

SB3663



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3663

Introduced 2/11/2010, by Sen. Michael Noland

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-139

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

30 ILCS 805/8.34 new

Amends the IMRF Article of the Illinois Pension Code. Amends the State Mandates Act to require implementation without reimbursement. Allows for establishment of creditable service for creditable service for unused sick leave with school districts and other specified educational entities even if the employee was not in service with the employer within 60 days of the effective date of his or her retirement annuity. Makes other related changes. Effective immediately.

LRB096 20216 AMC 35788 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning 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

1 service with that employer without any employee
2 contribution.

3 If the effective date of participation for the
4 participating municipality or participating
5 instrumentality is after January 1, 1998, creditable
6 service shall be granted for the last 20% of the period of
7 prior service with that employer, but no more than 5 years,
8 without any employee contribution. A participating
9 employee may establish creditable service for the
10 remainder of the period of prior service with that employer
11 by making an application in writing, accompanied by payment
12 of an employee contribution in an amount determined by the
13 Fund, based on the employee contribution rates in effect at
14 the time of application for the creditable service and the
15 employee's salary rate on the effective date of
16 participation for that employer, plus interest at the
17 effective rate from the date of the prior service to the
18 date of payment. Application for this creditable service
19 may be made at any time while the employee is still in
20 service.

21 A municipality that (i) has at least 35 employees; (ii)
22 is located in a county with at least 2,000,000 inhabitants;
23 and (iii) maintains an independent defined benefit pension
24 plan for the benefit of its eligible employees may restrict
25 creditable service in whole or in part for periods of prior
26 service with the employer if the governing body of the

1 municipality adopts an irrevocable resolution to restrict
2 that creditable service and files the resolution with the
3 board before the municipality's effective date of
4 participation.

5 Any person who has withdrawn from the service of a
6 participating municipality or participating
7 instrumentality prior to the effective date, who reenters
8 the service of the same municipality or participating
9 instrumentality after the effective date and becomes a
10 participating employee is entitled to creditable service
11 for prior service as otherwise provided in this subdivision
12 (a)(1) only if he or she renders 2 years of service as a
13 participating employee after the effective date.
14 Application for such service must be made while in a
15 participating status. The salary rate to be used in the
16 calculation of the required employee contribution, if any,
17 shall be the employee's salary rate at the time of first
18 reentering service with the employer after the employer's
19 effective date of participation.

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

22 a. Additional credits of amounts equal to each
23 payment of additional contributions received from him
24 under Section 7-173, as of the date the corresponding
25 payment of earnings is payable to him.

26 b. Normal credits of amounts equal to each payment

1 of normal contributions received from him, as of the
2 date the corresponding payment of earnings is payable
3 to him, and normal contributions made for the purpose
4 of establishing out-of-state service credits as
5 permitted under the conditions set forth in paragraph 6
6 of this subsection (a).

7 c. Municipality credits in an amount equal to 1.4
8 times the normal credits, except those established by
9 out-of-state service credits, as of the date of
10 computation of any benefit if these credits would
11 increase the benefit.

12 d. Survivor credits equal to each payment of
13 survivor contributions received from the participating
14 employee as of the date the corresponding payment of
15 earnings is payable, and survivor contributions made
16 for the purpose of establishing out-of-state service
17 credits.

18 3. For periods of temporary and total and permanent
19 disability benefits, each employee receiving disability
20 benefits shall be granted creditable service for the period
21 during which disability benefits are payable. Normal and
22 survivor credits, based upon the rate of earnings applied
23 for disability benefits, shall also be granted if such
24 credits would result in a higher benefit to any such
25 employee or his beneficiary.

26 4. For authorized leave of absence without pay: A

1 participating employee shall be granted credits and
2 creditable service for periods of authorized leave of
3 absence without pay under the following conditions:

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

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

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

25 d. Benefits under the provisions of Sections
26 7-141, 7-146, 7-150 and 7-163 shall become payable to

1 employees on authorized leave of absence, or their
2 designated beneficiary, only if such leave of absence
3 is creditable hereunder, and if the employee has at
4 least one year of creditable service other than the
5 service granted for leave of absence. Any employee
6 contributions due may be deducted from any benefits
7 payable.

8 e. No credits or creditable service shall be
9 allowed for leave of absence without pay during any
10 period of prior service.

11 5. For military service: The governing body of a
12 municipality or participating instrumentality may elect to
13 allow creditable service to participating employees who
14 leave their employment to serve in the armed forces of the
15 United States for all periods of such service, provided
16 that the person returns to active employment within 90 days
17 after completion of full time active duty, but no
18 creditable service shall be allowed such person for any
19 period that can be used in the computation of a pension or
20 any other pay or benefit, other than pay for active duty,
21 for service in any branch of the armed forces of the United
22 States. If necessary to the computation of any benefit, the
23 board shall establish municipality credits for
24 participating employees under this paragraph on the
25 assumption that the employee received earnings at the rate
26 received at the time he left the employment to enter the

1 armed forces. A participating employee in the armed forces
2 shall not be considered an employee during such period of
3 service and no additional death and no disability benefits
4 are payable for death or disability during such period.

5 Any participating employee who left his employment
6 with a municipality or participating instrumentality to
7 serve in the armed forces of the United States and who
8 again became a participating employee within 90 days after
9 completion of full time active duty by entering the service
10 of a different municipality or participating
11 instrumentality, which has elected to allow creditable
12 service for periods of military service under the preceding
13 paragraph, shall also be allowed creditable service for his
14 period of military service on the same terms that would
15 apply if he had been employed, before entering military
16 service, by the municipality or instrumentality which
17 employed him after he left the military service and the
18 employer costs arising in relation to such grant of
19 creditable service shall be charged to and paid by that
20 municipality or instrumentality.

21 Notwithstanding the foregoing, any participating
22 employee shall be entitled to creditable service as
23 required by any federal law relating to re-employment
24 rights of persons who served in the United States Armed
25 Services. Such creditable service shall be granted upon
26 payment by the member of an amount equal to the employee

1 contributions which would have been required had the
2 employee continued in service at the same rate of earnings
3 during the military leave period, plus interest at the
4 effective rate.

5 5.1. In addition to any creditable service established
6 under paragraph 5 of this subsection (a), creditable
7 service may be granted for up to 48 months of service in
8 the armed forces of the United States.

9 In order to receive creditable service for military
10 service under this paragraph 5.1, a participating employee
11 must (1) apply to the Fund in writing and provide evidence
12 of the military service that is satisfactory to the Board;
13 (2) obtain the written approval of the current employer;
14 and (3) make contributions to the Fund equal to (i) the
15 employee contributions that would have been required had
16 the service been rendered as a member, plus (ii) an amount
17 determined by the board to be equal to the employer's
18 normal cost of the benefits accrued for that military
19 service, plus (iii) interest on items (i) and (ii) from the
20 date of first membership in the Fund to the date of
21 payment. The required interest shall be calculated at the
22 regular interest rate.

23 The changes made to this paragraph 5.1 by Public Acts
24 95-483 and 95-486 apply only to participating employees in
25 service on or after August 28, 2007 (the effective date of
26 those Public Acts).

1 6. For out-of-state service: Creditable service shall
2 be granted for service rendered to an out-of-state local
3 governmental body under the following conditions: The
4 employee had participated and has irrevocably forfeited
5 all rights to benefits in the out-of-state public employees
6 pension system; the governing body of his participating
7 municipality or instrumentality authorizes the employee to
8 establish such service; the employee has 2 years current
9 service with this municipality or participating
10 instrumentality; the employee makes a payment of
11 contributions, which shall be computed at 8% (normal) plus
12 2% (survivor) times length of service purchased times the
13 average rate of earnings for the first 2 years of service
14 with the municipality or participating instrumentality
15 whose governing body authorizes the service established
16 plus interest at the effective rate on the date such
17 credits are established, payable from the date the employee
18 completes the required 2 years of current service to date
19 of payment. In no case shall more than 120 months of
20 creditable service be granted under this provision.

21 7. For retroactive service: Any employee who could have
22 but did not elect to become a participating employee, or
23 who should have been a participant in the Municipal Public
24 Utilities Annuity and Benefit Fund before that fund was
25 superseded, may receive creditable service for the period
26 of service not to exceed 50 months; however, a current or

1 former elected or appointed official of a participating
2 municipality may establish credit under this paragraph 7
3 for more than 50 months of service as an official of that
4 municipality, if the excess over 50 months is approved by
5 resolution of the governing body of the affected
6 municipality filed with the Fund before January 1, 2002.

7 Any employee who is a participating employee on or
8 after September 24, 1981 and who was excluded from
9 participation by the age restrictions removed by Public Act
10 82-596 may receive creditable service for the period, on or
11 after January 1, 1979, excluded by the age restriction and,
12 in addition, if the governing body of the participating
13 municipality or participating instrumentality elects to
14 allow creditable service for all employees excluded by the
15 age restriction prior to January 1, 1979, for service
16 during the period prior to that date excluded by the age
17 restriction. Any employee who was excluded from
18 participation by the age restriction removed by Public Act
19 82-596 and who is not a participating employee on or after
20 September 24, 1981 may receive creditable service for
21 service after January 1, 1979. Creditable service under
22 this paragraph shall be granted upon payment of the
23 employee contributions which would have been required had
24 he participated, with interest at the effective rate for
25 each year from the end of the period of service established
26 to date of payment.

1 8. For accumulated unused sick leave: A participating
2 employee who is applying for a retirement annuity shall be
3 entitled to creditable service for that portion of the
4 employee's accumulated unused sick leave for which payment
5 is not received, as follows:

6 a. Sick leave days shall be limited to those
7 accumulated under a sick leave plan established by a
8 participating municipality or participating
9 instrumentality which is available to all employees or
10 a class of employees.

11 b. Except as provided in item b-1, only sick leave
12 days accumulated with a participating municipality or
13 participating instrumentality with which the employee
14 was in service within 60 days of the effective date of
15 his retirement annuity shall be credited; If the
16 employee was in service with more than one employer
17 during this period only the sick leave days with the
18 employer with which the employee has the greatest
19 number of unpaid sick leave days shall be considered.

20 b-1. If the employee was in the service of ~~more~~
21 ~~than~~ one or more employer as defined in item (2) of
22 paragraph (a) of subsection (A) or paragraph (c) of
23 subsection (B) of Section 7-132, then the sick leave
24 days from such employer or all such employers shall be
25 credited, even if the employee was not in service with
26 the employer within 60 days of the effective date of

1 his or her retirement annuity, as long as the
2 creditable service attributed to those sick leave days
3 does not exceed the limitation in item d ~~f~~ of this
4 paragraph 8. In calculating the creditable service
5 under this item b-1, the sick leave days from the last
6 employer shall be considered first, then the remaining
7 sick leave days shall be considered until there are no
8 more days or the maximum creditable sick leave
9 threshold under item d ~~f~~ of this paragraph 8 has been
10 reached.

11 c. The creditable service granted shall be
12 considered solely for the purpose of computing the
13 amount of the retirement annuity and shall not be used
14 to establish any minimum service period required by any
15 provision of the Illinois Pension Code, the effective
16 date of the retirement annuity, or the final rate of
17 earnings.

18 d. The creditable service shall be at the rate of
19 1/20 of a month for each full sick day, provided that
20 no more than 12 months may be credited under this
21 subdivision 8.

22 e. Employee contributions shall not be required
23 for creditable service under this subdivision 8.

24 f. Each participating municipality and
25 participating instrumentality with which an employee
26 has service within 60 days of the effective date of his

1 retirement annuity and each employer referenced in
2 item b-1 of this paragraph 8 shall certify to the board
3 the number of accumulated unpaid sick leave days
4 credited to the employee at the time of termination of
5 service.

6 9. For service transferred from another system:
7 Credits and creditable service shall be granted for service
8 under Article 3, 4, 5, 8, 14, or 16 of this Act, to any
9 active member of this Fund, and to any inactive member who
10 has been a county sheriff, upon transfer of such credits
11 pursuant to Section 3-110.3, 4-108.3, 5-235, 8-226.7,
12 14-105.6, or 16-131.4, and payment by the member of the
13 amount by which (1) the employer and employee contributions
14 that would have been required if he had participated in
15 this Fund as a sheriff's law enforcement employee during
16 the period for which credit is being transferred, plus
17 interest thereon at the effective rate for each year,
18 compounded annually, from the date of termination of the
19 service for which credit is being transferred to the date
20 of payment, exceeds (2) the amount actually transferred to
21 the Fund. Such transferred service shall be deemed to be
22 service as a sheriff's law enforcement employee for the
23 purposes of Section 7-142.1.

24 10. For service transferred from an Article 3 system
25 under Section 3-110.8: Credits and creditable service
26 shall be granted for service under Article 3 of this Act as

1 provided in Section 3-110.8, to any active member of this
2 Fund upon transfer of such credits pursuant to Section
3 3-110.8. If the amount by which (1) the employer and
4 employee contributions that would have been required if he
5 had participated in this Fund during the period for which
6 credit is being transferred, plus interest thereon at the
7 effective rate for each year, compounded annually, from the
8 date of termination of the service for which credit is
9 being transferred to the date of payment, exceeds (2) the
10 amount actually transferred to the Fund, then the amount of
11 creditable service established under this paragraph 10
12 shall be reduced by a corresponding amount in accordance
13 with the rules and procedures established under this
14 paragraph 10.

15 The board shall establish by rule the manner of making
16 the calculation required under this paragraph 10, taking
17 into account the appropriate actuarial assumptions; the
18 member's service, age, and salary history; the level of
19 funding of the employer; and any other factors that the
20 board determines to be relevant.

21 Until January 1, 2010, members who transferred service
22 from an Article 3 system under the provisions of Public Act
23 94-356 may establish additional credit in this Fund, but
24 only up to the amount of the service credit reduction in
25 that transfer, as calculated under the actuarial
26 assumptions. This credit may be established upon payment by

1 the member of an amount to be determined by the board,
2 equal to (1) the amount that would have been contributed as
3 employee and employer contributions had all the service
4 been as an employee under this Article, plus interest
5 thereon compounded annually from the date of service to the
6 date of transfer, less (2) the total amount transferred
7 from the Article 3 system, plus (3) interest on the
8 difference at the effective rate for each year, compounded
9 annually, from the date of the transfer to the date of
10 payment. The additional service credit is allowed under
11 this amendatory Act of the 95th General Assembly
12 notwithstanding the provisions of Article 3 terminating
13 all transferred credits on the date of transfer.

14 (b) Creditable service - amount:

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

25 2. A seasonal employee shall be given 12 months of
26 creditable service if he renders the number of months of

1 service normally required by the position in a 12-month
2 period and he remains in service for the entire 12-month
3 period. Otherwise a fractional year of service in the
4 number of months of service rendered shall be credited.

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

8 (c) No application for correction of credits or creditable
9 service shall be considered unless the board receives an
10 application for correction while (1) the applicant is a
11 participating employee and in active employment with a
12 participating municipality or instrumentality, or (2) while
13 the applicant is actively participating in a pension fund or
14 retirement system which is a participating system under the
15 Retirement Systems Reciprocal Act. A participating employee or
16 other applicant shall not be entitled to credits or creditable
17 service unless the required employee contributions are made in
18 a lump sum or in installments made in accordance with board
19 rule.

20 (d) Upon the granting of a retirement, surviving spouse or
21 child annuity, a death benefit or a separation benefit, on
22 account of any employee, all individual accumulated credits
23 shall thereupon terminate. Upon the withdrawal of additional
24 contributions, the credits applicable thereto shall thereupon
25 terminate. Terminated credits shall not be applied to increase
26 the benefits any remaining employee would otherwise receive

1 under this Article.

2 (Source: P.A. 95-483, eff. 8-28-07; 95-486, eff. 8-28-07;
3 95-504, eff. 8-28-07; 95-812, eff. 8-13-08; 95-876, eff.
4 8-21-08; 96-299, eff. 8-11-09.)

5 Section 90. The State Mandates Act is amended by adding
6 Section 8.34 as follows:

7 (30 ILCS 805/8.34 new)

8 Sec. 8.34. Exempt mandate. Notwithstanding Sections 6 and 8
9 of this Act, no reimbursement by the State is required for the
10 implementation of any mandate created by this amendatory Act of
11 the 96th General Assembly.

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