



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1189

Introduced 2/8/2005, by Rep. Robert S. Molaro

SYNOPSIS AS INTRODUCED:

40 ILCS 5/3-110.3	from Ch. 108 1/2, par. 3-110.3
40 ILCS 5/7-139	from Ch. 108 1/2, par. 7-139
30 ILCS 805/8.29 new	

Amends the Downstate Police and IMRF Articles of the Illinois Pension Code. Creates additional liability for former employers of police chiefs who elect to transfer service credits from downstate police pension funds to IMRF. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB094 04138 EFG 34159 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 Sections 3-110.3 and 7-139 as follows:

6 (40 ILCS 5/3-110.3) (from Ch. 108 1/2, par. 3-110.3)
7 Sec. 3-110.3. Transfer to IMRF.

8 (a) Any person who has made an election under Section
9 3-109.1, and until July 1, 1993, any active member of the
10 Illinois Municipal Retirement Fund who is a county clerk, may
11 apply for transfer of his creditable service accumulated in any
12 police pension fund under this Article to the Illinois
13 Municipal Retirement Fund. The creditable service shall be
14 transferred upon payment by the police pension fund to the
15 Illinois Municipal Retirement Fund of an amount equal to:

16 (1) the amounts accumulated to the credit of the
17 applicant on the books of the fund on the date of transfer;
18 and

19 (2) employer contributions in an amount equal to the
20 amount determined under subparagraph (1); and

21 (3) any interest paid by the applicant in order to
22 reinstate service.

23 Participation in this Fund shall terminate on the date of
24 transfer.

25 (b) Any person who has made an election under Section
26 3-109.1, and until July 1, 1993, any such county clerk, may
27 reinstate service which was terminated by receipt of a refund,
28 by payment to the police pension fund of the amount of the
29 refund with interest thereon at the rate of 6% per year,
30 compounded annually, from the date of refund to the date of
31 payment.

32 (c) With respect to any transfer made under this Section on

1 or after the effective date of this amendatory Act of the 94th
2 General Assembly, the municipality that employed the person at
3 the time of the service for which credit is being transferred:

4 (1) shall remain responsible for any costs arising from
5 the transfer of that service in excess of the amounts
6 transferred under this Section and the amount, if any, paid
7 for that transfer by the person under subdivision (a)9 of
8 Section 7-139; and

9 (2) shall pay to the Board of Trustees of the Illinois
10 Municipal Retirement Fund such amounts as that Board of
11 Trustees shall, from time to time, determine to be
12 necessary to discharge that responsibility.

13 (Source: P.A. 86-273; 87-1265.)

14 (40 ILCS 5/7-139) (from Ch. 108 1/2, par. 7-139)

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

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

20 1. For prior service: Each participating employee who
21 is an employee of a participating municipality or
22 participating instrumentality on the effective date shall
23 be granted creditable service, but no credits under
24 paragraph 2 of this subsection (a), for periods of prior
25 service for which credit has not been received under any
26 other pension fund or retirement system established under
27 this Code, as follows:

28 If the effective date of participation for the
29 participating municipality or participating
30 instrumentality is on or before January 1, 1998, creditable
31 service shall be granted for the entire period of prior
32 service with that employer without any employee
33 contribution.

34 If the effective date of participation for the
35 participating municipality or participating

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

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

27 Any person who has withdrawn from the service of a
28 participating municipality or participating
29 instrumentality prior to the effective date, who reenters
30 the service of the same municipality or participating
31 instrumentality after the effective date and becomes a
32 participating employee is entitled to creditable service
33 for prior service as otherwise provided in this subdivision
34 (a)(1) only if he or she renders 2 years of service as a
35 participating employee after the effective date.
36 Application for such service must be made while in a

1 participating status. The salary rate to be used in the
2 calculation of the required employee contribution, if any,
3 shall be the employee's salary rate at the time of first
4 reentering service with the employer after the employer's
5 effective date of participation.

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

8 a. Additional credits of amounts equal to each
9 payment of additional contributions received from him
10 under Section 7-173, as of the date the corresponding
11 payment of earnings is payable to him.

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

19 c. Municipality credits in an amount equal to 1.4
20 times the normal credits, except those established by
21 out-of-state service credits, as of the date of
22 computation of any benefit if these credits would
23 increase the benefit.

24 d. Survivor credits equal to each payment of
25 survivor contributions received from the participating
26 employee as of the date the corresponding payment of
27 earnings is payable, and survivor contributions made
28 for the purpose of establishing out-of-state service
29 credits.

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

1 employee or his beneficiary.

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

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

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

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

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

36 e. No credits or creditable service shall be

1 allowed for leave of absence without pay during any
2 period of prior service.

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

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

1 creditable service shall be charged to and paid by that
2 municipality or instrumentality.

3 Notwithstanding the foregoing, any participating
4 employee shall be entitled to creditable service as
5 required by any federal law relating to re-employment
6 rights of persons who served in the United States Armed
7 Services. Such creditable service shall be granted upon
8 payment by the member of an amount equal to the employee
9 contributions which would have been required had the
10 employee continued in service at the same rate of earnings
11 during the military leave period, plus interest at the
12 effective rate.

13 5.1. In addition to any creditable service established
14 under paragraph 5 of this subsection (a), creditable
15 service may be granted for up to 24 months of service in
16 the armed forces of the United States.

17 In order to receive creditable service for military
18 service under this paragraph 5.1, a participating employee
19 must (1) apply to the Fund in writing and provide evidence
20 of the military service that is satisfactory to the Board;
21 (2) obtain the written approval of the current employer;
22 and (3) make contributions to the Fund equal to (i) the
23 employee contributions that would have been required had
24 the service been rendered as a member, plus (ii) an amount
25 determined by the board to be equal to the employer's
26 normal cost of the benefits accrued for that military
27 service, plus (iii) interest on items (i) and (ii) from the
28 date of first membership in the Fund to the date of
29 payment. If payment is made during the 6-month period that
30 begins 3 months after the effective date of this amendatory
31 Act of 1997, the required interest shall be at the rate of
32 2.5% per year, compounded annually; otherwise, the
33 required interest shall be calculated at the regular
34 interest rate.

35 6. For out-of-state service: Creditable service shall
36 be granted for service rendered to an out-of-state local

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

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

31 Any employee who is a participating employee on or
32 after September 24, 1981 and who was excluded from
33 participation by the age restrictions removed by Public Act
34 82-596 may receive creditable service for the period, on or
35 after January 1, 1979, excluded by the age restriction and,
36 in addition, if the governing body of the participating

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

15 8. For accumulated unused sick leave: A participating
16 employee who is applying for a retirement annuity shall be
17 entitled to creditable service for that portion of the
18 employee's accumulated unused sick leave for which payment
19 is not received, as follows:

20 a. Sick leave days shall be limited to those
21 accumulated under a sick leave plan established by a
22 participating municipality or participating
23 instrumentality which is available to all employees or
24 a class of employees.

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

34 c. The creditable service granted shall be
35 considered solely for the purpose of computing the
36 amount of the retirement annuity and shall not be used

1 to establish any minimum service period required by any
2 provision of the Illinois Pension Code, the effective
3 date of the retirement annuity, or the final rate of
4 earnings.

5 d. The creditable service shall be at the rate of
6 1/20 of a month for each full sick day, provided that
7 no more than 12 months may be credited under this
8 subdivision 8.

9 e. Employee contributions shall not be required
10 for creditable service under this subdivision 8.

11 f. Each participating municipality and
12 participating instrumentality with which an employee
13 has service within 60 days of the effective date of his
14 retirement annuity shall certify to the board the
15 number of accumulated unpaid sick leave days credited
16 to the employee at the time of termination of service.

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

34 With respect to any transfer pursuant to Section
35 3-110.3 made under this subdivision (a)9 on or after the
36 effective date of this amendatory Act of the 94th General

1 Assembly, the municipality that employed the person at the
2 time of the service for which credit is being transferred
3 shall remain responsible for any costs arising from the
4 transfer of that service in excess of the amounts
5 transferred under that Section and the amount, if any, paid
6 for that transfer by the person under this subdivision. The
7 Board of Trustees shall, from time to time, collect from
8 the municipality any amount it determines to be necessary
9 to discharge that responsibility.

10 (b) Creditable service - amount:

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

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

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

30 (c) No application for correction of credits or creditable
31 service shall be considered unless the board receives an
32 application for correction while (1) the applicant is a
33 participating employee and in active employment with a
34 participating municipality or instrumentality, or (2) while
35 the applicant is actively participating in a pension fund or
36 retirement system which is a participating system under the

1 Retirement Systems Reciprocal Act. A participating employee or
2 other applicant shall not be entitled to credits or creditable
3 service unless the required employee contributions are made in
4 a lump sum or in installments made in accordance with board
5 rule.

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

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

15 Section 90. The State Mandates Act is amended by adding
16 Section 8.29 as follows:

17 (30 ILCS 805/8.29 new)

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.