

**CITY OF NAPERVILLE
MEMORANDUM**

DATE: January 7, 2011

TO: Mayor and City Council
City of Naperville State Legislators
Douglas A. Krieger, City Manager

FROM: Dan Di Santo, Assistant to the City Manager

SUBJECT: 2011 Legislative Roundtable

PURPOSE:

To have an open discussion between the City of Naperville and our State Legislators about the city's proposed 2011 Legislative Action Program.

BACKGROUND:

Each year the City of Naperville City Council approves a Legislative Action Plan made up of legislative priorities and position statements that it would like to see addressed during the upcoming legislative session. City Council and city staff then work with Naperville's State Legislators to advance these priorities throughout the year, with the aid of our lobbyist, to promote the city's interests through a variety of communication methods including distribution of fact sheets, in-person conversations with legislators, testimony before legislative committees and garnering support from other municipalities and organizations.

DISCUSSION:

The attached documents are staff recommended Legislative Priorities and Position Statements for 2011. "Legislative priorities" are the city's main focus in any given legislative session. Most staff resources are dedicated to legislative priorities, and typically involve the introduction of city sponsored legislation. "Position statements" differ from legislative priorities in that position statements are policy issues the city continues to monitor and support, but will not specifically pursue or introduce legislation in the coming year.

The final portion of the meeting is available to discuss any issues not included on the agenda.

RECOMMENDATION:

Please review the attached material in advance of the 2011 Legislative Roundtable. Thank you for your participation and we look forward to a productive discussion.

ATTACHMENTS:

1. Legislative Roundtable Agenda
2. Staff Recommended 2011 Legislative Priorities and Position Statements
3. DRAFT 2011 Legislative Roundtable PowerPoint Presentation
4. City Manager Letter Listing Unfunded Mandates
5. City Attorney Memorandum Regarding Public Safety Interest Arbitration
6. COGFA information on PA 96-1495, New Tier Pension Reform Law
7. 2010 Legislative Action Plan (for reference)



Naperville

2011 LEGISLATIVE ROUNDTABLE AGENDA

NAPERVILLE MUNICIPAL CENTER
400 S. Eagle Street, Naperville, IL 60540
COUNCIL CHAMBERS

Tuesday, January 18, 2011
4:30PM – 6:00PM

Call to Order – Mayor A. George Pradel

- A. Roll Call**
- B. Introductions**
- C. 2010 Legislative Action Plan Overview**
- D. Discussion of Staff Recommended Legislative Priorities**
- E. Discussion of Staff Recommended Legislative Position Statements**
- F. Adjournment**



Naperville

2011 Staff Recommended Legislative Action Plan

2011 STAFF RECOMMENDED LEGISLATIVE PRIORITIES

1. Support DuPage Mayors and Managers Conference Pension Reform Platform
2. Public Safety Interest Arbitration Reform
3. Workers' Compensation Reform
4. Extending the e-911 Funding Sunset Provision

2011 STAFF RECOMMENDED POSITION STATEMENTS

1. Protect Municipal Revenues
2. Transportation Funding
3. Real Estate Tax Relief for Seniors and Persons with Disabilities
4. Streamlined Sales Tax Project
5. Forward NPDES Fees to Local Water Quality Control Projects

City of Naperville 2011 Legislative Roundtable

January 18, 2011

4:30PM – 6:00PM

Meeting Agenda

- Call to Order
- Introductions
- 2010 Legislative Action Plan Overview
- Discussion of potential 2011 Legislative Priorities and Position Statements
- Adjournment

2010 Legislative Priority

- Pension Reform (Naperville's only Legislative Priority)
 - Naperville joined the Pension Fairness for Illinois Communities Coalition as a Founding Partner
 - Governor signed PA 96-889, reforming pensions for all new public employees other than public safety (April 14, 2010)
 - City Manager participated in negotiations with General Assembly members and unions on public safety pension reform
 - Naperville citizens overwhelmingly pass referendum calling for public safety pension reform
 - General Assembly passed SB 3538, reforming public safety pensions for new employees (December 2, 2010)
 - Governor signed PA 96-1495, the public safety pension reform bill, into law (December 30, 2010)

2010 Position Statement Highlights

- House and Senate form Workers' Comp Reform subcommittees
- City supported TRAC efforts in appeal of the STB decision on the CN purchase of the EJ&E
- Provided a list of unfunded state mandates to Representative Connelly on February 16, 2010
- Telecom Rewrite becomes law, which modernizes Illinois telecom regulations (PA 96-927)
- Network Neutrality rules approved by the FCC on December 21, 2010, prohibiting internet service providers from preventing internet access to competitors or certain web sites
- Citizens pass referenda amending the Illinois Constitution creating a recall provision for the Office of the Governor (Article III, Section 7)

Staff Recommended 2011 Legislative Priorities

- Support DuPage Mayors and Managers Conference Pension Reform Platform
- Public Safety Interest Arbitration Reform
- Workers' Compensation Reform
- Extending the e-911 Funding Sunset Provision

Staff Recommended 2011 Legislative Position Statements

- Protect Municipal Revenues
- Transportation Funding
- Real Estate Tax Relief for Seniors and Persons with Disabilities
- Streamlined Sales Tax Project
- Forward NPDES Fees to Local Water Quality Control Projects

Support DMMC Pension Reforms

- Remove Pension Levies from Tax Cap
 - Only applicable to Non-Home Rule units of government
- Municipal Right-of-Intervention in All Pension Board Matters
 - Previous City of Naperville Legislative Priority
- Permissive Authority for Public Safety Pension Boards to Invest Funds in the Illinois Municipal Retirement Fund (IMRF)
 - Public safety pension boards are restricted to certain investments based upon the fund's size, but they should be allowed to voluntarily elect to invest money with IMRF, a professionally managed system subject to far fewer investment restrictions.
- Oppose All Pension Sweeteners for Either Tier
 - Currently proposed Constitutional Amendment HJRCA 62 would require that all pension benefit increases, including those that affect local government employees, must receive a 3/5 majority in each chamber for passage.
- Increase Employee Contributions
 - Any changes to current employee pensions would likely face legal challenges since public pensions are explicitly protected under the Illinois Constitution
- The Compliance/Penalty Provisions in PA 96-1495 Must be Amended
 - Unlikely to impact Naperville either way
- COGFA study on consolidating public safety pension funds
 - PA 96-1495 only called for a COGFA study on pooling investments of public safety pension funds; consolidation of the over 400 funds would theoretically save on administration costs and open opportunities for less investment restrictions and greater returns

Public Safety Interest Arbitration Reform

- Illinois law should be amended to require arbitrators to consider the economic condition of the municipality as a primary factor in arbitrations.
- Suggested Options:
 - An amendment that is similar to the Wisconsin statute requiring an arbitrator to give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the other factors
 - Pursuing language that mirrors recent legislation in Springfield such as Speaker Madigan's proposed constitutional amendment (HJRCA 61) that would limit the state's budget increase to the average percentage change in the average per capita personal income for the 5 most recent calendar years.

Workers Comp Reforms

- Illinois is ranked dead last in terms of workers' compensation for employers, which contributes to the state's abysmal business environment.
- The House and Senate have held hearings around the state in advance of taking up Workers' Compensation Reform.
- At this time a Workers' Compensation Reform bill is anticipated, but has not been approved.

Extending E-911 Sunset Provision

- Extend the sunset provision of the Wireless Emergency Telephone Safety Act beyond April 1, 2013, to continue funding municipal emergency telephone assistance through cellular telephones.
- In 2010, Representative Senger introduced HB 5336 for Naperville to extend the deadline to 2019, but the bill did not move due to lack of urgency.
- This funding is essential to municipal budgets; Naperville currently receives approximately \$2 Million annually from e-911 revenues.

Protect Municipal Revenues

- Oppose Unfunded State Mandates
 - All state mandates on municipalities should include a corresponding revenue source
- Oppose any Withholding of Local Government Distributive Fund Payments
 - As the state finds ways to fill their budget deficit, they should not siphon money they owe to municipalities as previously proposed by the Governor
- Charge Interest and Penalties on Late Income Tax Payments to Municipalities
 - During the recession, the state has often been late remitting the local government share of the income tax. When payments are more than 90 days late, municipalities should receive interest and penalties with the late payments

Transportation Funding

- Transit
 - Continue to support and pursue transportation funding for new and innovative transit projects such as the STAR Line
- CN
 - Continue to pursue funding for Ogden Avenue grade separation and other forms of mitigation
- North Aurora Road Underpass Widening
 - Joint project with Aurora and Naperville Township
 - \$32 Million of funding is required
 - Funding needs to be pursued through the Illinois Commerce Commission, Federal Surface Transportation Funding, Canadian National and other sources

Real Estate Tax Relief for Seniors and Persons with Disabilities

- Currently, the State of Illinois offers limited assessment freezes and tax deferral programs for seniors and limited homestead exemptions for seniors and persons with disabilities. The City of Naperville supports expanding the existing legislation to provide more real estate tax relief for seniors and persons with disabilities.
- Each year the city supports several bills filed addressing this issue, however they normally are not passed.

Streamlined Sales Tax Project

- The Streamlined Sales Tax Project was created by states across the nation and, if enacted, would enable the State of Illinois to collect sales tax on internet and catalog sales by businesses outside Illinois. Only Congress has the authority to require collection of sales tax for remote sales.
- HB 3659 passed the General Assembly on January 6, 2011 requiring online retailers that have commissioned affiliates in Illinois to collect and remit tax on sales made to Illinois residents.
- This bill is different than the federal Streamlined Sales Tax Project, which would tax all online sales uniformly throughout the country. The tax under the Streamline Project is not based on the affiliate's location, but rather the state in which delivery is made.
- Other states have passed similar legislation and are now in litigation.
- \$150 million per year in additional revenues is expected from the legislation with 1% of the state's 6.25% tax rate continuing to come back to municipalities (roughly estimated \$150,000 for Naperville)

Forward NPDES fees to local water quality control projects

The City of Naperville supports the request of the DuPage River/Salt Creek Working Group (DRSCWG) to act as a pilot agency on having the member's annual National Pollutant Discharge Elimination System (NPDES) fees forwarded from the state to the DRSCWG to be used for water quality improvements in the member's watersheds. Currently the fees are deposited into the state's general fund with no accountability of the funds being used for stormwater quality improvements.

Additional Items for Consideration

ADJOURNMENT



Naperville

February 16, 2010

Honorable Michael Connelly
State Representative 48th District
25W380 Chicago Avenue, Suite 100
Naperville, IL 60540

Dear Representative Connelly:

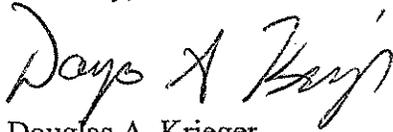
As requested in your January 15, 2010 letter, I have compiled a list of unfunded mandates that the City of Naperville believes are unnecessary, burdensome or too costly. We greatly appreciate your proactive approach at the State level to aid municipalities in controlling costs, thus saving taxpayer dollars. Below is a summary of several unfunded mandates that we were able to identify.

1. Illinois Pension Code municipal pension sweeteners.
 - Every year bills are introduced that increase the taxpayer burden on funding municipal pensions. Recent examples include Public Acts 91-0939, 91-0466, and 93-0689, which were shown to significantly increase pension costs in a study done by the Commission on Government Forecasting and Accountability.
2. Annual physicals required by Department of Labor and OSHA for haz/mat personnel and personnel assigned to special teams. Estimated cost: \$90,000 annually
 - This is an example of a program that while well intentioned, costs municipalities too much money and should be funded, at least in part, by the State since it is their mandate.
3. Prevailing wage rules.
 - While hard to quantify the cost effectively, the prevailing wage rule inflates some of our costs where vendors could have used non-union or cheaper labor. There are also expanded reporting requirements that inflate the vendor's costs, which would be reflected in their bid prices. This mandate should include State funding.
4. Elimination of our ability to recoup our administrative costs under the new FOIA law.
 - This mandate removed an established fair fee for actual material costs expended by municipalities.
5. IDOT dropping state asphalt and concrete quality assurance testing and pushing the mandate to perform and the cost to the local agencies.
 - This is a clear example of the State pushing their responsibility and costs onto municipalities.
6. Free Rides for seniors and persons with disabilities on public transit

- This unfunded mandate has an indirect cost to municipalities. The direct burden is placed on Regional Transit Authority budgets, which in turn negatively impacts transit in Naperville when budgets are reduced.
7. State records retention requirements
 - By not subsidizing this mandate, the state increases municipal expenditures needed to comply with the storage of hard and electronic documents.
 8. State requirement that municipalities adopt the most current International Energy Conservation Code.
 - Another indirect impact on Naperville, the Northern Illinois Homebuilders Association estimates this mandate could add costs to builders up to \$3,000 per home constructed.
 9. The state requires all police agencies to collect, maintain, and report data on every car stop that is made for a violation of the Illinois Vehicle Code.
 - For Naperville, that amounts to about 22,000 records each year. The collection, processing, and reporting of this information cost approximately \$75,000 in staff time annually.
 10. The state pension statutes require that the Illinois Department of Insurance perform actuarial evaluations on each downstate police and fire pension fund, even if the municipality has separate actuarial evaluations performed. The state recently increased the required payments from municipalities to the Illinois Department of Insurance.

This is not a complete list, but a good summary of some of the more burdensome mandates on municipalities. Any relief you can provide for local governments is appreciated.

Sincerely,



Douglas A. Krieger
City Manager

ATTACHMENT 5

**CITY OF NAPERVILLE
MEMORANDUM**

DATE: January 7, 2011

TO: Mayor and City Council
Douglas Krieger, City Manager

FROM: Margo L. Ely, City Attorney

SUBJECT: Legislative Priority regarding Interest Arbitration

PURPOSE: The purpose of this memorandum is to provide information regarding the law for purposes of developing a legislative priority aimed at improving the rules of interest arbitration in the State of Illinois.

BACKGROUND: Illinois Law provides that public safety employees are entitled to interest arbitration in collective bargaining matters and that they are not entitled to strike. Illinois law requires that the arbitrator separately consider each issue presented (i.e. wages, medical, etc.) on its own merits and, on economic issues, choose either the employer offer or the union offer on that issue. The Illinois Public Labor Relations Act, 5 ILCS 315/1, *et. seq.*, sets forth factors that an arbitrator must consider in rendering an interest arbitration decision, including not only wages and conditions of employees in comparable communities, but also “the financial ability of the unit of government to meet those costs.” Despite the statutory directive that arbitrators should consider of the financial ability of the employer, 25 years of arbitration decisions have diluted this factor to a state of irrelevance. *See, e.g., City of East St. Louis and IAFF Local 23*, (Arbitrator Edelman, 1995) (in awarding the Union wage proposal held that the “financially distressed city” arguments proffered by the City do not offset the comparable community data supporting the Union’s offer.); *City of East St. Louis and IAFF Local 23*, (Arbitrator Yaffe, 2000) (While the record supports a conclusion that the City is financially distressed because of its unusual debt, its firefighters are paid less than firefighters in comparable communities and the record does not support exacerbating that disparity.)

Here are some quotes from arbitration decisions:

“The arbitrator notes as well that the City’s financial situation is exquisitely complex. It has numerous hundreds of revenue and expense streams to manage. Given the previously discussed salary gap between the City’s police bargaining unit and their counterparts in other jurisdictions, it does not seem appropriate to widen that gap, essentially placing the City’s financial woes on the back of its patrol officers and sergeants.” *City of East St. Louis v. Illinois FOP*, (Arbitrator Briggs, 2008).

“Even though East St. Louis is called a financially distressed city, workers are still attracted by higher wages and benefits in nearby communities in the same labor market. Wages comparisons

cannot be ignored, as the City would have us do.” City of East St. Louis v. Illinois Fraternal Order of Police, (Arbitrator Edelman, 2001).

“Despite its undeniable uniqueness, the City of East St. Louis does not exist in a vacuum. ... To attract qualified police officer candidates and retain those it hires, the City of East St. Louis must compete with other municipalities in its local labor market. The City’s argument that there are just no communities comparable to East St. Louis ignores that essential economic concept.” City of East St. Louis v. Illinois Fraternal Order of Police, (Arbitrator McAlpin 2004).

“The FOP has provided evidence that the City has afforded pay raises in years where a budget deficit occurred and that the General Fund has been reduced below zero in previous years. ... I am not convinced that the current tight economic circumstances prohibit the City from granting any increases over a 3 year period.” City of East St. Louis v. Illinois FOP (Arbitrator Reynolds, 2010).

Wisconsin law:

There has been a suggestion that Wisconsin law limited interest arbitration awards to cost of living. The Wisconsin law that has been discussed, however, is limited to teachers and provides that a teacher union cannot pursue interest arbitration if the school district makes a “qualified economic offer,” which was identified as 3.8% in 1993. However, this law was repealed in 2009. In Illinois, teachers have a right to strike and therefore do not have a right to interest arbitration.

With respect to public safety employees in Wisconsin, the Wisconsin law contains the exact factors as the Illinois Public Labor Relations Act, verbatim. However, Wisconsin law also provides two directives with respect to the factors and their weight. First, the law states that the arbitrator must give the greatest weight “to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator shall give an accounting of the consideration of this factor in the arbitrator’s decision.” W.S.A. Section 111.70(4)(7). In addition, the law also requires that arbitrator to give “greater” weight to “economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in section 7r.” W.S.A. Section 111.70(4)(7g).

DISCUSSION: Illinois law needs to be amended to require arbitrators to consider the economic condition of the municipality as a primary factor in arbitrations. The City should pursue a legislative priority to achieve this change in the law. The options include an amendment that is similar to the Wisconsin statute or pursuing language that mirrors recent legislation in Springfield such as Speaker Madigan’s recently proposed constitutional amendment that would limit the state’s budget increase to the average percentage change in the average per capita personal income for the 5 most recent calendar years.

RECOMMENDATION: Direct staff to draft specific legislative language to amend the Illinois Public Labor Relations Act in accordance with the information contained herein.

PENSIONS
Senate Bill 3538, HA #3 (P.A. 96-1495)
Mallory Meyer, Pension Analyst

Introduction

Date of Final Passage

- December 2, 2010

Passed House

- 95-18-0

Passed Senate

- 46-4-2

Status of Bill as of January 3, 2011

- Signed into law as Public Act 96-1495 on December 30, 2010

Overview of Key Provisions of SB 3538 HA #3

Effective Date

- January 1, 2011

Systems Impacted

- Downstate Police, Downstate Fire, Chicago Police, Chicago Fire, IMRF (SLEP)

Creation of a Two Tier System for Firefighters and Police Officers

- Benefits for current police officers and firefighters have not changed.
- Changes only apply to police officers and firefighters hired on or after January 1, 2011.
- Normal Retirement: 55 years old with 10 years of service.
- Early Retirement: 50 years old with 10 years of service, but penalty of ½ % for each month that the police officer or firefighter is younger than 55 years.
- Retirement Pension based upon 2.5% of Final Average Salary for a maximum of 75%.
- Annuity based on highest 8 years out of last 10 years of service.
- Annual Final Average Salary may not exceed \$106,800, as automatically increased by the lesser of 3% or one-half of the annual increase in the CPI-U during the preceding 12-month calendar year.

Annual Increases in Annuity

- Increases begin at age 60 either on the January 1st after police officer/firefighter retires or the first anniversary of pension starting date, whichever is later.

- Increases equal to the lesser of 3% of one-half the annual increase in the CPI-U during the preceding 12-month calendar year; if increase in CPI is zero or if there is a decrease in CPI, then no COLA is payable.
- Increase not compounded

Survivor Benefits

- 66.7% of the earned retirement benefit at death
- Increased by the lesser of 3% or one-half of the annual increase in the CPI-U during the preceding 12-month calendar year
- Increases not compounded

Changes to Downstate Police and Downstate Fire Pension Funds Investment Authority

- The increased investment authority only applies to funds with more than \$10 million in net assets.
- Can invest in corporate bonds through an investment advisor (not a consultant)
- Corporate bonds must meet certain requirements.
- Total amount of investment in stock, mutual funds, and corporate bonds may not exceed:
 - 50% of fund’s net assets (effective July 1, 2011)
 - 55% of fund’s net assets (effective July 1, 2012)

Municipal Funding Provisions

- Pension funds must be 90% funded by Fiscal Year 2040
- Annual Municipal contributions will be calculated as level percentage of payroll under “Projected Unit Credit Actuarial Cost Method.”
- Comptroller is authorized to redirect municipal monies directly to pension funds if municipal contributions are insufficient.
- Future pension fund studies are authorized to review the condition of pension funds and potential investment pooling.

Actuarial Analysis of Change in Normal Cost for Downstate Police & Fire

Based on funding projections the Commission’s actuary performed for Senate Bill 3538, as amended by HA #3, the estimated normal cost as a percent of payroll for the benefits provided to current employees (Tier 1) can be seen in Table 1 and the estimated normal cost as a percent of payroll for the benefits provided to newly hired employees (Tier 2) under Senate Bill 3538, as amended by HA #3, can be seen in Table 2:

Table 1

Pension Fund	Normal Cost as a % of Payroll for Current Employees (Tier 1)
Downstate Police Pension Funds	20.35%
Downstate Fire Pension Funds	22.52%

Table 2

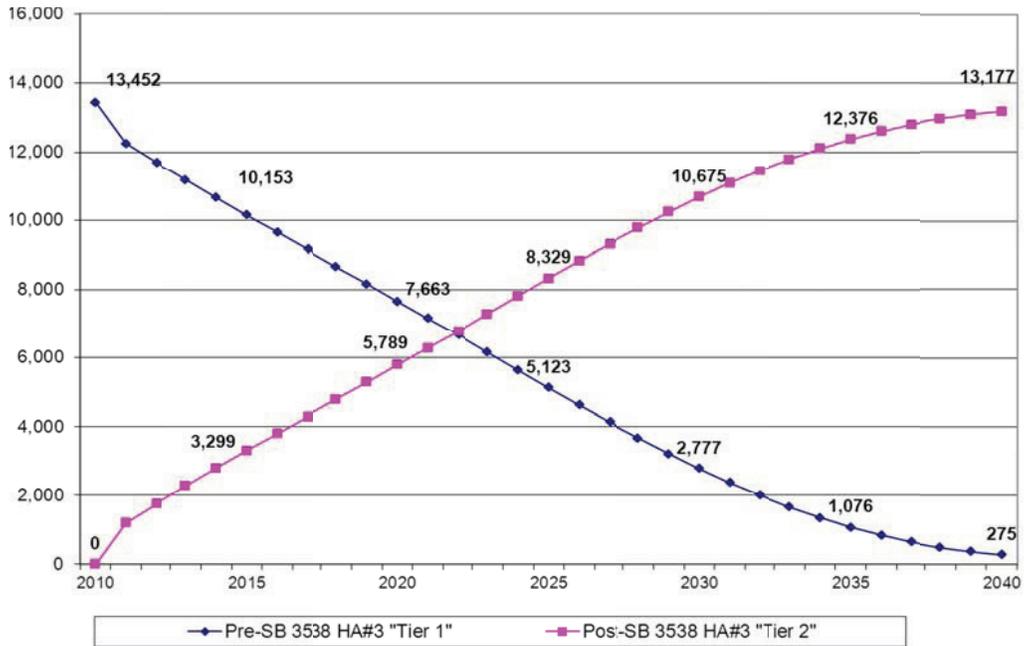
Pension Fund	Normal Cost as a % of Payroll for New Employees (Tier 2)
Downstate Police Pension Funds	7.67%
Downstate Fire Pension Funds	10.20%

In the early years under SB 3538, the newly hired employees will be a relatively small portion of the total number of employees, but over future periods, an increasingly larger portion of employees will be those hired after January 1, 2011. Thus, the reduction in the employer's normal cost will apply to a much larger portion of employees. At the end of 30 years, almost all of the employees will be those hired after January 1, 2011. Therefore, the reduction in the employer's normal cost will apply to almost all employees.

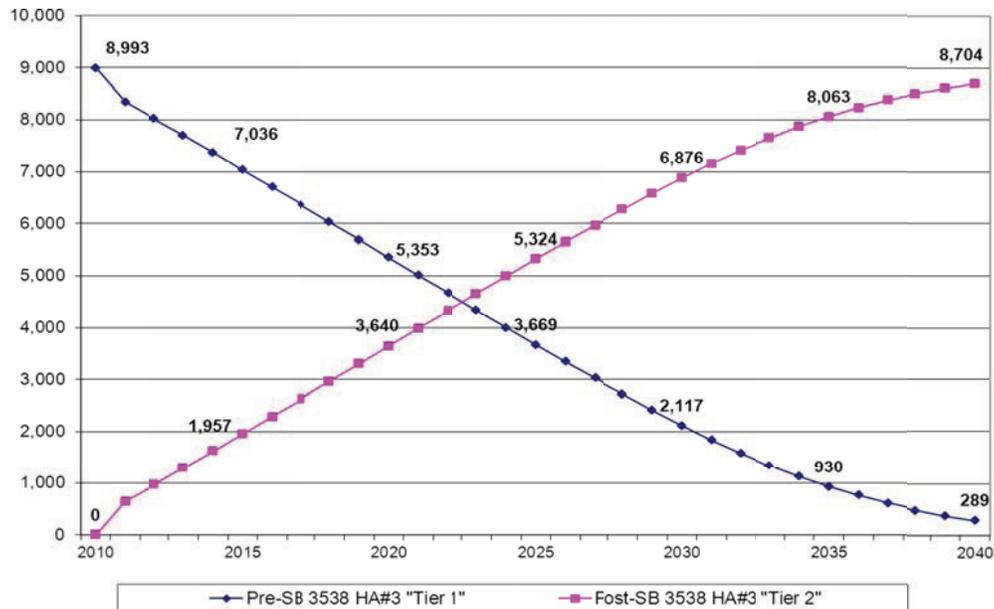
*These topics will be covered in more detail for Downstate police, Downstate fire, Chicago police, Chicago fire, and IMRF in an upcoming fiscal analysis of SB 3538. Additionally, the fiscal analysis will examine the impact of SB 3538 on the following municipalities: Springfield, Arlington Heights, Champaign, Bellwood, and Wilmette.

**In the Projected Total Employer Contribution charts following for Downstate police and fire before SB 3538, please note the sharp decline in the projected total employer contribution between FY 2030 and FY 2035. This is due to the fact that the funding law prior to P.A. 96-1495 required Downstate funds to be 100% funded by 2033.

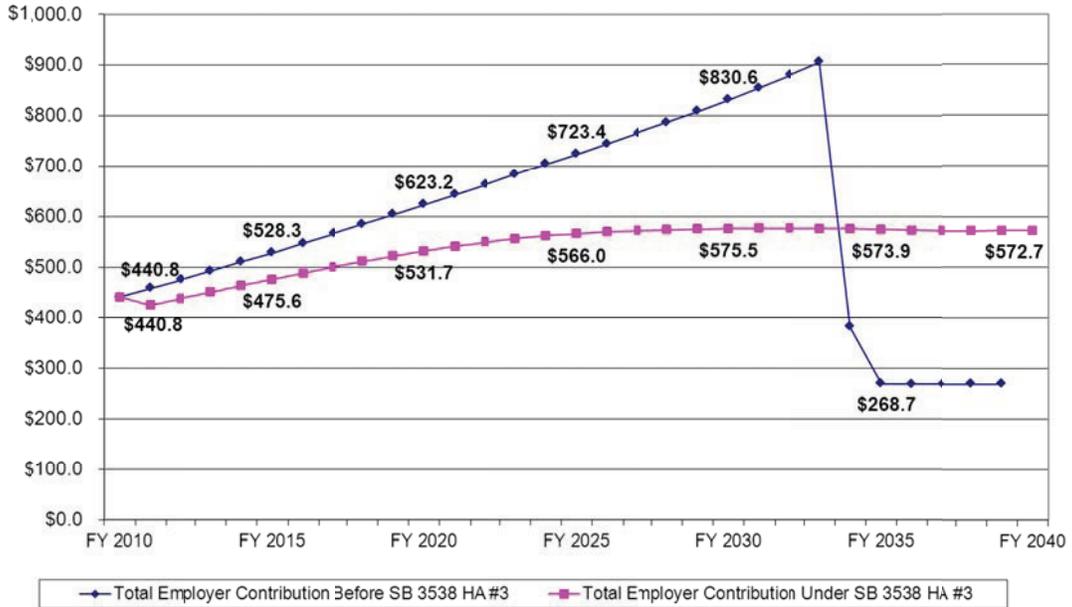
DOWNSTATE POLICE PENSION FUNDS (All Funds Combined)
Projected Active Membership
Comparison of Active Members Under SB 3538 HA #3 Tier 1 & Tier 2
FY 2010 - FY 2040



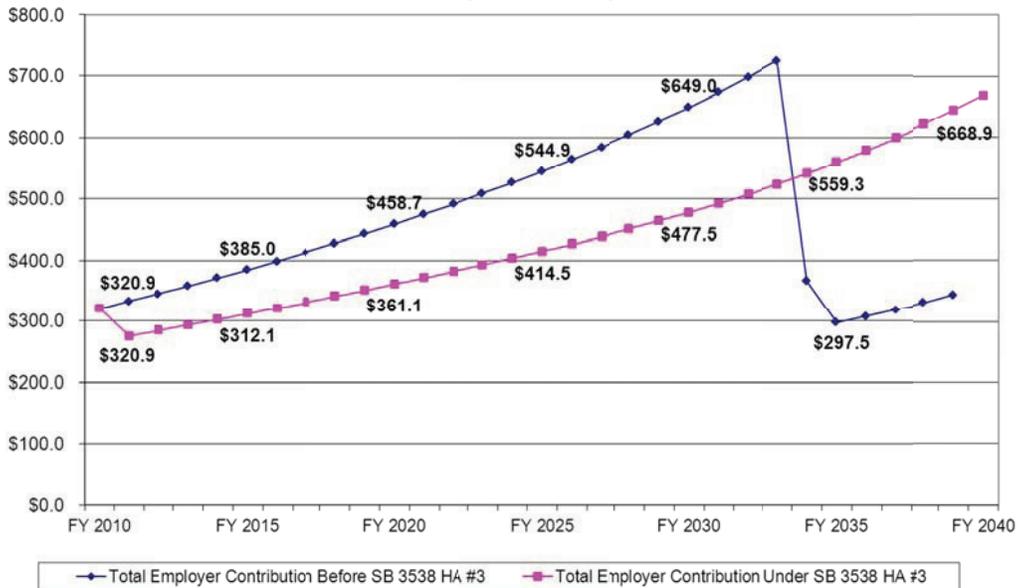
DOWNSTATE FIRE PENSION FUNDS (All Funds Combined)
Projected Active Membership
Comparison of Active Members Under SB 3835 HA #3, Tier 1 & Tier 2
FY 2010 - FY 2040



**Downstate Police Pension Funds (All Funds Combined)
 Projected Total Employer Contribution for FY 2010 - FY 2040
 Comparison of Employer Contributions Before & After SB 3538 HA #3
 (\$ in Millions)**



**Downstate Fire Pension Funds (All Funds Combined)
 Projected Total Employer Contribution for FY 2010 - FY 2040
 Comparison of Employer Contributions Before & After SB 3538 HA #3
 (\$ in Millions)**





City of Naperville
2010 Legislative Action Plan

2010 LEGISLATIVE PRIORITY

1. Municipal Pension Reform

2010 POSITION STATEMENTS

1. Workers' Compensation Reform
2. Transportation Funding
3. Consideration of Municipal Financial Condition in Interest Arbitration
4. Real Estate Tax Relief for Seniors and Persons with Disabilities
5. Interoperable Radio Communication Funding
6. Unfunded State Mandates
7. Illinois Public Utilities Act
8. Streamlined Sales Tax Project
9. Network-Neutrality
10. Maintaining Municipal E9-1-1 Funding
11. Recall of Elected Officials
12. Live Broadcasts of Illinois General Assembly Floor