



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB5851**

Introduced 10/25/06, by Rep. Jack McGuire

**SYNOPSIS AS INTRODUCED:**

40 ILCS 5/7-139  
30 ILCS 805/8.30 new

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

Amends the IMRF Article of the Illinois Pension Code. Provides for establishment of creditable service for up to 48 (was, 24) months of service in the armed forces of the United States. Amends the State Mandates Act to require implementation without reimbursement.

LRB094 21762 AMC 60177 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 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 48 ~~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 the 94th General Assembly 1997, the required  
27 interest shall be at the rate of 2.5% per year, compounded  
28 annually; otherwise, the required interest shall be  
29 calculated at the regular 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 service transferred from an Article 3 system  
30 under Section 3-110.8: Credits and creditable service  
31 shall be granted for service under Article 3 of this Act as  
32 provided in Section 3-110.8, to any active member of this  
33 Fund upon transfer of such credits pursuant to Section  
34 3-110.8. If the amount by which (1) the employer and  
35 employee contributions that would have been required if he  
36 had participated in this Fund during the period for which

1 credit is being transferred, plus interest thereon at the  
2 effective rate for each year, compounded annually, from the  
3 date of termination of the service for which credit is  
4 being transferred to the date of payment, exceeds (2) the  
5 amount actually transferred to the Fund, then the amount of  
6 creditable service established under this paragraph 10  
7 shall be reduced by a corresponding amount in accordance  
8 with the rules and procedures established under this  
9 paragraph 10.

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

16 (b) Creditable service - amount:

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

27 2. A seasonal employee shall be given 12 months of  
28 creditable service if he renders the number of months of  
29 service normally required by the position in a 12-month  
30 period and he remains in service for the entire 12-month  
31 period. Otherwise a fractional year of service in the  
32 number of months of service rendered shall be credited.

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

36 (c) No application for correction of credits or creditable

1 service shall be considered unless the board receives an  
2 application for correction while (1) the applicant is a  
3 participating employee and in active employment with a  
4 participating municipality or instrumentality, or (2) while  
5 the applicant is actively participating in a pension fund or  
6 retirement system which is a participating system under the  
7 Retirement Systems Reciprocal Act. A participating employee or  
8 other applicant shall not be entitled to credits or creditable  
9 service unless the required employee contributions are made in  
10 a lump sum or in installments made in accordance with board  
11 rule.

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

20 (Source: P.A. 93-933, eff. 8-13-04; 94-356, eff. 7-29-05.)

21 Section 90. The State Mandates Act is amended by adding  
22 Section 8.30 as follows:

23 (30 ILCS 805/8.30 new)

24 Sec. 8.30. Exempt mandate. Notwithstanding Sections 6 and 8  
25 of this Act, no reimbursement by the State is required for the  
26 implementation of any mandate created by this amendatory Act of  
27 the 94th General Assembly.