



Sen. James F. Clayborne Jr.

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1 AMENDMENT TO SENATE BILL 799

2 AMENDMENT NO. _____. Amend Senate Bill 799 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 xxviii. The United Counties Council of Illinois. If the
22 United Counties Council of Illinois becomes a
23 participating instrumentality included within and subject
24 to this Article, service with the Council under its
25 previous name (the Urban Counties Council of Illinois)
26 shall be deemed service with the same employer. The
27 employer may elect to make any employee contributions for
28 prior service on behalf of the employees.

29 (c) The governing boards of special education joint
30 agreements created under Section 10-22.31 of the School Code
31 without designation of an administrative district shall be
32 included within and be subject to this Article as participating
33 instrumentalities when the joint agreement becomes effective.
34 However, the governing board of any such special education

1 joint agreement in effect before September 5, 1975 shall not be
2 subject to this Article unless the joint agreement is modified
3 by the school districts to provide that the governing board is
4 subject to this Article, except as otherwise provided by this
5 Section.

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

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

34 The Boards of Control of cooperative or joint educational

1 programs or projects created and administered under Section
2 3-15.14 of the School Code, whether or not the Boards act as
3 their own administrative district, shall be included within and
4 be subject to this Article as participating instrumentalities
5 when the agreement establishing the cooperative or joint
6 educational program or project becomes effective.

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

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

1 in the same proportions unless otherwise provided.

2 (d) The governing boards of special recreation joint
3 agreements created under Section 8-10b of the Park District
4 Code, operating without designation of an administrative
5 district or an administrative municipality appointed to
6 administer the program operating under the authority of such
7 joint agreement shall be included within and be subject to this
8 Article as participating instrumentalities when the joint
9 agreement becomes effective. However, the governing board of
10 any such special recreation joint agreement in effect before
11 January 1, 1980 shall not be subject to this Article unless the
12 joint agreement is modified, by the districts and
13 municipalities which are parties to the agreement, to provide
14 that the governing board is subject to this Article.

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

21 (e) Each multi-township assessment district, the board of
22 trustees of which has adopted this Article by ordinance prior
23 to April 1, 1982, shall be a participating instrumentality
24 included within and subject to this Article effective December
25 1, 1981. The contributions required under Section 7-172 shall
26 be included in the budget prepared under and allocated in
27 accordance with Section 2-30 of the Property Tax Code.

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

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

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