that tax levy by the amount of the  
11 payment required under this subsection, or it may utilize any  
12 funds appropriated for this purpose.  
13 (Source: P.A. 93-654, eff. 1-16-04.)

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