



**93RD GENERAL ASSEMBLY**

**State of Illinois**

**2003 and 2004**

**HB4109**

Introduced 1/15/2004, by Lou Lang

**SYNOPSIS AS INTRODUCED:**

40 ILCS 5/7-137  
40 ILCS 5/7-139

from Ch. 108 1/2, par. 7-137  
from Ch. 108 1/2, par. 7-139

Amends the Illinois Municipal Article of the Illinois Pension Code. Provides that a person who is employed by a municipality that (i) has at least 35 employees on its effective date of participation, (ii) is located within a county with at least 2,000,000 inhabitants; and (iii) maintains an independent defined benefit pension plan for the benefit of its employees shall not be considered a participating employee under the Fund, unless he or she files an irrevocable election to participate within 90 days after the municipality's effective date of participation. Provides that a municipality that (i) has at least 35 employees on its effective date of participation, (ii) is located within a county with at least 2,000,000 inhabitants; and (iii) maintains an independent defined benefit pension plan for the benefit of its employees may restrict creditable service for an employee's periods of prior service if the municipality adopts an irrevocable resolution and files that resolution with the board. Effective immediately.

LRB093 16923 LRD 42580 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing  
5 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.

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

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

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

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

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

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

17 4. Any person who becomes an employee after June 30,  
18 1979 as a public service employment program participant  
19 under the federal Comprehensive Employment and Training  
20 Act and whose wages or fringe benefits are paid in whole or  
21 in part by funds provided under such Act;

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

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

34 (d) Any employee who occupied the position of school nurse  
35 in any participating municipality on August 8, 1961 and  
36 continuously thereafter until the effective date of the

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

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

1 for 600 hours or more per year (i) by such participating  
2 municipality or participating instrumentality prior to the  
3 effective date of the resolution or ordinance, (ii) by any  
4 participating municipality or participating instrumentality  
5 prior to January 1, 1982 and (iii) by a participating  
6 municipality or participating instrumentality, which had not  
7 adopted such a resolution when the person was employed, and the  
8 function served by the employee's position is assumed by  
9 another participating municipality or participating  
10 instrumentality. A participating municipality or participating  
11 instrumentality included in and subject to this Article after  
12 January 1, 1982 may adopt such resolution or ordinance only  
13 prior to the date it becomes included in and subject to this  
14 Article. Notwithstanding the foregoing, a participating  
15 municipality or participating instrumentality which is formed  
16 solely to succeed to the functions of a participating  
17 municipality or participating instrumentality shall be  
18 considered to have adopted any such resolution or ordinance  
19 which may have been applicable to the employees performing such  
20 functions. The election made by the resolution or ordinance  
21 shall take effect at the time specified in the resolution or  
22 ordinance, and once effective shall be irrevocable.

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

24 (40 ILCS 5/7-139) (from Ch. 108 1/2, par. 7-139)

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

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

30 1. For prior service: Each participating employee who  
31 is an employee of a participating municipality or  
32 participating instrumentality on the effective date shall  
33 be granted creditable service, but no credits under  
34 paragraph 2 of this subsection (a), for periods of prior  
35 service for which credit has not been received under any

1 other pension fund or retirement system established under  
2 this Code, as follows:

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

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

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

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

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

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

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

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

34           d. Survivor credits equal to each payment of  
35 survivor contributions received from the participating  
36 employee as of the date the corresponding payment of

1 earnings is payable, and survivor contributions made  
2 for the purpose of establishing out-of-state service  
3 credits.

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

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

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

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

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



1           d. Benefits under the provisions of Sections  
2           7-141, 7-146, 7-150 and 7-163 shall become payable to  
3           employees on authorized leave of absence, or their  
4           designated beneficiary, only if such leave of absence  
5           is creditable hereunder, and if the employee has at  
6           least one year of creditable service other than the  
7           service granted for leave of absence. Any employee  
8           contributions due may be deducted from any benefits  
9           payable.

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

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

33          Any participating employee who left his employment  
34          with a municipality or participating instrumentality to  
35          serve in the armed forces of the United States and who  
36          again became a participating employee within 90 days after

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

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

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

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

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

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

29 7. For retroactive service: Any employee who could have  
30 but did not elect to become a participating employee, or  
31 who should have been a participant in the Municipal Public  
32 Utilities Annuity and Benefit Fund before that fund was  
33 superseded, may receive creditable service for the period  
34 of service not to exceed 50 months; however, a current or  
35 former elected or appointed official of a participating  
36 municipality may establish credit under this paragraph 7

1 for more than 50 months of service as an official of that  
2 municipality, if the excess over 50 months is approved by  
3 resolution of the governing body of the affected  
4 municipality filed with the Fund before January 1, 2002.

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

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

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

35 b. Only sick leave days accumulated with a  
36 participating municipality or participating

1 instrumentality with which the employee was in service  
2 within 60 days of the effective date of his retirement  
3 annuity shall be credited; If the employee was in  
4 service with more than one employer during this period  
5 only the sick leave days with the employer with which  
6 the employee has the greatest number of unpaid sick  
7 leave days shall be considered.

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

15 d. The creditable service shall be at the rate of  
16 1/20 of a month for each full sick day, provided that  
17 no more than 12 months may be credited under this  
18 subdivision 8.

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

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

27 9. For service transferred from another system:  
28 Credits and creditable service shall be granted for service  
29 under Article 3, 4, 5, 14 or 16 of this Act, to any active  
30 member of this Fund, and to any inactive member who has  
31 been a county sheriff, upon transfer of such credits  
32 pursuant to Section 3-110.3, 4-108.3, 5-235, 14-105.6 or  
33 16-131.4, and payment by the member of the amount by which  
34 (1) the employer and employee contributions that would have  
35 been required if he had participated in this Fund as a  
36 sheriff's law enforcement employee during the period for

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

8 (b) Creditable service - amount:

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

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

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

28 (c) No application for correction of credits or creditable  
29 service shall be considered unless the board receives an  
30 application for correction while (1) the applicant is a  
31 participating employee and in active employment with a  
32 participating municipality or instrumentality, or (2) while  
33 the applicant is actively participating in a pension fund or  
34 retirement system which is a participating system under the  
35 Retirement Systems Reciprocal Act. A participating employee or  
36 other applicant shall not be entitled to credits or creditable

1 service unless the required employee contributions are made in  
2 a lump sum or in installments made in accordance with board  
3 rule.

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

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

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