

HB1223



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1223

by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-139

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

Amends the Illinois Municipal Retirement Fund Article of the Illinois Pension Code. Makes a technical change in a Section concerning credits and creditable service.

LRB095 08052 AMC 28214 b

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 changing
5 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 ~~and~~ creditable service, for purposes of determining the
10 amount of any annuity or benefit to which he or a beneficiary
11 is 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, creditable
23 service shall be granted for the entire period of prior

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

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

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

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

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

25 d. Benefits under the provisions of Sections
26 7-141, 7-146, 7-150 and 7-163 shall become payable to

1 employees on authorized leave of absence, or their
2 designated beneficiary, only if such leave of absence
3 is creditable hereunder, and if the employee has at
4 least one year of creditable service other than the
5 service granted for leave of absence. Any employee
6 contributions due may be deducted from any benefits
7 payable.

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

11 5. For military service: The governing body of a
12 municipality or participating instrumentality may elect to
13 allow creditable service to participating employees who
14 leave their employment to serve in the armed forces of the
15 United States for all periods of such service, provided
16 that the person returns to active employment within 90 days
17 after completion of full time active duty, but no
18 creditable service shall be allowed such person for any
19 period that can be used in the computation of a pension or
20 any other pay or benefit, other than pay for active duty,
21 for service in any branch of the armed forces of the United
22 States. If necessary to the computation of any benefit, the
23 board shall establish municipality credits for
24 participating employees under this paragraph on the
25 assumption that the employee received earnings at the rate
26 received at the time he left the employment to enter the

1 armed forces. A participating employee in the armed forces
2 shall not be considered an employee during such period of
3 service and no additional death and no disability benefits
4 are payable for death or disability during such period.

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

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

1 contributions which would have been required had the
2 employee continued in service at the same rate of earnings
3 during the military leave period, plus interest at the
4 effective rate.

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

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

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

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

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

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

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

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

11 b. Only sick leave days accumulated with a
12 participating municipality or participating
13 instrumentality with which the employee was in service
14 within 60 days of the effective date of his retirement
15 annuity shall be credited; If the employee was in
16 service with more than one employer during this period
17 only the sick leave days with the employer with which
18 the employee has the greatest number of unpaid sick
19 leave days shall be considered.

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

1 d. The creditable service shall be at the rate of
2 1/20 of a month for each full sick day, provided that
3 no more than 12 months may be credited under this
4 subdivision 8.

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

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

13 9. For service transferred from another system:
14 Credits and creditable service shall be granted for service
15 under Article 3, 4, 5, 14 or 16 of this Act, to any active
16 member of this Fund, and to any inactive member who has
17 been a county sheriff, upon transfer of such credits
18 pursuant to Section 3-110.3, 4-108.3, 5-235, 14-105.6 or
19 16-131.4, and payment by the member of the amount by which
20 (1) the employer and employee contributions that would have
21 been required if he had participated in this Fund as a
22 sheriff's law enforcement employee during the period for
23 which credit is being transferred, plus interest thereon at
24 the effective rate for each year, compounded annually, from
25 the date of termination of the service for which credit is
26 being transferred to the date of payment, exceeds (2) the

1 amount actually transferred to the Fund. Such transferred
2 service shall be deemed to be service as a sheriff's law
3 enforcement employee for the purposes of Section 7-142.1.

4 10. For service transferred from an Article 3 system
5 under Section 3-110.8: Credits and creditable service
6 shall be granted for service under Article 3 of this Act as
7 provided in Section 3-110.8, to any active member of this
8 Fund upon transfer of such credits pursuant to Section
9 3-110.8. If the amount by which (1) the employer and
10 employee contributions that would have been required if he
11 had participated in this Fund during the period for which
12 credit is being transferred, plus interest thereon at the
13 effective rate for each year, compounded annually, from the
14 date of termination of the service for which credit is
15 being transferred to the date of payment, exceeds (2) the
16 amount actually transferred to the Fund, then the amount of
17 creditable service established under this paragraph 10
18 shall be reduced by a corresponding amount in accordance
19 with the rules and procedures established under this
20 paragraph 10.

21 The board shall establish by rule the manner of making
22 the calculation required under this paragraph 10, taking
23 into account the appropriate actuarial assumptions; the
24 member's service, age, and salary history; the level of
25 funding of the employer; and any other factors that the
26 board determines to be relevant.

1 (b) Creditable service - amount:

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

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

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

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

1 retirement system which is a participating system under the
2 Retirement Systems Reciprocal Act. A participating employee or
3 other applicant shall not be entitled to credits or creditable
4 service unless the required employee contributions are made in
5 a lump sum or in installments made in accordance with board
6 rule.

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

15 (Source: P.A. 93-933, eff. 8-13-04; 94-356, eff. 7-29-05.)