



**Adopted in House Comm. on May 03, 2006**

09400SB0789ham001

LRB094 04426 AMC 58783 a

1 AMENDMENT TO SENATE BILL 789

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 789 by replacing  
3 everything after the enacting clause with the following:

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

6 (40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

7 Sec. 7-132. Municipalities, instrumentalities and  
8 participating instrumentalities included and effective dates.

9 (A) Municipalities and their instrumentalities.

10 (a) The following described municipalities, but not  
11 including any with more than 1,000,000 inhabitants, and the  
12 instrumentalities thereof, shall be included within and be  
13 subject to this Article beginning upon the effective dates  
14 specified by the Board:

15 (1) Except as to the municipalities and  
16 instrumentalities thereof specifically excluded under this  
17 Article, every county shall be subject to this Article, and  
18 all cities, villages and incorporated towns having a  
19 population in excess of 5,000 inhabitants as determined by  
20 the last preceding decennial or subsequent federal census,  
21 shall be subject to this Article following publication of  
22 the census by the Bureau of the Census. Within 90 days  
23 after publication of the census, the Board shall notify any

1 municipality that has become subject to this Article as a  
2 result of that census, and shall provide information to the  
3 corporate authorities of the municipality explaining the  
4 duties and consequences of participation. The notification  
5 shall also include a proposed date upon which participation  
6 by the municipality will commence.

7 However, for any city, village or incorporated town  
8 that attains a population over 5,000 inhabitants after  
9 having provided social security coverage for its employees  
10 under the Social Security Enabling Act, participation  
11 under this Article shall not be mandatory but may be  
12 elected in accordance with subparagraph (3) or (4) of this  
13 paragraph (a), whichever is applicable.

14 (2) School districts, other than those specifically  
15 excluded under this Article, shall be subject to this  
16 Article, without election, with respect to all employees  
17 thereof.

18 (3) Towns and all other bodies politic and corporate  
19 which are formed by vote of, or are subject to control by,  
20 the electors in towns and are located in towns which are  
21 not participating municipalities on the effective date of  
22 this Act, may become subject to this Article by election  
23 pursuant to Section 7-132.1.

24 (4) Any other municipality (together with its  
25 instrumentalities), other than those specifically excluded  
26 from participation and those described in paragraph (3)  
27 above, may elect to be included either by referendum under  
28 Section 7-134 or by the adoption of a resolution or  
29 ordinance by its governing body. A copy of such resolution  
30 or ordinance duly authenticated and certified by the clerk  
31 of the municipality or other appropriate official of its  
32 governing body shall constitute the required notice to the  
33 board of such action.

34 (b) A municipality that is about to begin participation

1 shall submit to the Board an application to participate, in a  
2 form acceptable to the Board, not later than 90 days prior to  
3 the proposed effective date of participation. The Board shall  
4 act upon the application within 90 days, and if it finds that  
5 the application is in conformity with its requirements and the  
6 requirements of this Article, participation by the applicant  
7 shall commence on a date acceptable to the municipality and  
8 specified by the Board, but in no event more than one year from  
9 the date of application.

10 (c) A participating municipality which succeeds to the  
11 functions of a participating municipality which is dissolved or  
12 terminates its existence shall assume and be transferred the  
13 net accumulation balance in the municipality reserve and the  
14 municipality account receivable balance of the terminated  
15 municipality.

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

24 (B) Participating instrumentalities.

25 (a) The participating instrumentalities designated in  
26 paragraph (b) of this subsection shall be included within and  
27 be subject to this Article if:

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

32 (2) the Board finds that the application is in  
33 conformity with its requirements, that the applicant has

1 reasonable expectation to continue as a political entity  
2 for a period of at least 10 years and has the prospective  
3 financial capacity to meet its current and future  
4 obligations to the Fund, and that the actuarial soundness  
5 of the Fund may be reasonably expected to be unimpaired by  
6 approval of participation by the applicant.

7 The Board shall notify the applicant of its findings within  
8 90 days after receiving the application, and if the Board  
9 approves the application, participation by the applicant shall  
10 commence on the effective date specified by the Board.

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

16 i. Township School District Trustees.

17 ii. Multiple County and Consolidated Health  
18 Departments created under Division 5-25 of the Counties  
19 Code or its predecessor law.

20 iii. Public Building Commissions created under the  
21 Public Building Commission Act, and located in counties of  
22 less than 1,000,000 inhabitants.

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

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

33 vi. Local Public Housing Authorities created under the  
34 Housing Authorities Act, located in counties of less than

1 1,000,000 inhabitants.

2 vii. Illinois Municipal League.

3 viii. Northeastern Illinois Metropolitan Area Planning  
4 Commission.

5 ix. Southwestern Illinois Metropolitan Area Planning  
6 Commission.

7 x. Illinois Association of Park Districts.

8 xi. Illinois Supervisors, County Commissioners and  
9 Superintendents of Highways Association.

10 xii. Tri-City Regional Port District.

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

14 xiv. Drainage Districts operating under the Illinois  
15 Drainage Code.

16 xv. Local mass transit districts created under the  
17 Local Mass Transit District Act.

18 xvi. Soil and water conservation districts created  
19 under the Soil and Water Conservation Districts Law.

20 xvii. Commissions created to provide water supply or  
21 sewer services or both under Division 135 or Division 136  
22 of Article 11 of the Illinois Municipal Code.

23 xviii. Public water districts created under the Public  
24 Water District Act.

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

28 xx. The governing body of an entity, other than a  
29 vocational education cooperative, created under an  
30 intergovernmental cooperative agreement established  
31 between participating municipalities under the  
32 Intergovernmental Cooperation Act, which by the terms of  
33 the agreement is the employer of the persons performing  
34 services under the agreement under the usual common law

1 rules determining the employer-employee relationship. The  
2 governing body of such an intergovernmental cooperative  
3 entity established prior to July 1, 1988 may make  
4 participation retroactive to the effective date of the  
5 agreement and, if so, the effective date of participation  
6 shall be the date the required application is filed with  
7 the fund. If any such entity is unable to pay the required  
8 employer contributions to the fund, then the participating  
9 municipalities shall make payment of the required  
10 contributions and the payments shall be allocated as  
11 provided in the agreement or, if not so provided, equally  
12 among them.

13 xxi. The Illinois Municipal Electric Agency.

14 xxii. The Waukegan Port District.

15 xxiii. The Fox Waterway Agency created under the Fox  
16 Waterway Agency Act.

17 xxiv. The Illinois Municipal Gas Agency.

18 xxv. The Kaskaskia Regional Port District.

19 xxvi. The Southwestern Illinois Development Authority.

20 xxvii. The Cairo Public Utility Company.

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

32 The governing board of the Special Education District of  
33 Lake County shall become subject to this Article as a  
34 participating instrumentality on July 1, 1997. Notwithstanding

1 subdivision (a)1 of Section 7-139, on the effective date of  
2 participation, employees of the governing board of the Special  
3 Education District of Lake County shall receive creditable  
4 service for their prior service with that employer, up to a  
5 maximum of 5 years, without any employee contribution.  
6 Employees may establish creditable service for the remainder of  
7 their prior service with that employer, if any, by applying in  
8 writing and paying an employee contribution in an amount  
9 determined by the Fund, based on the employee contribution  
10 rates in effect at the time of application for the creditable  
11 service and the employee's salary rate on the effective date of  
12 participation for that employer, plus interest at the effective  
13 rate from the date of the prior service to the date of payment.  
14 Application for this creditable service must be made before  
15 July 1, 1998; the payment may be made at any time while the  
16 employee is still in service. The employer may elect to make  
17 the required contribution on behalf of the employee.

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

26 The Boards of Control of cooperative or joint educational  
27 programs or projects created and administered under Section  
28 3-15.14 of the School Code, whether or not the Boards act as  
29 their own administrative district, shall be included within and  
30 be subject to this Article as participating instrumentalities  
31 when the agreement establishing the cooperative or joint  
32 educational program or project becomes effective.

33 The governing board of a special education joint agreement  
34 entered into after June 30, 1984 and prior to September 17,

1 1985 which provides for representation on the governing board  
2 by less than all the participating districts shall be included  
3 within and subject to this Article as a participating  
4 instrumentality. Such participation shall be effective as of  
5 the date the joint agreement becomes effective.

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

28 (d) The governing boards of special recreation joint  
29 agreements created under Section 8-10b of the Park District  
30 Code, operating without designation of an administrative  
31 district or an administrative municipality appointed to  
32 administer the program operating under the authority of such  
33 joint agreement shall be included within and be subject to this  
34 Article as participating instrumentalities when the joint



1 agreement becomes effective. However, the governing board of  
2 any such special recreation joint agreement in effect before  
3 January 1, 1980 shall not be subject to this Article unless the  
4 joint agreement is modified, by the districts and  
5 municipalities which are parties to the agreement, to provide  
6 that the governing board is subject to this Article.

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

13 (e) Each multi-township assessment district, the board of  
14 trustees of which has adopted this Article by ordinance prior  
15 to April 1, 1982, shall be a participating instrumentality  
16 included within and subject to this Article effective December  
17 1, 1981. The contributions required under Section 7-172 shall  
18 be included in the budget prepared under and allocated in  
19 accordance with Section 2-30 of the Property Tax Code.

20 (f) The Illinois Medical District Commission created under  
21 the Illinois Medical District Act may be included within and  
22 subject to this Article as a participating instrumentality,  
23 notwithstanding that the location of the District is entirely  
24 within the City of Chicago. To become a participating  
25 instrumentality, the Commission must apply to the Board in the  
26 manner set forth in paragraph (a) of this subsection (B). If  
27 the Board approves the application, under the criteria and  
28 procedures set forth in paragraph (a) and any other applicable  
29 rules, criteria, and procedures of the Board, participation by  
30 the Commission shall commence on the effective date specified  
31 by the Board.

32 (C) Prospective participants.

33 ~~(f)~~ Beginning January 1, 1992, each prospective

1 participating municipality or participating instrumentality  
2 shall pay to the Fund the cost, as determined by the Board, of  
3 a study prepared by the Fund or its actuary, detailing the  
4 prospective costs of participation in the Fund to be expected  
5 by the municipality or instrumentality.

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

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law."