



Sen. Ira I. Silverstein

Filed: 5/11/2004

09300HB0587sam001

LRB093 05661 LRD 50731 a

1 AMENDMENT TO HOUSE BILL 587

2 AMENDMENT NO. _____. Amend House Bill 587 by replacing
3 everything after the enacting clause with the following:

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

6 (40 ILCS 5/7-137) (from Ch. 108 1/2, par. 7-137)

7 Sec. 7-137. Participating and covered employees.

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

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

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

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

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

8 1. Any person who occupies an office or is employed in
9 a position normally requiring performance of duty during
10 less than 600 hours a year for a municipality (including
11 all instrumentalities thereof) or a participating
12 instrumentality. If a school treasurer performs services
13 for more than one school district, the total number of
14 hours of service normally required for the several school
15 districts shall be considered to determine whether he
16 qualifies under this paragraph;

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

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

25 4. Any person who becomes an employee after June 30,
26 1979 as a public service employment program participant
27 under the federal Comprehensive Employment and Training
28 Act and whose wages or fringe benefits are paid in whole or
29 in part by funds provided under such Act; ~~and~~

30 5. Any person who is actively employed by a
31 municipality on its effective date of participation in the
32 Fund if that municipality (i) has at least 35 employees on
33 its effective date of participation; (ii) is located in a
34 county with at least 2,000,000 inhabitants; and (iii)

1 maintains an independent defined benefit pension plan for
2 the benefit of its eligible employees, unless the person
3 files with the board within 90 days after the
4 municipality's effective date of participation an
5 irrevocable election to participate.

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

9 (d) Any employee who occupied the position of school nurse
10 in any participating municipality on August 8, 1961 and
11 continuously thereafter until the effective date of the
12 exercise of the option authorized by this subparagraph, who on
13 August 7, 1961 was a member of the Teachers' Retirement System
14 of Illinois, by virtue of certification by the Department of
15 Registration and Education as a public health nurse, may elect
16 to terminate participation in this Fund in order to
17 re-establish membership in such System. The election may be
18 exercised by filing written notice thereof with the Board or
19 with the Board of Trustees of said Teachers' Retirement System,
20 not later than September 30, 1963, and shall be effective on
21 the first day of the calendar month next following the month in
22 which the notice was filed. If the written notice is filed with
23 such Teachers' Retirement System, that System shall
24 immediately notify this Fund, but neither failure nor delay in
25 notification shall affect the validity of the employee's
26 election. If the option is exercised, the Fund shall notify
27 such Teachers' Retirement System of such fact and transfer to
28 that system the amounts contributed by the employee to this
29 Fund, including interest at 3% per annum, but excluding
30 contributions applicable to social security coverage during
31 the period beginning August 8, 1961 to the effective date of
32 the employee's election. Participation in this Fund as to any
33 credits on or after August 8, 1961 and up to the effective date
34 of the employee's election shall terminate on such effective

1 date.

2 (e) Any participating municipality or participating
3 instrumentality, other than a school district or special
4 education joint agreement created under Section 10-22.31 of the
5 School Code, may, by a resolution or ordinance duly adopted by
6 its governing body, elect to exclude from participation and
7 eligibility for benefits all persons who are employed after the
8 effective date of such resolution or ordinance and who occupy
9 an office or are employed in a position normally requiring
10 performance of duty for less than 1000 hours per year for the
11 participating municipality (including all instrumentalities
12 thereof) or participating instrumentality except for persons
13 employed in a position normally requiring performance of duty
14 for 600 hours or more per year (i) by such participating
15 municipality or participating instrumentality prior to the
16 effective date of the resolution or ordinance, (ii) by any
17 participating municipality or participating instrumentality
18 prior to January 1, 1982 and (iii) by a participating
19 municipality or participating instrumentality, which had not
20 adopted such a resolution when the person was employed, and the
21 function served by the employee's position is assumed by
22 another participating municipality or participating
23 instrumentality. A participating municipality or participating
24 instrumentality included in and subject to this Article after
25 January 1, 1982 may adopt such resolution or ordinance only
26 prior to the date it becomes included in and subject to this
27 Article. Notwithstanding the foregoing, a participating
28 municipality or participating instrumentality which is formed
29 solely to succeed to the functions of a participating
30 municipality or participating instrumentality shall be
31 considered to have adopted any such resolution or ordinance
32 which may have been applicable to the employees performing such
33 functions. The election made by the resolution or ordinance
34 shall take effect at the time specified in the resolution or

1 ordinance, and once effective shall be irrevocable.

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

3 (40 ILCS 5/7-139) (from Ch. 108 1/2, par. 7-139)

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

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

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

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

23 If the effective date of participation for the
24 participating municipality or participating
25 instrumentality is after January 1, 1998, creditable
26 service shall be granted for the last 20% of the period of
27 prior service with that employer, but no more than 5 years,
28 without any employee contribution. A participating
29 employee may establish creditable service for the
30 remainder of the period of prior service with that employer
31 by making an application in writing, accompanied by payment
32 of an employee contribution in an amount determined by the
33 Fund, based on the employee contribution rates in effect at

1 the time of application for the creditable service and the
2 employee's salary rate on the effective date of
3 participation for that employer, plus interest at the
4 effective rate from the date of the prior service to the
5 date of payment. Application for this creditable service
6 may be made at any time while the employee is still in
7 service.

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

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

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

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

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

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

17 d. Survivor credits equal to each payment of
18 survivor contributions received from the participating
19 employee as of the date the corresponding payment of
20 earnings is payable, and survivor contributions made
21 for the purpose of establishing out-of-state service
22 credits.

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

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

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

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

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

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

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

34 5. For military service: The governing body of a

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

20 Any participating employee who left his employment
21 with a municipality or participating instrumentality to
22 serve in the armed forces of the United States and who
23 again became a participating employee within 90 days after
24 completion of full time active duty by entering the service
25 of a different municipality or participating
26 instrumentality, which has elected to allow creditable
27 service for periods of military service under the preceding
28 paragraph, shall also be allowed creditable service for his
29 period of military service on the same terms that would
30 apply if he had been employed, before entering military
31 service, by the municipality or instrumentality which
32 employed him after he left the military service and the
33 employer costs arising in relation to such grant of
34 creditable service shall be charged to and paid by that

1 municipality or instrumentality.

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

12 5.1. In addition to any creditable service established
13 under paragraph 5 of this subsection (a), creditable
14 service may be granted for up to 24 months of service in
15 the armed forces of the United States.

16 In order to receive creditable service for military
17 service under this paragraph 5.1, a participating employee
18 must (1) apply to the Fund in writing and provide evidence
19 of the military service that is satisfactory to the Board;
20 (2) obtain the written approval of the current employer;
21 and (3) make contributions to the Fund equal to (i) the
22 employee contributions that would have been required had
23 the service been rendered as a member, plus (ii) an amount
24 determined by the board to be equal to the employer's
25 normal cost of the benefits accrued for that military
26 service, plus (iii) interest on items (i) and (ii) from the
27 date of first membership in the Fund to the date of
28 payment. If payment is made during the 6-month period that
29 begins 3 months after the effective date of this amendatory
30 Act of 1997, the required interest shall be at the rate of
31 2.5% per year, compounded annually; otherwise, the
32 required interest shall be calculated at the regular
33 interest rate.

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

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

32 Any employee who is a participating employee on or
33 after September 24, 1981 and who was excluded from
34 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
27 a class of employees.

28 b. Only sick leave days accumulated with a
29 participating municipality or participating
30 instrumentality with which the employee was in service
31 within 60 days of the effective date of his retirement
32 annuity shall be credited; If the employee was in
33 service with more than one employer during this period
34 only the sick leave days with the employer with which

1 the employee has the greatest number of unpaid sick
2 leave days shall be considered.

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

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

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

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

22 9. For service transferred from another system:
23 Credits and creditable service shall be granted for service
24 under Article 3, 4, 5, 14 or 16 of this Act, to any active
25 member of this Fund, and to any inactive member who has
26 been a county sheriff, upon transfer of such credits
27 pursuant to Section 3-110.3, 4-108.3, 5-235, 14-105.6 or
28 16-131.4, and payment by the member of the amount by which
29 (1) the employer and employee contributions that would have
30 been required if he had participated in this Fund as a
31 sheriff's law enforcement employee during the period for
32 which credit is being transferred, plus interest thereon at
33 the effective rate for each year, compounded annually, from
34 the date of termination of the service for which credit is

1 being transferred to the date of payment, exceeds (2) the
2 amount actually transferred to the Fund. Such transferred
3 service shall be deemed to be service as a sheriff's law
4 enforcement employee for the purposes of Section 7-142.1.

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
27 application for correction while (1) the applicant is a
28 participating employee and in active employment with a
29 participating municipality or instrumentality, or (2) while
30 the applicant is actively participating in a pension fund or
31 retirement system which is a participating system under the
32 Retirement Systems Reciprocal Act. A participating employee or
33 other applicant shall not be entitled to credits or creditable
34 service unless the required employee contributions are made in

1 a lump sum or in installments made in accordance with board
2 rule.

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

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

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