



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB1692

Introduced 2/24/2005, by Sen. Terry Link

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-109.3	from Ch. 108 1/2, par. 7-109.3
40 ILCS 5/7-132	from Ch. 108 1/2, par. 7-132
30 ILCS 805/8.29 new	

Amends the Illinois Municipal Retirement Fund (IMRF) Article of the Pension Code. Requires participation by all full-time municipal police officers who do not participate in an Article 3 police pension fund. Makes these police officers eligible for the sheriff's law enforcement (SLEP) formula. Excludes Chicago. Pre-empts home rule powers. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB094 09575 AMC 39827 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT in relation to public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing  
5 Sections 7-109.3 and 7-132 as follows:

6 (40 ILCS 5/7-109.3) (from Ch. 108 1/2, par. 7-109.3)

7 Sec. 7-109.3. "Sheriff's Law Enforcement Employees".

8 (a) "Sheriff's law enforcement employee" or "SLEP" means:

9 (1) A county sheriff and all deputies, other than  
10 special deputies, employed on a full time basis in the  
11 office of the sheriff.

12 (2) A person who has elected to participate in this  
13 Fund under Section 3-109.1 of this Code, and who is  
14 employed by a participating municipality to perform police  
15 duties.

16 (3) A law enforcement officer employed on a full time  
17 basis by a Forest Preserve District, provided that such  
18 officer shall be deemed a "sheriff's law enforcement  
19 employee" for the purposes of this Article, and service in  
20 that capacity shall be deemed to be service as a sheriff's  
21 law enforcement employee, only if the board of  
22 commissioners of the District have so elected by adoption  
23 of an affirmative resolution. Such election, once made, may  
24 not be rescinded.

25 (4) A person not eligible to participate in a fund  
26 established under Article 3 of this Code who is employed on  
27 a full-time basis by a participating municipality or  
28 participating instrumentality to perform police duties at  
29 an airport, but only if the governing authority of the  
30 employer has approved sheriff's law enforcement employee  
31 status for its airport police employees by adoption of an  
32 affirmative resolution. Such approval, once given, may not

1 be rescinded.

2 (5) A person not eligible to participate in a fund  
3 established under Article 3 of this Code who is employed on  
4 a full-time basis by a participating city, village, or  
5 incorporated town to perform police duties.

6 (b) An employee who is a sheriff's law enforcement employee  
7 and is granted military leave or authorized leave of absence  
8 shall receive service credit in that capacity. Sheriff's law  
9 enforcement employees shall not be entitled to out-of-State  
10 service credit under Section 7-139.

11 (Source: P.A. 92-16, eff. 6-28-01.)

12 (40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

13 Sec. 7-132. Municipalities, instrumentalities and  
14 participating instrumentalities included and effective dates.

15 (A) Municipalities and their instrumentalities.

16 (a) The following described municipalities, but not  
17 including any with more than 1,000,000 inhabitants, and the  
18 instrumentalities thereof, shall be included within and be  
19 subject to this Article beginning upon the effective dates  
20 specified by the Board:

21 (1) Except as to the municipalities and  
22 instrumentalities thereof specifically excluded under this  
23 Article, every county shall be subject to this Article, and  
24 all cities, villages and incorporated towns having a  
25 population in excess of 5,000 inhabitants as determined by  
26 the last preceding decennial or subsequent federal census,  
27 shall be subject to this Article following publication of  
28 the census by the Bureau of the Census. Within 90 days  
29 after publication of the census, the Board shall notify any  
30 municipality that has become subject to this Article as a  
31 result of that census, and shall provide information to the  
32 corporate authorities of the municipality explaining the  
33 duties and consequences of participation. The notification  
34 shall also include a proposed date upon which participation

1 by the municipality will commence.

2 However, for any city, village or incorporated town  
3 that attains a population over 5,000 inhabitants after  
4 having provided social security coverage for its employees  
5 under the Social Security Enabling Act, participation  
6 under this Article shall not be mandatory (except as  
7 provided in subdivision (A)(a-5) of this Section) but may  
8 be elected in accordance with subparagraph (3) or (4) of  
9 this paragraph (a), whichever is applicable.

10 (2) School districts, other than those specifically  
11 excluded under this Article, shall be subject to this  
12 Article, without election, with respect to all employees  
13 thereof.

14 (3) Towns and all other bodies politic and corporate  
15 which are formed by vote of, or are subject to control by,  
16 the electors in towns and are located in towns which are  
17 not participating municipalities on the effective date of  
18 this Act, may become subject to this Article by election  
19 pursuant to Section 7-132.1.

20 (4) Any other municipality (together with its  
21 instrumentalities), other than those specifically excluded  
22 from participation and those described in paragraph (3)  
23 above, may elect to be included either by referendum under  
24 Section 7-134 or by the adoption of a resolution or  
25 ordinance by its governing body. A copy of such resolution  
26 or ordinance duly authenticated and certified by the clerk  
27 of the municipality or other appropriate official of its  
28 governing body shall constitute the required notice to the  
29 board of such action.

30 (a-5) Notwithstanding the other provisions of this  
31 Section, a city, village, or incorporated town with a  
32 population of less than 1,000,000 that (i) does not otherwise  
33 participate in the Fund and (ii) employs one or more full-time  
34 police officers who do not participate in an Article 3 police  
35 pension fund shall begin to participate in this Fund with  
36 respect to those police officers no later than 6 months after

1 the effective date of this amendatory Act of the 94th General  
2 Assembly. A city, village, or incorporated town required to  
3 participate in the Fund with respect to its full-time police  
4 officers under this subdivision (a-5) need not participate in  
5 the Fund with respect to its other officers and employees.  
6 Participation in this Fund by a city, village, or incorporated  
7 town with a population of less than 1,000,000 with respect to  
8 its full-time police officers who do not participate in an  
9 Article 3 police pension fund is a matter of exclusive State  
10 power; this subdivision (a-5) is a denial and limitation of  
11 home rule power under subsection (h) of Section 6 of Article  
12 VII of the Illinois Constitution.

13 (b) A municipality that is about to begin participation  
14 shall submit to the Board an application to participate, in a  
15 form acceptable to the Board, not later than 90 days prior to  
16 the proposed effective date of participation. The Board shall  
17 act upon the application within 90 days, and if it finds that  
18 the application is in conformity with its requirements and the  
19 requirements of this Article, participation by the applicant  
20 shall commence on a date acceptable to the municipality and  
21 specified by the Board, but in no event more than one year from  
22 the date of application.

23 (c) A participating municipality which succeeds to the  
24 functions of a participating municipality which is dissolved or  
25 terminates its existence shall assume and be transferred the  
26 net accumulation balance in the municipality reserve and the  
27 municipality account receivable balance of the terminated  
28 municipality.

29 (d) In the case of a Veterans Assistance Commission whose  
30 employees were being treated by the Fund on January 1, 1990 as  
31 employees of the county served by the Commission, the Fund may  
32 continue to treat the employees of the Veterans Assistance  
33 Commission as county employees for the purposes of this  
34 Article, unless the Commission becomes a participating  
35 instrumentality in accordance with subsection (B) of this  
36 Section.

1 (B) Participating instrumentalities.

2 (a) The participating instrumentalities designated in  
3 paragraph (b) of this subsection shall be included within and  
4 be subject to this Article if:

5 (1) an application to participate, in a form acceptable  
6 to the Board and adopted by a two-thirds vote of the  
7 governing body, is presented to the Board not later than 90  
8 days prior to the proposed effective date; and

9 (2) the Board finds that the application is in  
10 conformity with its requirements, that the applicant has  
11 reasonable expectation to continue as a political entity  
12 for a period of at least 10 years and has the prospective  
13 financial capacity to meet its current and future  
14 obligations to the Fund, and that the actuarial soundness  
15 of the Fund may be reasonably expected to be unimpaired by  
16 approval of participation by the applicant.

17 The Board shall notify the applicant of its findings within  
18 90 days after receiving the application, and if the Board  
19 approves the application, participation by the applicant shall  
20 commence on the effective date specified by the Board.

21 (b) The following participating instrumentalities, so long  
22 as they meet the requirements of Section 7-108 and the area  
23 served by them or within their jurisdiction is not located  
24 entirely within a municipality having more than one million  
25 inhabitants, may be included hereunder:

26 i. Township School District Trustees.

27 ii. Multiple County and Consolidated Health  
28 Departments created under Division 5-25 of the Counties  
29 Code or its predecessor law.

30 iii. Public Building Commissions created under the  
31 Public Building Commission Act, and located in counties of  
32 less than 1,000,000 inhabitants.

33 iv. A multitype, consolidated or cooperative library  
34 system created under the Illinois Library System Act. Any  
35 library system created under the Illinois Library System

1 Act that has one or more predecessors that participated in  
2 the Fund may participate in the Fund upon application. The  
3 Board shall establish procedures for implementing the  
4 transfer of rights and obligations from the predecessor  
5 system to the successor system.

6 v. Regional Planning Commissions created under  
7 Division 5-14 of the Counties Code or its predecessor law.

8 vi. Local Public Housing Authorities created under the  
9 Housing Authorities Act, located in counties of less than  
10 1,000,000 inhabitants.

11 vii. Illinois Municipal League.

12 viii. Northeastern Illinois Metropolitan Area Planning  
13 Commission.

14 ix. Southwestern Illinois Metropolitan Area Planning  
15 Commission.

16 x. Illinois Association of Park Districts.

17 xi. Illinois Supervisors, County Commissioners and  
18 Superintendents of Highways Association.

19 xii. Tri-City Regional Port District.

20 xiii. An association, or not-for-profit corporation,  
21 membership in which is authorized under Section 85-15 of  
22 the Township Code.

23 xiv. Drainage Districts operating under the Illinois  
24 Drainage Code.

25 xv. Local mass transit districts created under the  
26 Local Mass Transit District Act.

27 xvi. Soil and water conservation districts created  
28 under the Soil and Water Conservation Districts Law.

29 xvii. Commissions created to provide water supply or  
30 sewer services or both under Division 135 or Division 136  
31 of Article 11 of the Illinois Municipal Code.

32 xviii. Public water districts created under the Public  
33 Water District Act.

34 xix. Veterans Assistance Commissions established under  
35 Section 9 of the Military Veterans Assistance Act that  
36 serve counties with a population of less than 1,000,000.

1           xx. The governing body of an entity, other than a  
2           vocational education cooperative, created under an  
3           intergovernmental cooperative agreement established  
4           between participating municipalities under the  
5           Intergovernmental Cooperation Act, which by the terms of  
6           the agreement is the employer of the persons performing  
7           services under the agreement under the usual common law  
8           rules determining the employer-employee relationship. The  
9           governing body of such an intergovernmental cooperative  
10          entity established prior to July 1, 1988 may make  
11          participation retroactive to the effective date of the  
12          agreement and, if so, the effective date of participation  
13          shall be the date the required application is filed with  
14          the fund. If any such entity is unable to pay the required  
15          employer contributions to the fund, then the participating  
16          municipalities shall make payment of the required  
17          contributions and the payments shall be allocated as  
18          provided in the agreement or, if not so provided, equally  
19          among them.

20           xxi. The Illinois Municipal Electric Agency.

21           xxii. The Waukegan Port District.

22           xxiii. The Fox Waterway Agency created under the Fox  
23          Waterway Agency Act.

24           xxiv. The Illinois Municipal Gas Agency.

25           xxv. The Kaskaskia Regional Port District.

26           xxvi. The Southwestern Illinois Development Authority.

27           xxvii. The Cairo Public Utility Company.

28          (c) The governing boards of special education joint  
29          agreements created under Section 10-22.31 of the School Code  
30          without designation of an administrative district shall be  
31          included within and be subject to this Article as participating  
32          instrumentalities when the joint agreement becomes effective.  
33          However, the governing board of any such special education  
34          joint agreement in effect before September 5, 1975 shall not be  
35          subject to this Article unless the joint agreement is modified  
36          by the school districts to provide that the governing board is



1 subject to this Article, except as otherwise provided by this  
2 Section.

3 The governing board of the Special Education District of  
4 Lake County shall become subject to this Article as a  
5 participating instrumentality on July 1, 1997. Notwithstanding  
6 subdivision (a)1 of Section 7-139, on the effective date of  
7 participation, employees of the governing board of the Special  
8 Education District of Lake County shall receive creditable  
9 service for their prior service with that employer, up to a  
10 maximum of 5 years, without any employee contribution.  
11 Employees may establish creditable service for the remainder of  
12 their prior service with that employer, if any, by applying in  
13 writing and paying an employee contribution in an amount  
14 determined by the Fund, based on the employee contribution  
15 rates in effect at the time of application for the creditable  
16 service and the employee's salary rate on the effective date of  
17 participation for that employer, plus interest at the effective  
18 rate from the date of the prior service to the date of payment.  
19 Application for this creditable service must be made before  
20 July 1, 1998; the payment may be made at any time while the  
21 employee is still in service. The employer may elect to make  
22 the required contribution on behalf of the employee.

23 The governing board of a special education joint agreement  
24 created under Section 10-22.31 of the School Code for which an  
25 administrative district has been designated, if there are  
26 employees of the cooperative educational entity who are not  
27 employees of the administrative district, may elect to  
28 participate in the Fund and be included within this Article as  
29 a participating instrumentality, subject to such application  
30 procedures and rules as the Board may prescribe.

31 The Boards of Control of cooperative or joint educational  
32 programs or projects created and administered under Section  
33 3-15.14 of the School Code, whether or not the Boards act as  
34 their own administrative district, shall be included within and  
35 be subject to this Article as participating instrumentalities  
36 when the agreement establishing the cooperative or joint

1 educational program or project becomes effective.

2 The governing board of a special education joint agreement  
3 entered into after June 30, 1984 and prior to September 17,  
4 1985 which provides for representation on the governing board  
5 by less than all the participating districts shall be included  
6 within and subject to this Article as a participating  
7 instrumentality. Such participation shall be effective as of  
8 the date the joint agreement becomes effective.

9 The governing boards of educational service centers  
10 established under Section 2-3.62 of the School Code shall be  
11 included within and subject to this Article as participating  
12 instrumentalities. The governing boards of vocational  
13 education cooperative agreements created under the  
14 Intergovernmental Cooperation Act and approved by the State  
15 Board of Education shall be included within and be subject to  
16 this Article as participating instrumentalities. If any such  
17 governing boards or boards of control are unable to pay the  
18 required employer contributions to the fund, then the school  
19 districts served by such boards shall make payment of required  
20 contributions as provided in Section 7-172. The payments shall  
21 be allocated among the several school districts in proportion  
22 to the number of students in average daily attendance for the  
23 last full school year for each district in relation to the  
24 total number of students in average attendance for such period  
25 for all districts served. If such educational service centers,  
26 vocational education cooperatives or cooperative or joint  
27 educational programs or projects created and administered  
28 under Section 3-15.14 of the School Code are dissolved, the  
29 assets and obligations shall be distributed among the districts  
30 in the same proportions unless otherwise provided.

31 (d) The governing boards of special recreation joint  
32 agreements created under Section 8-10b of the Park District  
33 Code, operating without designation of an administrative  
34 district or an administrative municipality appointed to  
35 administer the program operating under the authority of such  
36 joint agreement shall be included within and be subject to this

1 Article as participating instrumentalities when the joint  
2 agreement becomes effective. However, the governing board of  
3 any such special recreation joint agreement in effect before  
4 January 1, 1980 shall not be subject to this Article unless the  
5 joint agreement is modified, by the districts and  
6 municipalities which are parties to the agreement, to provide  
7 that the governing board is subject to this Article.

8 If the Board returns any employer and employee  
9 contributions to any employer which erroneously submitted such  
10 contributions on behalf of a special recreation joint  
11 agreement, the Board shall include interest computed from the  
12 end of each year to the date of payment, not compounded, at the  
13 rate of 7% per annum.

14 (e) Each multi-township assessment district, the board of  
15 trustees of which has adopted this Article by ordinance prior  
16 to April 1, 1982, shall be a participating instrumentality  
17 included within and subject to this Article effective December  
18 1, 1981. The contributions required under Section 7-172 shall  
19 be included in the budget prepared under and allocated in  
20 accordance with Section 2-30 of the Property Tax Code.

21 (f) Beginning January 1, 1992, each prospective  
22 participating municipality or participating instrumentality  
23 shall pay to the Fund the cost, as determined by the Board, of  
24 a study prepared by the Fund or its actuary, detailing the  
25 prospective costs of participation in the Fund to be expected  
26 by the municipality or instrumentality.

27 (Source: P.A. 92-424, eff. 8-17-01; 93-777, eff. 7-21-04.)

28 Section 90. The State Mandates Act is amended by adding  
29 Section 8.29 as follows:

30 (30 ILCS 805/8.29 new)

31 Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8  
32 of this Act, no reimbursement by the State is required for the  
33 implementation of any mandate created by this amendatory Act of  
34 the 94th General Assembly.

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