



Rep. Chris Nybo

Filed: 5/30/2012

09700SB0538ham001

LRB097 04285 JDS 70433 a

1 AMENDMENT TO SENATE BILL 538

2 AMENDMENT NO. _____. Amend Senate Bill 538 immediately
3 above Section 5, by inserting the following:

4 "Section 1. Retroactive repeal. This amendatory Act of the
5 97th General Assembly hereby repeals and declares void ab
6 initio Section 8-226.7 of the Illinois Pension Code as
7 contained in Section 5 of Public Act 95-504. Upon receipt of an
8 application within 6 months after the effective date of this
9 amendatory Act of the 97th General Assembly, the System shall
10 immediately refund any contributions made by or on behalf of a
11 person to receive service credit pursuant to the text set forth
12 in said Section 8-226.7, as well as any amount determined by
13 the Board to be equal to the investment earned by the System on
14 those contributions since their receipt.

15 Section 2. The Illinois Pension Code is amended by changing
16 Section 7-139 as follows:

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

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

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

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

15 If the effective date of participation for the
16 participating municipality or participating
17 instrumentality is on or before January 1, 1998, creditable
18 service shall be granted for the entire period of prior
19 service with that employer without any employee
20 contribution.

21 If the effective date of participation for the
22 participating municipality or participating
23 instrumentality is after January 1, 1998, creditable
24 service shall be granted for the last 20% of the period of
25 prior service with that employer, but no more than 5 years,

1 without any employee contribution. A participating
2 employee may establish creditable service for the
3 remainder of the period of prior service with that employer
4 by making an application in writing, accompanied by payment
5 of an employee contribution in an amount determined by the
6 Fund, based on the employee contribution rates in effect at
7 the time of application for the creditable service and the
8 employee's salary rate on the effective date of
9 participation for that employer, plus interest at the
10 effective rate from the date of the prior service to the
11 date of payment. Application for this creditable service
12 may be made at any time while the employee is still in
13 service.

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

24 Any person who has withdrawn from the service of a
25 participating municipality or participating
26 instrumentality prior to the effective date, who reenters

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

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

15 a. Additional credits of amounts equal to each
16 payment of additional contributions received from him
17 under Section 7-173, as of the date the corresponding
18 payment of earnings is payable to him.

19 b. Normal credits of amounts equal to each payment
20 of normal contributions received from him, as of the
21 date the corresponding payment of earnings is payable
22 to him, and normal contributions made for the purpose
23 of establishing out-of-state service credits as
24 permitted under the conditions set forth in paragraph 6
25 of this subsection (a).

26 c. Municipality credits in an amount equal to 1.4

1 times the normal credits, except those established by
2 out-of-state service credits, as of the date of
3 computation of any benefit if these credits would
4 increase the benefit.

5 d. Survivor credits equal to each payment of
6 survivor contributions received from the participating
7 employee as of the date the corresponding payment of
8 earnings is payable, and survivor contributions made
9 for the purpose of establishing out-of-state service
10 credits.

11 3. For periods of temporary and total and permanent
12 disability benefits, each employee receiving disability
13 benefits shall be granted creditable service for the period
14 during which disability benefits are payable. Normal and
15 survivor credits, based upon the rate of earnings applied
16 for disability benefits, shall also be granted if such
17 credits would result in a higher benefit to any such
18 employee or his beneficiary.

19 4. For authorized leave of absence without pay: A
20 participating employee shall be granted credits and
21 creditable service for periods of authorized leave of
22 absence without pay under the following conditions:

23 a. An application for credits and creditable
24 service is submitted to the board while the employee is
25 in a status of active employment.

26 b. Not more than 12 complete months of creditable

1 service for authorized leave of absence without pay
2 shall be counted for purposes of determining any
3 benefits payable under this Article.

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

16 d. Benefits under the provisions of Sections
17 7-141, 7-146, 7-150 and 7-163 shall become payable to
18 employees on authorized leave of absence, or their
19 designated beneficiary, only if such leave of absence
20 is creditable hereunder, and if the employee has at
21 least one year of creditable service other than the
22 service granted for leave of absence. Any employee
23 contributions due may be deducted from any benefits
24 payable.

25 e. No credits or creditable service shall be
26 allowed for leave of absence without pay during any

1 period of prior service.

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

22 Any participating employee who left his employment
23 with a municipality or participating instrumentality to
24 serve in the armed forces of the United States and who
25 again became a participating employee within 90 days after
26 completion of full time active duty by entering the service

1 of a different municipality or participating
2 instrumentality, which has elected to allow creditable
3 service for periods of military service under the preceding
4 paragraph, shall also be allowed creditable service for his
5 period of military service on the same terms that would
6 apply if he had been employed, before entering military
7 service, by the municipality or instrumentality which
8 employed him after he left the military service and the
9 employer costs arising in relation to such grant of
10 creditable service shall be charged to and paid by that
11 municipality or instrumentality.

12 Notwithstanding the foregoing, any participating
13 employee shall be entitled to creditable service as
14 required by any federal law relating to re-employment
15 rights of persons who served in the United States Armed
16 Services. Such creditable service shall be granted upon
17 payment by the member of an amount equal to the employee
18 contributions which would have been required had the
19 employee continued in service at the same rate of earnings
20 during the military leave period, plus interest at the
21 effective rate.

22 5.1. In addition to any creditable service established
23 under paragraph 5 of this subsection (a), creditable
24 service may be granted for up to 48 months of service in
25 the armed forces of the United States.

26 In order to receive creditable service for military

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

14 The changes made to this paragraph 5.1 by Public Acts
15 95-483 and 95-486 apply only to participating employees in
16 service on or after August 28, 2007 (the effective date of
17 those Public Acts).

18 6. For out-of-state service: Creditable service shall
19 be granted for service rendered to an out-of-state local
20 governmental body under the following conditions: The
21 employee had participated and has irrevocably forfeited
22 all rights to benefits in the out-of-state public employees
23 pension system; the governing body of his participating
24 municipality or instrumentality authorizes the employee to
25 establish such service; the employee has 2 years current
26 service with this municipality or participating

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

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

24 Any employee who is a participating employee on or
25 after September 24, 1981 and who was excluded from
26 participation by the age restrictions removed by Public Act

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

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

23 a. Sick leave days shall be limited to those
24 accumulated under a sick leave plan established by a
25 participating municipality or participating
26 instrumentality which is available to all employees or

1 a class of employees.

2 b. Except as provided in item b-1, only sick leave
3 days accumulated with a participating municipality or
4 participating instrumentality with which the employee
5 was in service within 60 days of the effective date of
6 his retirement annuity shall be credited; If the
7 employee was in service with more than one employer
8 during this period only the sick leave days with the
9 employer with which the employee has the greatest
10 number of unpaid sick leave days shall be considered.

11 b-1. If the employee was in the service of more
12 than one employer as defined in item (2) of paragraph
13 (a) of subsection (A) of Section 7-132, then the sick
14 leave days from all such employers shall be credited,
15 as long as the creditable service attributed to those
16 sick leave days does not exceed the limitation in item
17 f of this paragraph 8. In calculating the creditable
18 service under this item b-1, the sick leave days from
19 the last employer shall be considered first, then the
20 remaining sick leave days shall be considered until
21 there are no more days or the maximum creditable sick
22 leave threshold under item f of this paragraph 8 has
23 been reached.

24 c. The creditable service granted shall be
25 considered solely for the purpose of computing the
26 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, ~~8~~ 14, or 16 of this Act, to any
20 active member of this Fund, and to any inactive member who
21 has been a county sheriff, upon transfer of such credits
22 pursuant to Section 3-110.3, 4-108.3, 5-235, ~~8-226.7,~~
23 14-105.6, or 16-131.4, and payment by the member of the
24 amount by which (1) the employer and employee contributions
25 that would have been required if he had participated in
26 this Fund as a sheriff's law enforcement employee during

1 the period for which credit is being transferred, plus
2 interest thereon at the effective rate for each year,
3 compounded annually, from the date of termination of the
4 service for which credit is being transferred to the date
5 of payment, exceeds (2) the amount actually transferred to
6 the Fund. Such transferred service shall be deemed to be
7 service as a sheriff's law enforcement employee for the
8 purposes of Section 7-142.1.

9 10. For service transferred from an Article 3 system
10 under Section 3-110.8: Credits and creditable service
11 shall be granted for service under Article 3 of this Act as
12 provided in Section 3-110.8, to any active member of this
13 Fund upon transfer of such credits pursuant to Section
14 3-110.8. If the amount by which (1) the employer and
15 employee contributions that would have been required if he
16 had participated in this Fund during the period for which
17 credit is being transferred, plus interest thereon at the
18 effective rate for each year, compounded annually, from the
19 date of termination of the service for which credit is
20 being transferred to the date of payment, exceeds (2) the
21 amount actually transferred to the Fund, then the amount of
22 creditable service established under this paragraph 10
23 shall be reduced by a corresponding amount in accordance
24 with the rules and procedures established under this
25 paragraph 10.

26 The board shall establish by rule the manner of making

1 the calculation required under this paragraph 10, taking
2 into account the appropriate actuarial assumptions; the
3 member's service, age, and salary history; the level of
4 funding of the employer; and any other factors that the
5 board determines to be relevant.

6 Until January 1, 2010, members who transferred service
7 from an Article 3 system under the provisions of Public Act
8 94-356 may establish additional credit in this Fund, but
9 only up to the amount of the service credit reduction in
10 that transfer, as calculated under the actuarial
11 assumptions. This credit may be established upon payment by
12 the member of an amount to be determined by the board,
13 equal to (1) the amount that would have been contributed as
14 employee and employer contributions had all the service
15 been as an employee under this Article, plus interest
16 thereon compounded annually from the date of service to the
17 date of transfer, less (2) the total amount transferred
18 from the Article 3 system, plus (3) interest on the
19 difference at the effective rate for each year, compounded
20 annually, from the date of the transfer to the date of
21 payment. The additional service credit is allowed under
22 this amendatory Act of the 95th General Assembly
23 notwithstanding the provisions of Article 3 terminating
24 all transferred credits on the date of transfer.

25 (b) Creditable service - amount:

26 1. One month of creditable service shall be allowed for

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

10 2. A seasonal employee shall be given 12 months of
11 creditable service if he renders the number of months of
12 service normally required by the position in a 12-month
13 period and he remains in service for the entire 12-month
14 period. Otherwise a fractional year of service in the
15 number of months of service rendered shall be credited.

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

19 (c) No application for correction of credits or creditable
20 service shall be considered unless the board receives an
21 application for correction while (1) the applicant is a
22 participating employee and in active employment with a
23 participating municipality or instrumentality, or (2) while
24 the applicant is actively participating in a pension fund or
25 retirement system which is a participating system under the
26 Retirement Systems Reciprocal Act. A participating employee or

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

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

13 (Source: P.A. 96-299, eff. 8-11-09; 97-415, eff. 8-16-11.)

14 (40 ILCS 5/8-226.7 rep.)

15 Section 3. The Illinois Pension Code is amended by
16 repealing Section 8-226.7."; and

17 immediately above Section 99, by inserting the following:

18 "Section 97. Severability. The provisions of this Act are
19 severable under Section 1.31 of the Statute on Statutes.".