

AN ACT in relation to pensions.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Pension Code is amended by changing Sections 7-137 and 7-139 as follows:

(40 ILCS 5/7-137) (from Ch. 108 1/2, par. 7-137)

Sec. 7-137. Participating and covered employees.

(a) The persons described in this paragraph (a) shall be included within and be subject to this Article and eligible to benefits from this fund, beginning upon the dates hereinafter specified:

1. Except as to the employees specifically excluded under the provisions of this Article, all persons who are employees of any municipality (or instrumentality thereof) or participating instrumentality on the effective date of participation of the municipality or participating instrumentality beginning upon such effective date.

2. Except as to the employees specifically excluded under the provisions of this Article, all persons, who became employees of any participating municipality (or instrumentality thereof) or participating instrumentality after the effective date of participation of such municipality or participating instrumentality, beginning upon the date such person becomes an employee.

3. All persons who file notice with the board as provided in paragraph (b) 2 and 3 of this Section, beginning upon the date of filing such notice.

(b) The following described persons shall not be considered participating employees eligible for benefits from this fund, but shall be included within and be subject to this Article (each of the descriptions is not exclusive but is cumulative):

1. Any person who occupies an office or is employed in

a position normally requiring performance of duty during less than 600 hours a year for a municipality (including all instrumentalities thereof) or a participating instrumentality. If a school treasurer performs services for more than one school district, the total number of hours of service normally required for the several school districts shall be considered to determine whether he qualifies under this paragraph;

2. Any person who holds elective office unless he has elected while in that office in a written notice on file with the board to become a participating employee;

3. Any person working for a city hospital unless any such person, while in active employment, has elected in a written notice on file with the board to become a participating employee and notification thereof is received by the board;

4. Any person who becomes an employee after June 30, 1979 as a public service employment program participant under the federal Comprehensive Employment and Training Act and whose wages or fringe benefits are paid in whole or in part by funds provided under such Act;

5. Any person who is actively employed by a municipality on its effective date of participation in the Fund if that municipality (i) has at least 35 employees on its effective date of participation; (ii) is located in a county with at least 2,000,000 inhabitants; and (iii) maintains an independent defined benefit pension plan for the benefit of its eligible employees, unless the person files with the board within 90 days after the municipality's effective date of participation an irrevocable election to participate.

(c) Any person electing to be a participating employee, pursuant to paragraph (b) of this Section may not change such election, except as provided in Section 7-137.1.

(d) Any employee who occupied the position of school nurse in any participating municipality on August 8, 1961 and

continuously thereafter until the effective date of the exercise of the option authorized by this subparagraph, who on August 7, 1961 was a member of the Teachers' Retirement System of Illinois, by virtue of certification by the Department of Registration and Education as a public health nurse, may elect to terminate participation in this Fund in order to re-establish membership in such System. The election may be exercised by filing written notice thereof with the Board or with the Board of Trustees of said Teachers' Retirement System, not later than September 30, 1963, and shall be effective on the first day of the calendar month next following the month in which the notice was filed. If the written notice is filed with such Teachers' Retirement System, that System shall immediately notify this Fund, but neither failure nor delay in notification shall affect the validity of the employee's election. If the option is exercised, the Fund shall notify such Teachers' Retirement System of such fact and transfer to that system the amounts contributed by the employee to this Fund, including interest at 3% per annum, but excluding contributions applicable to social security coverage during the period beginning August 8, 1961 to the effective date of the employee's election. Participation in this Fund as to any credits on or after August 8, 1961 and up to the effective date of the employee's election shall terminate on such effective date.

(e) Any participating municipality or participating instrumentality, other than a school district or special education joint agreement created under Section 10-22.31 of the School Code, may, by a resolution or ordinance duly adopted by its governing body, elect to exclude from participation and eligibility for benefits all persons who are employed after the effective date of such resolution or ordinance and who occupy an office or are employed in a position normally requiring performance of duty for less than 1000 hours per year for the participating municipality (including all instrumentalities thereof) or participating instrumentality except for persons

employed in a position normally requiring performance of duty for 600 hours or more per year (i) by such participating municipality or participating instrumentality prior to the effective date of the resolution or ordinance, (ii) by any participating municipality or participating instrumentality prior to January 1, 1982 and (iii) by a participating municipality or participating instrumentality, which had not adopted such a resolution when the person was employed, and the function served by the employee's position is assumed by another participating municipality or participating instrumentality. A participating municipality or participating instrumentality included in and subject to this Article after January 1, 1982 may adopt such resolution or ordinance only prior to the date it becomes included in and subject to this Article. Notwithstanding the foregoing, a participating municipality or participating instrumentality which is formed solely to succeed to the functions of a participating municipality or participating instrumentality shall be considered to have adopted any such resolution or ordinance which may have been applicable to the employees performing such functions. The election made by the resolution or ordinance shall take effect at the time specified in the resolution or ordinance, and once effective shall be irrevocable.

(Source: P.A. 86-272; 87-740; 87-850.)

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

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

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

1. For prior service: Each participating employee who is an employee of a participating municipality or participating instrumentality on the effective date shall be granted creditable service, but no credits under paragraph 2 of this subsection (a), for periods of prior

service for which credit has not been received under any other pension fund or retirement system established under this Code, as follows:

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

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

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

participation.

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

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

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

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

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

d. Survivor credits equal to each payment of survivor contributions received from the participating

employee as of the date the corresponding payment of earnings is payable, and survivor contributions made for the purpose of establishing out-of-state service credits.

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

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

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

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

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

the leave began.

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

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

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

Any participating employee who left his employment with a municipality or participating instrumentality to serve in the armed forces of the United States and who

again became a participating employee within 90 days after completion of full time active duty by entering the service of a different municipality or participating instrumentality, which has elected to allow creditable service for periods of military service under the preceding paragraph, shall also be allowed creditable service for his period of military service on the same terms that would apply if he had been employed, before entering military service, by the municipality or instrumentality which employed him after he left the military service and the employer costs arising in relation to such grant of creditable service shall be charged to and paid by that municipality or instrumentality.

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

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

In order to receive creditable service for military service under this paragraph 5.1, a participating employee must (1) apply to the Fund in writing and provide evidence of the military service that is satisfactory to the Board; (2) obtain the written approval of the current employer; and (3) make contributions to the Fund equal to (i) the employee contributions that would have been required had the service been rendered as a member, plus (ii) an amount determined by the board to be equal to the employer's

normal cost of the benefits accrued for that military service, plus (iii) interest on items (i) and (ii) from the date of first membership in the Fund to the date of payment. If payment is made during the 6-month period that begins 3 months after the effective date of this amendatory Act of 1997, the required interest shall be at the rate of 2.5% per year, compounded annually; otherwise, the required interest shall be calculated at the regular interest rate.

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

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

municipality may establish credit under this paragraph 7 for more than 50 months of service as an official of that municipality, if the excess over 50 months is approved by resolution of the governing body of the affected municipality filed with the Fund before January 1, 2002.

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

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

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

b. Only sick leave days accumulated with a

participating municipality or participating instrumentality with which the employee was in service within 60 days of the effective date of his retirement annuity shall be credited; If the employee was in service with more than one employer during this period only the sick leave days with the employer with which the employee has the greatest number of unpaid sick leave days shall be considered.

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

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

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

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

9. For service transferred from another system: Credits and creditable service shall be granted for service under Article 3, 4, 5, 14 or 16 of this Act, to any active member of this Fund, and to any inactive member who has been a county sheriff, upon transfer of such credits pursuant to Section 3-110.3, 4-108.3, 5-235, 14-105.6 or 16-131.4, and payment by the member of the amount by which (1) the employer and employee contributions that would have been required if he had participated in this Fund as a

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

(b) Creditable service - amount:

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

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

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

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

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

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

(Source: P.A. 91-887, eff. 7-6-00; 92-424, eff. 8-17-01.)

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