



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2110

Introduced 2/20/2009, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-139

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

30 ILCS 805/8.33 new

Amends the IMRF Article of the Illinois Pension Code. Provides that, until January 31, 2011, an active participating employee who was enrolled in a reciprocal pension system prior to participation in IMRF may establish up to 24 additional months of retroactive service upon filing a written application for the excess retroactive service, approved by the employer's authorized agent, and payment by the employee of the actuarial present value of the additional service, based on those factors that the Board determines to be relevant. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 11376 AMC 21838 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

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, (i) a current

1 or 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 and
7 (ii) until January 31, 2011, an active participating
8 employee who was enrolled in a reciprocal pension system
9 under this Code prior to participation in this Fund may
10 establish up to 24 additional months of retroactive service
11 under this paragraph 7 upon filing a written application
12 for the excess retroactive service, approved by the
13 employer's authorized agent, and payment by the employee of
14 the actuarial present value of the additional service,
15 based on those factors that the Board determines to be
16 relevant.

17 Any employee who is a participating employee on or
18 after September 24, 1981 and who was excluded from
19 participation by the age restrictions removed by Public Act
20 82-596 may receive creditable service for the period, on or
21 after January 1, 1979, excluded by the age restriction and,
22 in addition, if the governing body of the participating
23 municipality or participating instrumentality elects to
24 allow creditable service for all employees excluded by the
25 age restriction prior to January 1, 1979, for service
26 during the period prior to that date excluded by the age

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

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

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

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

1 only the sick leave days with the employer with which
2 the employee has the greatest number of unpaid sick
3 leave days shall be considered.

4 c. The creditable service granted shall be
5 considered solely for the purpose of computing the
6 amount of the retirement annuity and shall not be used
7 to establish any minimum service period required by any
8 provision of the Illinois Pension Code, the effective
9 date of the retirement annuity, or the final rate of
10 earnings.

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

15 e. Employee contributions shall not be required
16 for creditable service under this subdivision 8.

17 f. Each participating municipality and
18 participating instrumentality with which an employee
19 has service within 60 days of the effective date of his
20 retirement annuity shall certify to the board the
21 number of accumulated unpaid sick leave days credited
22 to the employee at the time of termination of service.

23 9. For service transferred from another system:
24 Credits and creditable service shall be granted for service
25 under Article 3, 4, 5, 8, 14, or 16 of this Act, to any
26 active member of this Fund, and to any inactive member who

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

15 10. For service transferred from an Article 3 system
16 under Section 3-110.8: Credits and creditable service
17 shall be granted for service under Article 3 of this Act as
18 provided in Section 3-110.8, to any active member of this
19 Fund upon transfer of such credits pursuant to Section
20 3-110.8. If the amount by which (1) the employer and
21 employee contributions that would have been required if he
22 had participated in this Fund during the period for which
23 credit is being transferred, plus interest thereon at the
24 effective rate for each year, compounded annually, from the
25 date of termination of the service for which credit is
26 being transferred to the date of payment, exceeds (2) the

1 amount actually transferred to the Fund, then the amount of
2 creditable service established under this paragraph 10
3 shall be reduced by a corresponding amount in accordance
4 with the rules and procedures established under this
5 paragraph 10.

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

12 Until January 1, 2010, members who transferred service
13 from an Article 3 system under the provisions of Public Act
14 94-356 may establish additional credit in this Fund, but
15 only up to the amount of the service credit reduction in
16 that transfer, as calculated under the actuarial
17 assumptions. This credit may be established upon payment by
18 the member of an amount to be determined by the board,
19 equal to (1) the amount that would have been contributed as
20 employee and employer contributions had all the service
21 been as an employee under this Article, plus interest
22 thereon compounded annually from the date of service to the
23 date of transfer, less (2) the total amount transferred
24 from the Article 3 system, plus (3) interest on the
25 difference at the effective rate for each year, compounded
26 annually, from the date of the transfer to the date of

1 payment. The additional service credit is allowed under
2 this amendatory Act of the 95th General Assembly
3 notwithstanding the provisions of Article 3 terminating
4 all transferred credits on the date of transfer.

5 (b) Creditable service - amount:

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

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

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

25 (c) No application for correction of credits or creditable
26 service shall be considered unless the board receives an

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

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

19 (Source: P.A. 95-483, eff. 8-28-07; 95-486, eff. 8-28-07;
20 95-504, eff. 8-28-07; 95-812, eff. 8-13-08; 95-876, eff.
21 8-21-08.)

22 Section 90. The State Mandates Act is amended by adding
23 Section 8.33 as follows:

24 (30 ILCS 805/8.33 new)

1 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
2 of this Act, no reimbursement by the State is required for the
3 implementation of any mandate created by this amendatory Act of
4 the 96th General Assembly.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.