



Sen. Rickey R. Hendon

Filed: 3/2/2006

09400SB0789sam002

LRB094 04426 AMC 56928 a

1 AMENDMENT TO SENATE BILL 789

2 AMENDMENT NO. _____. Amend Senate Bill 789, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment No.
4 1, on page 1, line 5, by replacing "Section 7-109.3" with
5 "Sections 7-109.3 and 7-132"; and

6 on page 2, immediately below line 31, by inserting the
7 following:

8 "(40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)
9 Sec. 7-132. Municipalities, instrumentalities and
10 participating instrumentalities included and effective dates.

11 (A) Municipalities and their instrumentalities.

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

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

1 the census by the Bureau of the Census. Within 90 days
2 after publication of the census, the Board shall notify any
3 municipality that has become subject to this Article as a
4 result of that census, and shall provide information to the
5 corporate authorities of the municipality explaining the
6 duties and consequences of participation. The notification
7 shall also include a proposed date upon which participation
8 by the municipality will commence.

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

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

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

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

1 board of such action.

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

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

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

26 (B) Participating instrumentalities.

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

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

1 (2) the Board finds that the application is in
2 conformity with its requirements, that the applicant has
3 reasonable expectation to continue as a political entity
4 for a period of at least 10 years and has the prospective
5 financial capacity to meet its current and future
6 obligations to the Fund, and that the actuarial soundness
7 of the Fund may be reasonably expected to be unimpaired by
8 approval of participation by the applicant.

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

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

18 i. Township School District Trustees.

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

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

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

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

1 vi. Local Public Housing Authorities created under the
2 Housing Authorities Act, located in counties of less than
3 1,000,000 inhabitants.

4 vii. Illinois Municipal League.

5 viii. Northeastern Illinois Metropolitan Area Planning
6 Commission.

7 ix. Southwestern Illinois Metropolitan Area Planning
8 Commission.

9 x. Illinois Association of Park Districts.

10 xi. Illinois Supervisors, County Commissioners and
11 Superintendents of Highways Association.

12 xii. Tri-City Regional Port District.

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

16 xiv. Drainage Districts operating under the Illinois
17 Drainage Code.

18 xv. Local mass transit districts created under the
19 Local Mass Transit District Act.

20 xvi. Soil and water conservation districts created
21 under the Soil and Water Conservation Districts Law.

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

25 xviii. Public water districts created under the Public
26 Water District Act.

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

30 xx. The governing body of an entity, other than a
31 vocational education cooperative, created under an
32 intergovernmental cooperative agreement established
33 between participating municipalities under the
34 Intergovernmental Cooperation Act, which by the terms of

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

15 xxi. The Illinois Municipal Electric Agency.

16 xxii. The Waukegan Port District.

17 xxiii. The Fox Waterway Agency created under the Fox
18 Waterway Agency Act.

19 xxiv. The Illinois Municipal Gas Agency.

20 xxv. The Kaskaskia Regional Port District.

21 xxvi. The Southwestern Illinois Development Authority.

22 xxvii. The Cairo Public Utility Company.

23 xxviii. The Illinois Medical District Commission
24 created under the Illinois Medical District Act.

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

1 Section.

2 The governing board of the Special Education District of
3 Lake County shall become subject to this Article as a
4 participating instrumentality on July 1, 1997. Notwithstanding
5 subdivision (a)1 of Section 7-139, on the effective date of
6 participation, employees of the governing board of the Special
7 Education District of Lake County shall receive creditable
8 service for their prior service with that employer, up to a
9 maximum of 5 years, without any employee contribution.
10 Employees may establish creditable service for the remainder of
11 their prior service with that employer, if any, by applying in
12 writing and paying an employee contribution in an amount
13 determined by the Fund, based on the employee contribution
14 rates in effect at the time of application for the creditable
15 service and the employee's salary rate on the effective date of
16 participation for that employer, plus interest at the effective
17 rate from the date of the prior service to the date of payment.
18 Application for this creditable service must be made before
19 July 1, 1998; the payment may be made at any time while the
20 employee is still in service. The employer may elect to make
21 the required contribution on behalf of the employee.

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

30 The Boards of Control of cooperative or joint educational
31 programs or projects created and administered under Section
32 3-15.14 of the School Code, whether or not the Boards act as
33 their own administrative district, shall be included within and
34 be subject to this Article as participating instrumentalities

1 when the agreement establishing the cooperative or joint
2 educational program or project becomes effective.

3 The governing board of a special education joint agreement
4 entered into after June 30, 1984 and prior to September 17,
5 1985 which provides for representation on the governing board
6 by less than all the participating districts shall be included
7 within and subject to this Article as a participating
8 instrumentality. Such participation shall be effective as of
9 the date the joint agreement becomes effective.

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

32 (d) The governing boards of special recreation joint
33 agreements created under Section 8-10b of the Park District
34 Code, operating without designation of an administrative

1 district or an administrative municipality appointed to
2 administer the program operating under the authority of such
3 joint agreement shall be included within and be subject to this
4 Article as participating instrumentalities when the joint
5 agreement becomes effective. However, the governing board of
6 any such special recreation joint agreement in effect before
7 January 1, 1980 shall not be subject to this Article unless the
8 joint agreement is modified, by the districts and
9 municipalities which are parties to the agreement, to provide
10 that the governing board is subject to this Article.

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

17 (e) Each multi-township assessment district, the board of
18 trustees of which has adopted this Article by ordinance prior
19 to April 1, 1982, shall be a participating instrumentality
20 included within and subject to this Article effective December
21 1, 1981. The contributions required under Section 7-172 shall
22 be included in the budget prepared under and allocated in
23 accordance with Section 2-30 of the Property Tax Code.

24 (f) Beginning January 1, 1992, each prospective
25 participating municipality or participating instrumentality
26 shall pay to the Fund the cost, as determined by the Board, of
27 a study prepared by the Fund or its actuary, detailing the
28 prospective costs of participation in the Fund to be expected
29 by the municipality or instrumentality.

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