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IMPORTANT LEGAL UPDATE

Legislature Enacts Sweeping Pension Changes to Police and Fire Pension Funds

Dear Clients and Friends:

On December 2, 2010, the Illinois General Assembly passed Senate Bill 3538, with House Amendment #3, enacting sweeping changes to Article III and Article IV of the Pension Code. Based upon our initial review, it appears that none of the changes contained in this legislation impact current members' benefits. Those benefits are vested and guaranteed under Article XIII, Section 5 of the Illinois Constitution. The new benefit structure created by SB 3538 only applies to police officers and firefighters hired on or after January 1, 2011.

Remember this Bill is not yet law. The Bill has yet to be signed by the Governor. After review, the Governor's office has the power to suggest certain changes. We are monitoring the Bill's progress on a daily, if not hourly, basis.

By passing SB 3538, the General Assembly changed the Pension Code in three ways: (1) it created a new pension benefit structure for police officers and firefighters hired on or after January 1, 2011; (2) it expanded investment authority for pension funds with more than \$10 million in net assets; and (3) it phases in a means to enforce mandatory municipal funding (similar to the manner by which IMRF is funded).

The first, and perhaps most dramatic, change to the Pension Code creates a new benefit structure for officers and firefighters hired on or after January 1, 2011. Again, the benefit structure for current officers/firefighters and the benefits for beneficiaries have not changed. As summary of the new benefit structure for newly hired police officers or firefighters is follows:

I. Creation of Two Tier System for Firefighters and Police Officers

- A. The benefits for current police officers and firefighters have not changed.
- B. Changes apply to police officers and firefighters hired after December 31, 2010.
- C. Minimum retirement age – 55 years.
- D. Minimum of 10 years service as police officer or firefighter.
- E. Retirement pension based upon 2.5% of 'final average salary' for a max. of 75%.
- F. Can retire after age 50 with minimum of 10 years service, but penalty of ½ % for each month police officer/firefighter age is under 55.
- G. Final average salary is defined as:

"The average monthly salary obtained by dividing the total salary of the police officer/firefighter during the 96 consecutive months of service within the last 120 months of service in which the total salary was the highest by the number of months of service in that period."

Meaning, the officer or firefighter's pension will be based upon his/her best eight consecutive years out of the last ten years of his/her service.



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- H. Salary Cap – police officers'/firefighters' salary for pension purposes is capped at \$106,800 plus the lesser of ½ of the annual CPI-U or 3% (compounded).
- I. Cost of Living Increases – Payable at age 60 either on the January 1st after police officer/firefighter retires or the first anniversary of pension starting date, whichever is later. Non-compounding increases will occur annually, each January thereafter. The increase will be the lesser of 3% or ½ of CPI-U for proceeding calendar year. Meaning, if CPI-U is 0%, the retiree will receive no increase. However, there will never be a reduction in benefits.
- J. Surviving spouse benefits – Initial benefit is 66 2/3% of police officer's/firefighter's earned pension at date of death. However, surviving spouses will receive cost of living increases in the same manner described above.

In addition to creating a two-tier benefit structure, the General Assembly expanded the investment authority of existing downstate police and fire pension funds with at least \$10 million in net assets. The expanded investment authority is summarized as follows:

II. Changes to Article 3 and 4 Pension Fund Investment Authority

- A. The increased investment authority only applies to funds with more than \$10 million in net assets.
- B. Can invest in corporate bonds through an investment advisor (not a consultant).
- C. Corporate bonds must meet the following requirements:
 - 1. Rated as investment grade by 1 of the 2 largest rating services at time of purchase.
 - 2. If securities are downgraded subsequent to purchase below investment grade must be liquidated within 90 days of downgrade.
 - 3. Total amount of investment in stocks, mutual funds, and corporate bonds may not exceed:
 - i. 50% of funds net assets effective July 1, 2011; and
 - ii. 55% of funds net assets effective July 1, 2012.

The final changes to the Pension Code involve enforcing mandatory pension payments by municipalities. Those changes are summarized as follows:

III. Municipal Funding Provisions

- A. Amends 5/3-125 and 5/4-118 of Pension Code.
- B. Pension funds must be 90% funded by 2040.
- C. Annual Municipal contributions to be calculated as level percentage of payroll under "projected unit credit actuarial cost method."
- E. If a municipality fails to remit required municipal contributions within 90 days after payment is due:
 - a. Commencing fiscal year 2016, Pension fund certifies to state comptroller the amount delinquent;



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- b. Comptroller must deliver and deposit to pension fund the certified amounts or portion of amounts from “grant of state funds” owed to the municipality
 - i. In fiscal year 2016 – 1/3 of total amount of grant of state funds;
 - ii. In fiscal year 2017 – 2/3 of total amount of grant of state funds; and
 - iii. In fiscal year 2018 – the total amount of grant of state funds (not to exceed the amount of delinquent payments certified to the state comptroller by the pension funds).

Fortunately, the Illinois General Assembly ignored the anti-pension extremists. By standing together, Illinois’ police and fire professionals thwarted an unprecedented attack on the benefits first responders and their families depend upon. Illinois’ police officers, firefighters, and their families were particularly well served by the Public Safety Coalition. This alliance of the Illinois Public Pension Fund Association (IPPFA), Associated Fire Fighters’ of Illinois (AFFI), the Illinois Fraternal Order of Police (FOP), and the Police Benevolent and Protective Association (PBPA) were the only reason the attack was repelled. We owe the Coalition a sincere debt of gratitude for its members’ perseverance, savvy, and loyalty to its members. Without their work in Springfield’s trenches sorting facts from venom-laden fiction, we would have not only lost this battle, but the war.

We are in the process of further studying this legislation and will provide further information to you as it becomes available. In the event that you have any questions regarding this matter please contact our office.

Sincerely,

Richard J. Reimer
General Counsel, IPPFA

[Click here to read Senate Bill 3538](#)