



Rep. Jeanne M Ives

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09800HB5919ham001

LRB098 18361 EFG 57454 a

1 AMENDMENT TO HOUSE BILL 5919

2 AMENDMENT NO. _____. Amend House Bill 5919 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 3-144.2, 3-148, and 4-139 and by adding
6 Section 4-138.10 as follows:

7 (40 ILCS 5/3-144.2) (from Ch. 108 1/2, par. 3-144.2)

8 Sec. 3-144.2. Mistake in benefit.

9 (a) If the Fund mistakenly sets any benefit at an incorrect
10 amount, it shall recalculate the benefit as soon as may be
11 practicable after the mistake is discovered.

12 (b) If the benefit was mistakenly set too low, the Fund
13 shall make a lump sum payment to the recipient of an amount
14 equal to the difference between the benefits that should have
15 been paid and those actually paid, plus interest at the
16 prescribed rate from the date the unpaid amounts accrued to the

1 date of payment.

2 (c) If the benefit was mistakenly set too high, the Fund
3 may recover the amount overpaid from the recipient thereof,
4 including interest at the prescribed rate from the date of
5 overpayment to the date of recovery, either directly or by
6 deducting such amount from the remaining benefits payable to
7 the recipient. If the overpayment is recovered by deductions
8 from the remaining benefits payable to the recipient, the
9 monthly deduction shall not exceed 10% of the corrected monthly
10 benefit amount, unless otherwise agreed to by the recipient of
11 the benefit.

12 However, if (i) the amount of the benefit was mistakenly
13 set too high, and (ii) the error was undiscovered for 3 years
14 or longer, and (iii) the error was not the result of incorrect
15 information supplied by the affected participant or
16 beneficiary, then upon discovery of the mistake the benefit
17 shall be adjusted to the correct level, but the recipient of
18 the benefit need not repay to the Fund the excess amounts
19 received in error.

20 (d) In the event of any conflict between this Section and
21 the Administrative Review Law, including but not limited to any
22 period established under that Law having the effect of limiting
23 the time in which a mistake in benefit may be corrected, this
24 Section is intended to control.

25 ~~The amount of any overpayment, due to fraud,~~
26 ~~misrepresentation or error, of any pension or benefit granted~~

1 ~~under this Article may be deducted from future payments to the~~
2 ~~recipient of such pension or benefit.~~

3 (Source: P.A. 82-623.)

4 (40 ILCS 5/3-148) (from Ch. 108 1/2, par. 3-148)

5 Sec. 3-148. Administrative review. Except as provided in
6 Section 3-144.2, pertaining to the correction of mistakes in
7 benefits, the ~~The~~ provisions of the Administrative Review Law,
8 and all amendments and modifications thereof and the rules
9 adopted pursuant thereto, shall apply to and govern all
10 proceedings for the judicial review of final administrative
11 decisions of the retirement board provided for under this
12 Article. The term "administrative decision" is as defined in
13 Section 3-101 of the Code of Civil Procedure.

14 (Source: P.A. 82-783.)

15 (40 ILCS 5/4-138.10 new)

16 Sec. 4-138.10. Mistake in benefit.

17 (a) If the Fund mistakenly sets any benefit at an incorrect
18 amount, it shall recalculate the benefit as soon as may be
19 practicable after the mistake is discovered.

20 (b) If the benefit was mistakenly set too low, the Fund
21 shall make a lump sum payment to the recipient of an amount
22 equal to the difference between the benefits that should have
23 been paid and those actually paid, plus interest at the
24 prescribed rate from the date the unpaid amounts accrued to the

1 date of payment.

2 (c) If the benefit was mistakenly set too high, the Fund
3 may recover the amount overpaid from the recipient thereof,
4 including interest at the prescribed rate from the date of
5 overpayment to the date of recovery, either directly or by
6 deducting such amount from the remaining benefits payable to
7 the recipient. If the overpayment is recovered by deductions
8 from the remaining benefits payable to the recipient, the
9 monthly deduction shall not exceed 10% of the corrected monthly
10 benefit amount, unless otherwise agreed to by the recipient of
11 the benefit.

12 However, if (i) the amount of the benefit was mistakenly
13 set too high, and (ii) the error was undiscovered for 3 years
14 or longer, and (iii) the error was not the result of incorrect
15 information supplied by the affected participant or
16 beneficiary, then upon discovery of the mistake the benefit
17 shall be adjusted to the correct level, but the recipient of
18 the benefit need not repay to the Fund the excess amounts
19 received in error.

20 (d) In the event of any conflict between this Section and
21 the Administrative Review Law, including but not limited to any
22 period established under that Law having the effect of limiting
23 the time in which a mistake in benefit may be corrected, this
24 Section is intended to control.

1 Sec. 4-139. Administrative review. Except as provided in
2 Section 4-138.10, pertaining to the correction of mistakes in
3 benefits, the ~~The~~ provisions of the Administrative Review Law,
4 and all amendments and modifications thereof and the rules
5 adopted pursuant thereto, shall apply to and govern all
6 proceedings for the judicial review of final administrative
7 decisions of the retirement board provided for under this
8 Article. The term "administrative decision" is as defined in
9 Section 3-101 of the Code of Civil Procedure.

10 (Source: P.A. 82-783.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."