

August 29, 2008

To the Honorable Members of the
Illinois House of Representatives
95th General Assembly

Pursuant to Article IV, Section 9(e) of the Illinois Constitution of 1970, I hereby return House Bill 4602, entitled "AN ACT concerning regulation.", with the following specific recommendations for change:

on page 4, line 1, after "Section 356z.11", by inserting "and changing Section 367f"; and

on page 4, immediately below line 11, by inserting the following:

"(215 ILCS 5/367f) (from Ch. 73, par. 979f)

Sec. 367f. Firemen's continuance privilege. As used in this Section

1. The terms "municipality", "deferred pensioner" and "creditable service" shall have the meaning ascribed to such terms by Sections 4-103, 4-105a and 4-108, respectively, of the Illinois Pension Code, as now or hereafter amended.

2. The terms "fireman" and "firemen" shall have the meaning ascribed to the term "firefighter" by Section 4-106 of the Illinois Pension Code, and include those persons under the coverage of Article 4 of that Code, as heretofore or hereafter amended.

3. The "retirement or disability period" of a fireman means the period:

a. which begins on the day the fireman is removed from a municipality's fire department payroll because of the occurrence of any of the following events, to wit: (i) the fireman retires as a deferred pensioner under Section 4-105a of the Illinois Pension Code, (ii) the fireman retires from active service as a fireman with an attained age and accumulated creditable service which together qualify the fireman for immediate receipt of retirement pension benefits under Section 4-109 of the Illinois Pension Code, or (iii) the fireman's disability is established under Section 4-112 of the Illinois Pension Code; ~~and~~

b. which ends on the first to occur of any of the following events, to wit: (i) the fireman's reinstatement or reentry into active service on the municipality's fire department as provided for under Article 4 of the Illinois Pension Code, (ii) the fireman's exercise of any refund option available under Section 4-116 of the Illinois Pension Code, (iii) the fireman's loss pursuant to Section 4-138 of the Illinois Pension Code of any benefits provided for in Article 4 of that Code, or (iv) the fireman's death or -- if at the time of the fireman's death the fireman is survived by a spouse who, in that capacity, is entitled to receive a surviving spouse's monthly pension pursuant to Article 4 of the Illinois Pension Code -- then the death or remarriage of that spouse; and -

c. notwithstanding subsections 3a. or 3b. of this Section, a disabled or retired fireman who did not elect to enroll in the municipal group insurance plan during the retirement or disability period or who elected to enroll in the municipal group insurance plan during the retirement or disability period but later disenrolled, may only once thereafter elect to enroll in the municipal group insurance plan during the annual open enrollment or renewal period if the disabled or retired fireman, as of the date on which the individual seeks coverage under this subsection:

(i) has a period of continuous creditable coverage of 12 months or more;

(ii) has not been without creditable coverage for more than 63 days; and

(iii) is not eligible for Medicare, including those who have applied for Medicare but for whom eligibility has not been approved.

For purposes of this subsection 3c. of this Section, "creditable coverage" shall have the meaning provided under paragraph (1) of subsection (C) of Section 20 of the Illinois Health Insurance Portability and Accountability Act. No exclusions or limitations may be applied to coverage elected pursuant to subsection subsection 3c. of this Section that are not similarly applied to coverage elected pursuant to subsections 3a. and 3b. of this Section.

No policy of group accident and health insurance under which firemen employed by a municipality are insured for ~~the their~~ individual benefit of firemen shall be issued or delivered in this State to any municipality unless such group policy provides for the election of continued group insurance coverage for the retirement or disability period of each fireman who is insured under the provisions of the group policy on the day immediately preceding the day on which the retirement or disability period of such fireman begins and which provides for the election of coverage pursuant to subsection 3c. of this Section. So long as any required premiums for continued group insurance coverage are paid in accordance with the provisions of the group policy, an election made pursuant to this Section shall provide continued group insurance coverage for a fireman throughout the retirement or disability period of the fireman and, unless the fireman otherwise elects and subject to any other provisions of the group policy which relate either to the provision or to the termination of dependents' coverage and which are not inconsistent with this Section, for any dependents of the fireman who are insured under the group policy on the day immediately preceding the day on which the retirement or disability period of the fireman begins or who are dependents at the time a retired or disabled fireman elects

coverage pursuant to subsection 3c. of this Section; provided, however, that when such continued group insurance coverage is in effect with respect to a fireman on the date of the fireman's death but the retirement or disability period of the fireman does not end with such fireman's death, then the deceased fireman's surviving spouse upon whose death or remarriage such retirement or disability period will end shall be entitled, without further election and upon payment of any required premiums in accordance with the provisions of the group policy, to maintain such continued group insurance coverage in effect until the end of such retirement or disability period. Continued group insurance coverage shall be provided in accordance with this Section at the same premium rate from time to time charged for equivalent coverage provided under the group policy with respect to covered firemen whose retirement or disability period has not begun, and no distinction or discrimination in the amount or rate of premiums or in any waiver of premium or other benefit provision shall be made between continued group insurance coverage elected pursuant to this Section and equivalent coverage provided to firemen under the group policy other than pursuant to the provisions of this Section; provided that no municipality shall be required by reason of any provision of this Section to pay any group insurance premium other than one that may be negotiated in a collective bargaining agreement. If a person electing continued coverage under this Section becomes eligible for medicare coverage, benefits under the group policy may continue as a supplement to the medicare coverage upon payment of any required premiums to maintain the benefits of the group policy as supplemental coverage.

Within 15 days of the beginning of the retirement or disability period of any fireman entitled to elect continued group insurance coverage under any group policy affected by this Section, the municipality last employing such fireman shall give written notice of such beginning by certified mail, return receipt requested to the insurance company issuing such policy. The notice shall include the fireman's name and last known place of residence and the beginning date of the fireman's retirement or disability period.

Within 15 days of the date of receipt of such notice from the municipality, the insurance company by certified mail, return receipt requested, shall give written notice to the fireman at the fireman's last known place of residence that coverage under the group policy may be continued for the retirement or disability period of the fireman as provided in this Section. Such notice shall set forth: (i) a statement of election to be filed by the fireman if the fireman wishes to continue such group insurance coverage, (ii) the amount of monthly premium, including a statement of the portion of such monthly premium attributable to any dependents' coverage which the fireman may elect, and (iii) instructions as to the return of the election form to the insurance company issuing such policy. Election shall be made, if at all, by returning the statement of election to the insurance company by certified mail, return receipt requested within 15 days after having received it. This 15-day return receipt requirement shall not apply to elections of coverage made by retired or disabled firemen pursuant to subsection 3c. of this Section. For purposes of subsection 3c., the non-enrolled disabled or retired fireman shall be notified annually of enrollment options, and such notice shall be in writing and sent by certified mail to the fireman's last known place of residence.

If the fireman elects to continue coverage, it shall be the obligation of the fireman to pay the monthly premium directly to the municipality which shall forward it to the insurance company issuing the group insurance policy, or as otherwise directed by the insurance company; provided, however, that the fireman shall be entitled to designate on the statement of election required to be

filed with the insurance company that the total monthly premium, or such portion thereof as is not contributed by a municipality, be deducted by a Firefighter's Pension Fund from any monthly pension payment otherwise payable to or on behalf of the fireman pursuant to Article 4 of the Illinois Pension Code, and be remitted by such Pension Fund to the insurance company. The portion, if any, of the monthly premium contributed by a municipality for such continued group insurance coverage shall be paid by the municipality directly to the insurance company issuing the group insurance policy, or as otherwise directed by the insurance company. Such continued group insurance coverage shall relate back to the beginning of the fireman's retirement or disability period.

The amendment, renewal or extension of any group insurance policy affected by this Section shall be deemed to be the issuance of a new policy of insurance for purposes of this Section.

In the event that a municipality makes a program of accident, health, hospital or medical benefits available to its firemen through self-insurance, or by participation in a pool or reciprocal insurer, or by contract in a form other than a policy of group insurance with one or more medical service plans, health care service corporations, health maintenance organizations, or any other professional corporations or plans under which health care or reimbursement for the costs thereof is provided, whether the cost of such benefits is borne by the municipality or the firemen or both, such firemen and their surviving spouses shall have the same right to elect continued coverage under such program of benefits as they would have if such benefits were provided by a policy of group accident and health insurance. In such cases, the notice of right to elect continued coverage shall be sent by the municipality; the statement of election shall be sent to the municipality; and references to the required premium shall refer to that portion of the cost of such benefits which is not borne by the municipality, either voluntarily or pursuant to the provisions of a collective bargaining agreement. In the case of a municipality providing such benefits through self-insurance or participation in a pool or reciprocal insurer, the right to elect continued coverage which is provided by this paragraph shall be implemented and made available to the firemen of the municipality and qualifying surviving spouses not later than July 1, 1985.

The amendment, renewal or extension of any such contract in a form other than a policy of group insurance policy shall be deemed the formation of a new contract for the purposes of this Section.

This Section shall not limit the exercise of any conversion privileges available under Section 367e.

Pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution, this Section specifically denies and limits the exercise by a home rule unit of any power which is inconsistent with this Section and all existing laws and ordinances which are inconsistent with this Section are hereby superseded. This Section does not preempt the concurrent exercise by home rule units of powers consistent herewith.

The Division of Insurance of the Department of Financial and Professional Regulation shall enforce the provisions of this Section, including provisions relating to municipality self-insured benefit plans.”

With these changes, House Bill 4602 will have my approval. I respectfully request your concurrence.

Sincerely,

ROD R. BLAGOJEVICH

Governor