



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0191

Introduced 1/13/2005, by Rep. Angelo Saviano

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-139
30 ILCS 805/8.29 new

from Ch. 108 1/2, par. 7-139

Amends the Illinois Municipal Retirement Fund Article of the Illinois Pension Code. Authorizes a member to establish service credit for up to 15 years of employment by a fire protection district that does not participate in the Fund. Requires payment of employer and employee contributions, plus interest. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB094 04307 EFG 34333 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT in relation to public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Section 7-139 as follows:

6 (40 ILCS 5/7-139) (from Ch. 108 1/2, par. 7-139)

7 Sec. 7-139. Credits and creditable service to employees.

8 (a) Each participating employee shall be granted credits
9 and creditable service, for purposes of determining the amount
10 of any annuity or benefit to which he or a beneficiary is
11 entitled, as follows:

12 1. For prior service: Each participating employee who
13 is an employee of a participating municipality or
14 participating instrumentality on the effective date shall
15 be granted creditable service, but no credits under
16 paragraph 2 of this subsection (a), for periods of prior
17 service for which credit has not been received under any
18 other pension fund or retirement system established under
19 this Code, as follows:

20 If the effective date of participation for the
21 participating municipality or participating
22 instrumentality is on or before January 1, 1998, creditable
23 service shall be granted for the entire period of prior
24 service with that employer without any employee
25 contribution.

26 If the effective date of participation for the
27 participating municipality or participating
28 instrumentality is after January 1, 1998, creditable
29 service shall be granted for the last 20% of the period of
30 prior service with that employer, but no more than 5 years,
31 without any employee contribution. A participating
32 employee may establish creditable service for the

1 remainder of the period of prior service with that employer
2 by making an application in writing, accompanied by payment
3 of an employee contribution in an amount determined by the
4 Fund, based on the employee contribution rates in effect at
5 the time of application for the creditable service and the
6 employee's salary rate on the effective date of
7 participation for that employer, plus interest at the
8 effective rate from the date of the prior service to the
9 date of payment. Application for this creditable service
10 may be made at any time while the employee is still in
11 service.

12 A municipality that (i) has at least 35 employees; (ii)
13 is located in a county with at least 2,000,000 inhabitants;
14 and (iii) maintains an independent defined benefit pension
15 plan for the benefit of its eligible employees may restrict
16 creditable service in whole or in part for periods of prior
17 service with the employer if the governing body of the
18 municipality adopts an irrevocable resolution to restrict
19 that creditable service and files the resolution with the
20 board before the municipality's effective date of
21 participation.

22 Any person who has withdrawn from the service of a
23 participating municipality or participating
24 instrumentality prior to the effective date, who reenters
25 the service of the same municipality or participating
26 instrumentality after the effective date and becomes a
27 participating employee is entitled to creditable service
28 for prior service as otherwise provided in this subdivision
29 (a)(1) only if he or she renders 2 years of service as a
30 participating employee after the effective date.
31 Application for such service must be made while in a
32 participating status. The salary rate to be used in the
33 calculation of the required employee contribution, if any,
34 shall be the employee's salary rate at the time of first
35 reentering service with the employer after the employer's
36 effective date of participation.

1 2. For current service, each participating employee
2 shall be credited with:

3 a. Additional credits of amounts equal to each
4 payment of additional contributions received from him
5 under Section 7-173, as of the date the corresponding
6 payment of earnings is payable to him.

7 b. Normal credits of amounts equal to each payment
8 of normal contributions received from him, as of the
9 date the corresponding payment of earnings is payable
10 to him, and normal contributions made for the purpose
11 of establishing out-of-state service credits as
12 permitted under the conditions set forth in paragraph 6
13 of this subsection (a).

14 c. Municipality credits in an amount equal to 1.4
15 times the normal credits, except those established by
16 out-of-state service credits, as of the date of
17 computation of any benefit if these credits would
18 increase the benefit.

19 d. Survivor credits equal to each payment of
20 survivor contributions received from the participating
21 employee as of the date the corresponding payment of
22 earnings is payable, and survivor contributions made
23 for the purpose of establishing out-of-state service
24 credits.

25 3. For periods of temporary and total and permanent
26 disability benefits, each employee receiving disability
27 benefits shall be granted creditable service for the period
28 during which disability benefits are payable. Normal and
29 survivor credits, based upon the rate of earnings applied
30 for disability benefits, shall also be granted if such
31 credits would result in a higher benefit to any such
32 employee or his beneficiary.

33 4. For authorized leave of absence without pay: A
34 participating employee shall be granted credits and
35 creditable service for periods of authorized leave of
36 absence without pay under the following conditions:

1 a. An application for credits and creditable
2 service is submitted to the board while the employee is
3 in a status of active employment, and within 2 years
4 after termination of the leave of absence period for
5 which credits and creditable service are sought.

6 b. Not more than 12 complete months of creditable
7 service for authorized leave of absence without pay
8 shall be counted for purposes of determining any
9 benefits payable under this Article.

10 c. Credits and creditable service shall be granted
11 for leave of absence only if such leave is approved by
12 the governing body of the municipality, including
13 approval of the estimated cost thereof to the
14 municipality as determined by the fund, and employee
15 contributions, plus interest at the effective rate
16 applicable for each year from the end of the period of
17 leave to date of payment, have been paid to the fund in
18 accordance with Section 7-173. The contributions shall
19 be computed upon the assumption earnings continued
20 during the period of leave at the rate in effect when
21 the leave began.

22 d. Benefits under the provisions of Sections
23 7-141, 7-146, 7-150 and 7-163 shall become payable to
24 employees on authorized leave of absence, or their
25 designated beneficiary, only if such leave of absence
26 is creditable hereunder, and if the employee has at
27 least one year of creditable service other than the
28 service granted for leave of absence. Any employee
29 contributions due may be deducted from any benefits
30 payable.

31 e. No credits or creditable service shall be
32 allowed for leave of absence without pay during any
33 period of prior service.

34 5. For military service: The governing body of a
35 municipality or participating instrumentality may elect to
36 allow creditable service to participating employees who

1 leave their employment to serve in the armed forces of the
2 United States for all periods of such service, provided
3 that the person returns to active employment within 90 days
4 after completion of full time active duty, but no
5 creditable service shall be allowed such person for any
6 period that can be used in the computation of a pension or
7 any other pay or benefit, other than pay for active duty,
8 for service in any branch of the armed forces of the United
9 States. If necessary to the computation of any benefit, the
10 board shall establish municipality credits for
11 participating employees under this paragraph on the
12 assumption that the employee received earnings at the rate
13 received at the time he left the employment to enter the
14 armed forces. A participating employee in the armed forces
15 shall not be considered an employee during such period of
16 service and no additional death and no disability benefits
17 are payable for death or disability during such period.

18 Any participating employee who left his employment
19 with a municipality or participating instrumentality to
20 serve in the armed forces of the United States and who
21 again became a participating employee within 90 days after
22 completion of full time active duty by entering the service
23 of a different municipality or participating
24 instrumentality, which has elected to allow creditable
25 service for periods of military service under the preceding
26 paragraph, shall also be allowed creditable service for his
27 period of military service on the same terms that would
28 apply if he had been employed, before entering military
29 service, by the municipality or instrumentality which
30 employed him after he left the military service and the
31 employer costs arising in relation to such grant of
32 creditable service shall be charged to and paid by that
33 municipality or instrumentality.

34 Notwithstanding the foregoing, any participating
35 employee shall be entitled to creditable service as
36 required by any federal law relating to re-employment

1 rights of persons who served in the United States Armed
2 Services. Such creditable service shall be granted upon
3 payment by the member of an amount equal to the employee
4 contributions which would have been required had the
5 employee continued in service at the same rate of earnings
6 during the military leave period, plus interest at the
7 effective rate.

8 5.1. In addition to any creditable service established
9 under paragraph 5 of this subsection (a), creditable
10 service may be granted for up to 24 months of service in
11 the armed forces of the United States.

12 In order to receive creditable service for military
13 service under this paragraph 5.1, a participating employee
14 must (1) apply to the Fund in writing and provide evidence
15 of the military service that is satisfactory to the Board;
16 (2) obtain the written approval of the current employer;
17 and (3) make contributions to the Fund equal to (i) the
18 employee contributions that would have been required had
19 the service been rendered as a member, plus (ii) an amount
20 determined by the board to be equal to the employer's
21 normal cost of the benefits accrued for that military
22 service, plus (iii) interest on items (i) and (ii) from the
23 date of first membership in the Fund to the date of
24 payment. If payment is made during the 6-month period that
25 begins 3 months after the effective date of this amendatory
26 Act of 1997, the required interest shall be at the rate of
27 2.5% per year, compounded annually; otherwise, the
28 required interest shall be calculated at the regular
29 interest rate.

30 6. For out-of-state service: Creditable service shall
31 be granted for service rendered to an out-of-state local
32 governmental body under the following conditions: The
33 employee had participated and has irrevocably forfeited
34 all rights to benefits in the out-of-state public employees
35 pension system; the governing body of his participating
36 municipality or instrumentality authorizes the employee to

1 establish such service; the employee has 2 years current
2 service with this municipality or participating
3 instrumentality; the employee makes a payment of
4 contributions, which shall be computed at 8% (normal) plus
5 2% (survivor) times length of service purchased times the
6 average rate of earnings for the first 2 years of service
7 with the municipality or participating instrumentality
8 whose governing body authorizes the service established
9 plus interest at the effective rate on the date such
10 credits are established, payable from the date the employee
11 completes the required 2 years of current service to date
12 of payment. In no case shall more than 120 months of
13 creditable service be granted under this provision.

14 7. For retroactive service: Any employee who could have
15 but did not elect to become a participating employee, or
16 who should have been a participant in the Municipal Public
17 Utilities Annuity and Benefit Fund before that fund was
18 superseded, may receive creditable service for the period
19 of service not to exceed 50 months; however, a current or
20 former elected or appointed official of a participating
21 municipality may establish credit under this paragraph 7
22 for more than 50 months of service as an official of that
23 municipality, if the excess over 50 months is approved by
24 resolution of the governing body of the affected
25 municipality filed with the Fund before January 1, 2002.

26 Any employee who is a participating employee on or
27 after September 24, 1981 and who was excluded from
28 participation by the age restrictions removed by Public Act
29 82-596 may receive creditable service for the period, on or
30 after January 1, 1979, excluded by the age restriction and,
31 in addition, if the governing body of the participating
32 municipality or participating instrumentality elects to
33 allow creditable service for all employees excluded by the
34 age restriction prior to January 1, 1979, for service
35 during the period prior to that date excluded by the age
36 restriction. Any employee who was excluded from

1 participation by the age restriction removed by Public Act
2 82-596 and who is not a participating employee on or after
3 September 24, 1981 may receive creditable service for
4 service after January 1, 1979. Creditable service under
5 this paragraph shall be granted upon payment of the
6 employee contributions which would have been required had
7 he participated, with interest at the effective rate for
8 each year from the end of the period of service established
9 to date of payment.

10 8. For accumulated unused sick leave: A participating
11 employee who is applying for a retirement annuity shall be
12 entitled to creditable service for that portion of the
13 employee's accumulated unused sick leave for which payment
14 is not received, as follows:

15 a. Sick leave days shall be limited to those
16 accumulated under a sick leave plan established by a
17 participating municipality or participating
18 instrumentality which is available to all employees or
19 a class of employees.

20 b. Only sick leave days accumulated with a
21 participating municipality or participating
22 instrumentality with which the employee was in service
23 within 60 days of the effective date of his retirement
24 annuity shall be credited; If the employee was in
25 service with more than one employer during this period
26 only the sick leave days with the employer with which
27 the employee has the greatest number of unpaid sick
28 leave days shall be considered.

29 c. The creditable service granted shall be
30 considered solely for the purpose of computing the
31 amount of the retirement annuity and shall not be used
32 to establish any minimum service period required by any
33 provision of the Illinois Pension Code, the effective
34 date of the retirement annuity, or the final rate of
35 earnings.

36 d. The creditable service shall be at the rate of

1 1/20 of a month for each full sick day, provided that
2 no more than 12 months may be credited under this
3 subdivision 8.

4 e. Employee contributions shall not be required
5 for creditable service under this subdivision 8.

6 f. Each participating municipality and
7 participating instrumentality with which an employee
8 has service within 60 days of the effective date of his
9 retirement annuity shall certify to the board the
10 number of accumulated unpaid sick leave days credited
11 to the employee at the time of termination of service.

12 9. For service transferred from another system:
13 Credits and creditable service shall be granted for service
14 under Article 3, 4, 5, 14 or 16 of this Act, to any active
15 member of this Fund, and to any inactive member who has
16 been a county sheriff, upon transfer of such credits
17 pursuant to Section 3-110.3, 4-108.3, 5-235, 14-105.6 or
18 16-131.4, and payment by the member of the amount by which
19 (1) the employer and employee contributions that would have
20 been required if he had participated in this Fund as a
21 sheriff's law enforcement employee during the period for
22 which credit is being transferred, plus interest thereon at
23 the effective rate for each year, compounded annually, from
24 the date of termination of the service for which credit is
25 being transferred to the date of payment, exceeds (2) the
26 amount actually transferred to the Fund. Such transferred
27 service shall be deemed to be service as a sheriff's law
28 enforcement employee for the purposes of Section 7-142.1.

29 10. For employment with certain fire protection
30 districts: Credits and creditable service shall be granted
31 to any active member of this Fund for a period of up to 15
32 years of employment by a fire protection district that does
33 not participate in the Fund. To establish this credit, the
34 member must apply in writing and pay to the Fund before
35 January 1, 2006 an amount to be determined by the Fund,
36 equal to the employer and employee contributions that would

1 have been required if he or she had participated in the
2 Fund during the period for which credit is being
3 established, plus interest thereon at the effective rate
4 for each year, compounded annually, from the date of
5 termination of the employment for which credit is being
6 established to the date of payment.

7 (b) Creditable service - amount:

8 1. One month of creditable service shall be allowed for
9 each month for which a participating employee made
10 contributions as required under Section 7-173, or for which
11 creditable service is otherwise granted hereunder. Not
12 more than 1 month of service shall be credited and counted
13 for 1 calendar month, and not more than 1 year of service
14 shall be credited and counted for any calendar year. A
15 calendar month means a nominal month beginning on the first
16 day thereof, and a calendar year means a year beginning
17 January 1 and ending December 31.

18 2. A seasonal employee shall be given 12 months of
19 creditable service if he renders the number of months of
20 service normally required by the position in a 12-month
21 period and he remains in service for the entire 12-month
22 period. Otherwise a fractional year of service in the
23 number of months of service rendered shall be credited.

24 3. An intermittent employee shall be given creditable
25 service for only those months in which a contribution is
26 made under Section 7-173.

27 (c) No application for correction of credits or creditable
28 service shall be considered unless the board receives an
29 application for correction while (1) the applicant is a
30 participating employee and in active employment with a
31 participating municipality or instrumentality, or (2) while
32 the applicant is actively participating in a pension fund or
33 retirement system which is a participating system under the
34 Retirement Systems Reciprocal Act. A participating employee or
35 other applicant shall not be entitled to credits or creditable
36 service unless the required employee contributions are made in

1 a lump sum or in installments made in accordance with board
2 rule.

3 (d) Upon the granting of a retirement, surviving spouse or
4 child annuity, a death benefit or a separation benefit, on
5 account of any employee, all individual accumulated credits
6 shall thereupon terminate. Upon the withdrawal of additional
7 contributions, the credits applicable thereto shall thereupon
8 terminate. Terminated credits shall not be applied to increase
9 the benefits any remaining employee would otherwise receive
10 under this Article.

11 (Source: P.A. 92-424, eff. 8-17-01; 93-933, eff. 8-13-04.)

12 Section 90. The State Mandates Act is amended by adding
13 Section 8.29 as follows:

14 (30 ILCS 805/8.29 new)

15 Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8
16 of this Act, no reimbursement by the State is required for the
17 implementation of any mandate created by this amendatory Act of
18 the 94th General Assembly.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.