

# SB2211



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2211

Introduced 2/26/2021, by Sen. Jason Plummer

### SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-139

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

Amends the Illinois Municipal Retirement Fund (IMRF) Article of the Illinois Pension Code. Provides that a current or former elected or appointed official of a participating municipality who first becomes a participating employee on or after the effective date of the amendatory Act may establish credit for no more than 30 days of service as an official of that municipality under a provision concerning retroactive service. Effective immediately.

LRB102 11538 RPS 16872 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

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  
5 changing 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,  
23 creditable service shall be granted for the entire period

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

21 A municipality that (i) has at least 35 employees;  
22 (ii) is located in a county with at least 2,000,000  
23 inhabitants; and (iii) maintains an independent defined  
24 benefit pension plan for the benefit of its eligible  
25 employees may restrict creditable service in whole or in  
26 part for periods of prior service with the employer if the

1 governing body of the municipality adopts an irrevocable  
2 resolution to restrict that creditable service and files  
3 the resolution with the board before the municipality's  
4 effective date of 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  
12 subdivision (a)(1) only if he or she renders 2 years of  
13 service as a participating employee after the effective  
14 date. 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 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  
21 period during which disability benefits are payable.  
22 Normal and survivor credits, based upon the rate of  
23 earnings applied for disability benefits, shall also be  
24 granted if such credits would result in a higher benefit  
25 to any such 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  
6 is in a status of active employment.

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

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

23 d. Benefits under the provisions of Sections  
24 7-141, 7-146, 7-150 and 7-163 shall become payable to  
25 employees on authorized leave of absence, or their  
26 designated beneficiary, only if such leave of absence

1 is creditable hereunder, and if the employee has at  
2 least one year of creditable service other than the  
3 service granted for leave of absence. Any employee  
4 contributions due may be deducted from any benefits  
5 payable.

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

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

1 service and no additional death and no disability benefits  
2 are payable for death or disability during such period.

3 Any participating employee who left his employment  
4 with a municipality or participating instrumentality to  
5 serve in the armed forces of the United States and who  
6 again became a participating employee within 90 days after  
7 completion of full time active duty by entering the  
8 service of a different municipality or participating  
9 instrumentality, which has elected to allow creditable  
10 service for periods of military service under the  
11 preceding paragraph, shall also be allowed creditable  
12 service for his period of military service on the same  
13 terms that would apply if he had been employed, before  
14 entering military service, by the municipality or  
15 instrumentality which employed him after he left the  
16 military service and the employer costs arising in  
17 relation to such grant of creditable service shall be  
18 charged to and paid by that municipality or  
19 instrumentality.

20 Notwithstanding the foregoing, any participating  
21 employee shall be entitled to creditable service as  
22 required by any federal law relating to re-employment  
23 rights of persons who served in the United States Armed  
24 Services. Such creditable service shall be granted upon  
25 payment by the member of an amount equal to the employee  
26 contributions which would have been required had the



1 employee continued in service at the same rate of earnings  
2 during the military leave period, plus interest at the  
3 effective rate.

4 5.1. In addition to any creditable service established  
5 under paragraph 5 of this subsection (a), creditable  
6 service may be granted for up to 48 months of service in  
7 the armed forces of the United States.

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

22 The changes made to this paragraph 5.1 by Public Acts  
23 95-483 and 95-486 apply only to participating employees in  
24 service on or after August 28, 2007 (the effective date of  
25 those Public Acts).

26 6. For out-of-state service: Creditable service shall

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

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

1 current or former elected or appointed official of a  
2 participating municipality may establish credit under this  
3 paragraph 7 for more than 50 months of service as an  
4 official of that municipality, if the excess over 50  
5 months is approved by resolution of the governing body of  
6 the affected municipality filed with the Fund before  
7 January 1, 2002.

8 A current or former elected or appointed official of a  
9 participating municipality who first becomes a  
10 participating employee under this Article on or after the  
11 effective date of this amendatory Act of the 102nd General  
12 Assembly may establish credit under this paragraph 7 for  
13 no more than 30 days of service as an official of that  
14 municipality.

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

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

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

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

19 b. Except as provided in item b-1, only sick leave  
20 days accumulated with a participating municipality or  
21 participating instrumentality with which the employee  
22 was in service within 60 days of the effective date of  
23 his retirement annuity shall be credited; If the  
24 employee was in service with more than one employer  
25 during this period only the sick leave days with the  
26 employer with which the employee has the greatest

1 number of unpaid sick leave days shall be considered.

2 b-1. If the employee was in the service of more  
3 than one employer as defined in item (2) of paragraph  
4 (a) of subsection (A) of Section 7-132, then the sick  
5 leave days from all such employers shall be credited,  
6 as long as the creditable service attributed to those  
7 sick leave days does not exceed the limitation in item  
8 d of this paragraph 8. If the employee was in the  
9 service of more than one employer described in  
10 paragraph (c) of subsection (B) of Section 7-132 on or  
11 after the effective date of this amendatory Act of the  
12 101st General Assembly, then the sick leave days from  
13 all such employers, except for employers from which  
14 the employee terminated service before the effective  
15 date of this amendatory Act of the 101st General  
16 Assembly, shall be credited, as long as the creditable  
17 service attributed to those sick leave days does not  
18 exceed the limitation in item d of this paragraph 8. In  
19 calculating the creditable service under this item  
20 b-1, the sick leave days from the last employer shall  
21 be considered first, then the remaining sick leave  
22 days shall be considered until there are no more days  
23 or the maximum creditable sick leave threshold under  
24 item d of this paragraph 8 has been reached.

25 c. The creditable service granted shall be  
26 considered solely for the purpose of computing the

1 amount of the retirement annuity and shall not be used  
2 to establish any minimum service period required by  
3 any provision of the Illinois Pension Code, the  
4 effective date of the retirement annuity, or the final  
5 rate of earnings.

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

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

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

18 9. For service transferred from another system:  
19 Credits and creditable service shall be granted for  
20 service under Article 4, 5, 8, 14, or 16 of this Act, to  
21 any active member of this Fund, and to any inactive member  
22 who has been a county sheriff, upon transfer of such  
23 credits pursuant to Section 4-108.3, 5-235, 8-226.7,  
24 14-105.6, or 16-131.4, and payment by the member of the  
25 amount by which (1) the employer and employee  
26 contributions that would have been required if he had

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

10 10. (Blank).

11 11. For service transferred from an Article 3 system  
12 under Section 3-110.3: Credits and creditable service  
13 shall be granted for service under Article 3 of this Act as  
14 provided in Section 3-110.3, to any active member of this  
15 Fund, upon transfer of such credits pursuant to Section  
16 3-110.3. If the board determines that the amount  
17 transferred is less than the true cost to the Fund of  
18 allowing that creditable service to be established, then  
19 in order to establish that creditable service, the member  
20 must pay to the Fund an additional contribution equal to  
21 the difference, as determined by the board in accordance  
22 with the rules and procedures adopted under this  
23 paragraph. If the member does not make the full additional  
24 payment as required by this paragraph prior to termination  
25 of his participation with that employer, then his or her  
26 creditable service shall be reduced by an amount equal to

1 the difference between the amount transferred under  
2 Section 3-110.3, including any payments made by the member  
3 under this paragraph prior to termination, and the true  
4 cost to the Fund of allowing that creditable service to be  
5 established, as determined by the board in accordance with  
6 the rules and procedures adopted under this paragraph.

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

12 12. For omitted service: Any employee who was employed  
13 by a participating employer in a position that required  
14 participation, but who was not enrolled in the Fund, may  
15 establish such credits under the following conditions:

16 a. Application for such credits is received by the  
17 Board while the employee is an active participant of  
18 the Fund or a reciprocal retirement system.

19 b. Eligibility for participation and earnings are  
20 verified by the Authorized Agent of the participating  
21 employer for which the service was rendered.

22 Creditable service under this paragraph shall be  
23 granted upon payment of the employee contributions that  
24 would have been required had he participated, which shall  
25 be calculated by the Fund using the member contribution  
26 rate in effect during the period that the service was



1 rendered.

2 (b) Creditable service - amount:

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

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

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

22 (c) No application for correction of credits or creditable  
23 service shall be considered unless the board receives an  
24 application for correction while (1) the applicant is a  
25 participating employee and in active employment with a  
26 participating municipality or instrumentality, or (2) while

1 the applicant is actively participating in a pension fund or  
2 retirement system which is a participating system under the  
3 Retirement Systems Reciprocal Act. A participating employee or  
4 other applicant shall not be entitled to credits or creditable  
5 service unless the required employee contributions are made in  
6 a lump sum or in installments made in accordance with board  
7 rule. Payments made to establish service credit under  
8 paragraph 1, 4, 5, 5.1, 6, 7, or 12 of subsection (a) of this  
9 Section must be received by the Board while the applicant is an  
10 active participant in the Fund or a reciprocal retirement  
11 system, except that an applicant may make one payment after  
12 termination of active participation in the Fund or a  
13 reciprocal retirement system.

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

22 (Source: P.A. 100-148, eff. 8-18-17; 101-492, eff. 8-23-19.)

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