



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3904

Introduced 12/11/2011, by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

40 ILCS 5/3-110	from Ch. 108 1/2, par. 3-110
40 ILCS 5/4-108	from Ch. 108 1/2, par. 4-108
40 ILCS 5/5-214	from Ch. 108 1/2, par. 5-214
40 ILCS 5/6-209	from Ch. 108 1/2, par. 6-209
40 ILCS 5/7-132	from Ch. 108 1/2, par. 7-132
40 ILCS 5/8-226	from Ch. 108 1/2, par. 8-226
40 ILCS 5/11-215	from Ch. 108 1/2, par. 11-215
40 ILCS 5/15-107	from Ch. 108 1/2, par. 15-107
40 ILCS 5/16-106	from Ch. 108 1/2, par. 16-106
40 ILCS 5/17-134	from Ch. 108 1/2, par. 17-134

Amends the Illinois Pension Code. Amends various Articles of the Code to provide that participants under those Articles are entitled only to creditable service for periods of service with a labor organization if the employee and employer contributions for the service are received by the Fund before the effective date of the amendatory Act. Amends the IMRF Article of the Illinois Pension Code to provide that the Illinois Municipal League and the Will County Governmental League are participating instrumentalities only with respect to service on or before the effective date of the amendatory Act. Effective immediately.

LRB097 14145 JDS 58838 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 3-110, 4-108, 5-214, 6-209, 7-132, 8-226, 11-215,
6 15-107, 16-106, and 17-134 as follows:

7 (40 ILCS 5/3-110) (from Ch. 108 1/2, par. 3-110)

8 Sec. 3-110. Creditable service.

9 (a) "Creditable service" is the time served by a police
10 officer as a member of a regularly constituted police force of
11 a municipality. In computing creditable service furloughs
12 without pay exceeding 30 days shall not be counted, but all
13 leaves of absence for illness or accident, regardless of
14 length, and all periods of disability retirement for which a
15 police officer has received no disability pension payments
16 under this Article shall be counted.

17 (a-5) Up to 3 years of time during which the police officer
18 receives a disability pension under Section 3-114.1, 3-114.2,
19 3-114.3, or 3-114.6 shall be counted as creditable service,
20 provided that (i) the police officer returns to active service
21 after the disability for a period at least equal to the period
22 for which credit is to be established and (ii) the police
23 officer makes contributions to the fund based on the rates

1 specified in Section 3-125.1 and the salary upon which the
2 disability pension is based. These contributions may be paid at
3 any time prior to the commencement of a retirement pension. The
4 police officer may, but need not, elect to have the
5 contributions deducted from the disability pension or to pay
6 them in installments on a schedule approved by the board. If
7 not deducted from the disability pension, the contributions
8 shall include interest at the rate of 6% per year, compounded
9 annually, from the date for which service credit is being
10 established to the date of payment. If contributions are paid
11 under this subsection (a-5) in excess of those needed to
12 establish the credit, the excess shall be refunded. This
13 subsection (a-5) applies to persons receiving a disability
14 pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 on
15 the effective date of this amendatory Act of the 91st General
16 Assembly, as well as persons who begin to receive such a
17 disability pension after that date.

18 (b) Creditable service includes all periods of service in
19 the military, naval or air forces of the United States entered
20 upon while an active police officer of a municipality, provided
21 that upon applying for a permanent pension, and in accordance
22 with the rules of the board, the police officer pays into the
23 fund the amount the officer would have contributed if he or she
24 had been a regular contributor during such period, to the
25 extent that the municipality which the police officer served
26 has not made such contributions in the officer's behalf. The

1 total amount of such creditable service shall not exceed 5
2 years, except that any police officer who on July 1, 1973 had
3 more than 5 years of such creditable service shall receive the
4 total amount thereof.

5 (b-5) Creditable service includes all periods of service in
6 the military, naval, or air forces of the United States entered
7 upon before beginning service as an active police officer of a
8 municipality, provided that, in accordance with the rules of
9 the board, the police officer pays into the fund the amount the
10 police officer would have contributed if he or she had been a
11 regular contributor during such period, plus an amount
12 determined by the Board to be equal to the municipality's
13 normal cost of the benefit, plus interest at the actuarially
14 assumed rate calculated from the date the employee last became
15 a police officer under this Article. The total amount of such
16 creditable service shall not exceed 2 years.

17 (c) Creditable service also includes service rendered by a
18 police officer while on leave of absence from a police
19 department to serve as an executive of an organization whose
20 membership consists of members of a police department, subject
21 to the following conditions: (i) the police officer is a
22 participant of a fund established under this Article with at
23 least 10 years of service as a police officer; (ii) the police
24 officer received no credit for such service under any other
25 retirement system, pension fund, or annuity and benefit fund
26 included in this Code; (iii) pursuant to the rules of the board

1 the police officer pays to the fund the amount he or she would
2 have contributed had the officer been an active member of the
3 police department; ~~and~~ (iv) the organization pays a
4 contribution equal to the municipality's normal cost for that
5 period of service; and (v) the employee and employer
6 contributions for the service are received by the fund before
7 the effective date of this amendatory Act of the 97th General
8 Assembly.

9 (d) (1) Creditable service also includes periods of
10 service originally established in another police pension
11 fund under this Article or in the Fund established under
12 Article 7 of this Code for which (i) the contributions have
13 been transferred under Section 3-110.7 or Section 7-139.9
14 and (ii) any additional contribution required under
15 paragraph (2) of this subsection has been paid in full in
16 accordance with the requirements of this subsection (d).

17 (2) If the board of the pension fund to which
18 creditable service and related contributions are
19 transferred under Section 7-139.9 determines that the
20 amount transferred is less than the true cost to the
21 pension fund of allowing that creditable service to be
22 established, then in order to establish that creditable
23 service the police officer must pay to the pension fund,
24 within the payment period specified in paragraph (3) of
25 this subsection, an additional contribution equal to the
26 difference, as determined by the board in accordance with

1 the rules and procedures adopted under paragraph (6) of
2 this subsection. If the board of the pension fund to which
3 creditable service and related contributions are
4 transferred under Section 3-110.7 determines that the
5 amount transferred is less than the true cost to the
6 pension fund of allowing that creditable service to be
7 established, then the police officer may elect (A) to
8 establish that creditable service by paying to the pension
9 fund, within the payment period specified in paragraph (3)
10 of this subsection (d), an additional contribution equal to
11 the difference, as determined by the board in accordance
12 with the rules and procedures adopted under paragraph (6)
13 of this subsection (d) or (B) to have his or her creditable
14 service reduced by an amount equal to the difference
15 between the amount transferred under Section 3-110.7 and
16 the true cost to the pension fund of allowing that
17 creditable service to be established, as determined by the
18 board in accordance with the rules and procedures adopted
19 under paragraph (6) of this subsection (d).

20 (3) Except as provided in paragraph (4), the additional
21 contribution that is required or elected under paragraph
22 (2) of this subsection (d) must be paid to the board (i)
23 within 5 years from the date of the transfer of
24 contributions under Section 3-110.7 or 7-139.9 and (ii)
25 before the police officer terminates service with the fund.
26 The additional contribution may be paid in a lump sum or in

1 accordance with a schedule of installment payments
2 authorized by the board.

3 (4) If the police officer dies in service before
4 payment in full has been made and before the expiration of
5 the 5-year payment period, the surviving spouse of the
6 officer may elect to pay the unpaid amount on the officer's
7 behalf within 6 months after the date of death, in which
8 case the creditable service shall be granted as though the
9 deceased police officer had paid the remaining balance on
10 the day before the date of death.

11 (5) If the additional contribution that is required or
12 elected under paragraph (2) of this subsection (d) is not
13 paid in full within the required time, the creditable
14 service shall not be granted and the police officer (or the
15 officer's surviving spouse or estate) shall be entitled to
16 receive a refund of (i) any partial payment of the
17 additional contribution that has been made by the police
18 officer and (ii) those portions of the amounts transferred
19 under subdivision (a)(1) of Section 3-110.7 or
20 subdivisions (a)(1) and (a)(3) of Section 7-139.9 that
21 represent employee contributions paid by the police
22 officer (but not the accumulated interest on those
23 contributions) and interest paid by the police officer to
24 the prior pension fund in order to reinstate service
25 terminated by acceptance of a refund.

26 At the time of paying a refund under this item (5), the

1 pension fund shall also repay to the pension fund from
2 which the contributions were transferred under Section
3 3-110.7 or 7-139.9 the amount originally transferred under
4 subdivision (a)(2) of that Section, plus interest at the
5 rate of 6% per year, compounded annually, from the date of
6 the original transfer to the date of repayment. Amounts
7 repaid to the Article 7 fund under this provision shall be
8 credited to the appropriate municipality.

9 Transferred credit that is not granted due to failure
10 to pay the additional contribution within the required time
11 is lost; it may not be transferred to another pension fund
12 and may not be reinstated in the pension fund from which it
13 was transferred.

14 (6) The Public Employee Pension Fund Division of the
15 Department of Insurance shall establish by rule the manner
16 of making the calculation required under paragraph (2) of
17 this subsection, taking into account the appropriate
18 actuarial assumptions; the police officer's service, age,
19 and salary history; the level of funding of the pension
20 fund to which the credits are being transferred; and any
21 other factors that the Division determines to be relevant.
22 The rules may require that all calculations made under
23 paragraph (2) be reported to the Division by the board
24 performing the calculation, together with documentation of
25 the creditable service to be transferred, the amounts of
26 contributions and interest to be transferred, the manner in

1 which the calculation was performed, the numbers relied
2 upon in making the calculation, the results of the
3 calculation, and any other information the Division may
4 deem useful.

5 (e) (1) Creditable service also includes periods of
6 service originally established in the Fund established
7 under Article 7 of this Code for which the contributions
8 have been transferred under Section 7-139.11.

9 (2) If the board of the pension fund to which
10 creditable service and related contributions are
11 transferred under Section 7-139.11 determines that the
12 amount transferred is less than the true cost to the
13 pension fund of allowing that creditable service to be
14 established, then the amount of creditable service the
15 police officer may establish under this subsection (e)
16 shall be reduced by an amount equal to the difference, as
17 determined by the board in accordance with the rules and
18 procedures adopted under paragraph (3) of this subsection.

19 (3) The Public Pension Division of the Department of
20 Financial and Professional Regulation shall establish by
21 rule the manner of making the calculation required under
22 paragraph (2) of this subsection, taking into account the
23 appropriate actuarial assumptions; the police officer's
24 service, age, and salary history; the level of funding of
25 the pension fund to which the credits are being
26 transferred; and any other factors that the Division

1 determines to be relevant. The rules may require that all
2 calculations made under paragraph (2) be reported to the
3 Division by the board performing the calculation, together
4 with documentation of the creditable service to be
5 transferred, the amounts of contributions and interest to
6 be transferred, the manner in which the calculation was
7 performed, the numbers relied upon in making the
8 calculation, the results of the calculation, and any other
9 information the Division may deem useful.

10 (4) Until January 1, 2010, a police officer who
11 transferred service from the Fund established under
12 Article 7 of this Code under the provisions of Public Act
13 94-356 may establish additional credit, but only for the
14 amount of the service credit reduction in that transfer, as
15 calculated under paragraph (3) of this subsection (e). This
16 credit may be established upon payment by the police
17 officer of an amount to be determined by the board, equal
18 to (1) the amount that would have been contributed as
19 employee and employer contributions had all of the service
20 been as an employee under this Article, plus interest
21 thereon at the rate of 6% per year, compounded annually
22 from the date of service to the date of transfer, less (2)
23 the total amount transferred from the Article 7 Fund, plus
24 (3) interest on the difference at the rate of 6% per year,
25 compounded annually, from the date of the transfer to the
26 date of payment. The additional service credit is allowed

1 under this amendatory Act of the 95th General Assembly
2 notwithstanding the provisions of Article 7 terminating
3 all transferred credits on the date of transfer.

4 (Source: P.A. 95-812, eff. 8-13-08; 96-297, eff. 8-11-09;
5 96-1260, eff. 7-23-10.)

6 (40 ILCS 5/4-108) (from Ch. 108 1/2, par. 4-108)
7 Sec. 4-108. Creditable service.

8 (a) Creditable service is the time served as a firefighter
9 of a municipality. In computing creditable service, furloughs
10 and leaves of absence without pay exceeding 30 days in any one
11 year shall not be counted, but leaves of absence for illness or
12 accident regardless of length, and periods of disability for
13 which a firefighter received no disability pension payments
14 under this Article, shall be counted.

15 (b) Furloughs and leaves of absence of 30 days or less in
16 any one year may be counted as creditable service, if the
17 firefighter makes the contribution to the fund that would have
18 been required had he or she not been on furlough or leave of
19 absence. To qualify for this creditable service, the
20 firefighter must pay the required contributions to the fund not
21 more than 90 days subsequent to the termination of the furlough
22 or leave of absence, to the extent that the municipality has
23 not made such contribution on his or her behalf.

24 (c) Creditable service includes:

25 (1) Service in the military, naval or air forces of the

1 United States entered upon when the person was an active
2 firefighter, provided that, upon applying for a permanent
3 pension, and in accordance with the rules of the board the
4 firefighter pays into the fund the amount that would have
5 been contributed had he or she been a regular contributor
6 during such period of service, if and to the extent that
7 the municipality which the firefighter served made no such
8 contributions in his or her behalf. The total amount of
9 such creditable service shall not exceed 5 years, except
10 that any firefighter who on July 1, 1973 had more than 5
11 years of such creditable service shall receive the total
12 amount thereof as of that date.

13 (1.5) Up to 24 months of service in the military,
14 naval, or air forces of the United States that was served
15 prior to employment by a municipality or fire protection
16 district as a firefighter. To receive the credit for the
17 military service prior to the employment as a firefighter,
18 the firefighter must apply in writing to the fund and must
19 make contributions to the fund equal to (i) the employee
20 contributions that would have been required had the service
21 been rendered as a member, plus (ii) an amount determined
22 by the fund to be equal to the employer's normal cost of
23 the benefits accrued for that military service, plus (iii)
24 interest at the actuarially assumed rate provided by the
25 Department of Financial and Professional Regulation,
26 compounded annually from the first date of membership in

1 the fund to the date of payment on items (i) and (ii). The
2 changes to this paragraph (1.5) by this amendatory Act of
3 the 95th General Assembly apply only to participating
4 employees in service on or after its effective date.

5 (2) Service prior to July 1, 1976 by a firefighter
6 initially excluded from participation by reason of age who
7 elected to participate and paid the required contributions
8 for such service.

9 (3) Up to 8 years of service by a firefighter as an
10 officer in a statewide firefighters' association when he is
11 on a leave of absence from a municipality's payroll,
12 provided that (i) the firefighter has at least 10 years of
13 creditable service as an active firefighter, (ii) the
14 firefighter contributes to the fund the amount that he
15 would have contributed had he remained an active member of
16 the fund, ~~and~~ (iii) the employee or statewide firefighter
17 association contributes to the fund an amount equal to the
18 employer's required contribution as determined by the
19 board, and (v) the employee and employer contributions for
20 the service are received by the fund before the effective
21 date of this amendatory Act of the 97th General Assembly.

22 (4) Time spent as an on-call fireman for a
23 municipality, calculated at the rate of one year of
24 creditable service for each 5 years of time spent as an
25 on-call fireman, provided that (i) the firefighter has at
26 least 18 years of creditable service as an active

1 firefighter, (ii) the firefighter spent at least 14 years
2 as an on-call firefighter for the municipality, (iii) the
3 firefighter applies for such creditable service within 30
4 days after the effective date of this amendatory Act of
5 1989, (iv) the firefighter contributes to the Fund an
6 amount representing employee contributions for the number
7 of years of creditable service granted under this
8 subdivision (4), based on the salary and contribution rate
9 in effect for the firefighter at the date of entry into the
10 Fund, to be determined by the board, and (v) not more than
11 3 years of creditable service may be granted under this
12 subdivision (4).

13 Except as provided in Section 4-108.5, creditable
14 service shall not include time spent as a volunteer
15 firefighter, whether or not any compensation was received
16 therefor. The change made in this Section by Public Act
17 83-0463 is intended to be a restatement and clarification
18 of existing law, and does not imply that creditable service
19 was previously allowed under this Article for time spent as
20 a volunteer firefighter.

21 (5) Time served between July 1, 1976 and July 1, 1988
22 in the position of protective inspection officer or
23 administrative assistant for fire services, for a
24 municipality with a population under 10,000 that is located
25 in a county with a population over 3,000,000 and that
26 maintains a firefighters' pension fund under this Article,

1 if the position included firefighting duties,
2 notwithstanding that the person may not have held an
3 appointment as a firefighter, provided that application is
4 made to the pension fund within 30 days after the effective
5 date of this amendatory Act of 1991, and the corresponding
6 contributions are paid for the number of years of service
7 granted, based upon the salary and contribution rate in
8 effect for the firefighter at the date of entry into the
9 pension fund, as determined by the Board.

10 (6) Service before becoming a participant by a
11 firefighter initially excluded from participation by
12 reason of age who becomes a participant under the amendment
13 to Section 4-107 made by this amendatory Act of 1993 and
14 pays the required contributions for such service.

15 (7) Up to 3 years of time during which the firefighter
16 receives a disability pension under Section 4-110,
17 4-110.1, or 4-111, provided that (i) the firefighter
18 returns to active service after the disability for a period
19 at least equal to the period for which credit is to be
20 established and (ii) the firefighter makes contributions
21 to the fund based on the rates specified in Section 4-118.1
22 and the salary upon which the disability pension is based.
23 These contributions may be paid at any time prior to the
24 commencement of a retirement pension. The firefighter may,
25 but need not, elect to have the contributions deducted from
26 the disability pension or to pay them in installments on a

1 schedule approved by the board. If not deducted from the
2 disability pension, the contributions shall include
3 interest at the rate of 6% per year, compounded annually,
4 from the date for which service credit is being established
5 to the date of payment. If contributions are paid under
6 this subdivision (c)(7) in excess of those needed to
7 establish the credit, the excess shall be refunded. This
8 subdivision (c)(7) applies to persons receiving a
9 disability pension under Section 4-110, 4-110.1, or 4-111
10 on the effective date of this amendatory Act of the 91st
11 General Assembly, as well as persons who begin to receive
12 such a disability pension after that date.

13 (Source: P.A. 94-856, eff. 6-15-06; 95-1056, eff. 4-10-09.)

14 (40 ILCS 5/5-214) (from Ch. 108 1/2, par. 5-214)

15 Sec. 5-214. Credit for other service. Any participant in
16 this fund (other than a member of the fire department of the
17 city) who has rendered service as a member of the police
18 department of the city for a period of 3 years or more is
19 entitled to credit for the various purposes of this Article for
20 service rendered prior to becoming a member or subsequent
21 thereto for the following periods:

22 (a) While on leave of absence from the police
23 department assigned or detailed to investigative,
24 protective, security or police work for the park district
25 of the city, the department of the Port of Chicago or the

1 sanitary district in which the city is located.

2 (b) As a temporary police officer in the city or while
3 serving in the office of the mayor or in the office of the
4 corporation counsel, as a member of the city council of the
5 city, as an employee of the Policemen's Annuity and Benefit
6 Fund created by this Article, as the head of an
7 organization whose membership consists of members of the
8 police department, the Public Vehicle License Commission
9 and the board of election commissioners of the city.

10 (c) While performing safety or investigative work for
11 the county in which such city is principally located or for
12 the State of Illinois or for the federal government, on
13 leave of absence from the department of police, or while
14 performing investigative work for the department as a
15 civilian employee of the department.

16 (d) While on leave of absence from the police
17 department of the city and serving as the chief of police
18 of a police department outside the city.

19 No credit shall be granted in this fund, however, for this
20 service if the policeman has credit therefor in any other
21 annuity and benefit fund, or unless he contributes to this fund
22 the amount he would have contributed with interest had he
23 remained an active member of the police department in the
24 position he occupied as a result of a civil service competitive
25 examination, certification and appointment by the Civil
26 Service Board; or in the case of a city operating under the

1 provisions of a personnel ordinance the position he occupied as
2 a result of a personnel ordinance competitive examination
3 certification and appointment under the authority of a
4 Municipal Personnel ordinance.

5 Concurrently with such contributions, the city shall
6 contribute the amounts provided by this Article. No credit
7 shall be allowed for any period of time for which contributions
8 by the policeman have not been paid. The period of service
9 rendered by such policeman prior to the date he became a member
10 of the police department of the city or while detailed,
11 assigned or on leave of absence and employed in any of the
12 departments set forth hereinabove in this Section for which
13 such policeman has contributed to this fund shall be credited
14 to him as service for all the purposes of this Article, except
15 that he shall not have any of the rights conferred by the
16 provisions of Sections 5-127 and 5-162 of this Article.

17 The changes in this Section made by Public Act 86-273 shall
18 apply to members of the fund who have not begun receiving a
19 pension under this Article on August 23, 1989, without regard
20 to whether employment is terminated before that date.

21 Notwithstanding any other provision of this Section,
22 participants are only entitled to credit for service under
23 paragraph (b) of this Section as the head of an organization
24 whose membership consists of members of the police department
25 if the employee and employer contributions for the service are
26 received by the Fund before the effective date of this

1 amendatory Act of the 97th General Assembly.

2 (Source: P.A. 86-273; 87-1265.)

3 (40 ILCS 5/6-209) (from Ch. 108 1/2, par. 6-209)

4 Sec. 6-209. In computing the service rendered by a fireman
5 prior to the effective date, the following periods shall be
6 counted, in addition to all periods during which he performed
7 the duties of his position, as periods of service for annuity
8 purposes only: All periods of (a) vacation, (b) leave of
9 absence with whole or part pay, (c) leave of absence without
10 pay which were necessary on account of disability, and (d)
11 leave of absence during which he was engaged in the military or
12 naval service of the United States of America. Service credit
13 shall not be allowed for any period during which a fireman was
14 in receipt of pension on account of disability from any pension
15 fund superseded by this fund.

16 In computing the service rendered by a fireman on and after
17 the effective date, the following periods shall be counted in
18 addition to all periods during which he performed the duties of
19 his position, as periods of service for annuity purposes only:
20 All periods of (a) vacation, (b) leave of absence with whole or
21 part pay, (c) leave of absence during which he was engaged in
22 the military or naval service of the United States of America,
23 (d) disability for which he receives any disability benefit,
24 (e) disability for which he receives whole or part pay, (f)
25 leave of absence, or other authorized relief from active duty,

1 during which he served as president of The Firemen's
2 Association of Chicago, (g) periods of suspension from duty not
3 to exceed a total of one year during the total period of
4 service of the fireman, and (h) a period of time not to exceed
5 23 days in 1980 in accordance with an agreement with the City
6 on a settlement of strike; provided that the fireman elects to
7 make contributions to the Fund for the various annuity and
8 benefit purposes according to the provisions of this Article as
9 though he were an active fireman, based upon the salary
10 attached to the civil service rank held by him during such
11 absence from duty, and if the fireman so elects, the city shall
12 make the prescribed concurrent contributions for such annuity
13 and benefit purposes as provided in this Article, all to the
14 end that such fireman shall be entitled to receive the same
15 annuities and benefits for which he would otherwise be eligible
16 if he had continued as an active fireman during the periods of
17 absence from duty. Notwithstanding any other provision of this
18 Section, a fireman may only use a leave of absence, or other
19 authorized relief from active duty, during which the fireman
20 served as president of The Firemen's Association of Chicago in
21 computing his or her service if the employee and employer
22 contributions for the service are received by the Fund before
23 the effective date of this amendatory Act of the 97th General
24 Assembly.

25 In computing service on and after the effective date for
26 ordinary disability benefit, all periods described in the

1 preceding paragraph, except any period for which a fireman
2 receives ordinary disability benefit, shall be counted as
3 periods of service.

4 In computing service for any of the purposes of this
5 Article, credit shall be given for any periods prior to January
6 9, 1997, during which an active fireman (or fire paramedic) who
7 is a member of the General Assembly is on leave of absence or
8 is otherwise authorized to be absent from duty to enable him to
9 perform his legislative duties, notwithstanding any reduction
10 in salary for such periods and notwithstanding that the
11 contributions paid by the fireman were based on such reduced
12 salary rather than the full amount of salary attached to his
13 civil service rank.

14 In computing service for any of the purposes of this
15 Article, no credit shall be given for any period during which a
16 fireman was not rendering active service because of his
17 discharge from the service, unless proceedings to test the
18 legality of the discharge are filed in a court of competent
19 jurisdiction within one year from the date of discharge and a
20 final judgment is entered therein declaring the discharge
21 illegal.

22 No overtime or extra service shall be included in computing
23 service of a fireman and not more than one year or a proper
24 fractional part thereof of service shall be allowed for service
25 rendered during any calendar year.

26 (Source: P.A. 86-273; 86-1488; 87-1265.)

1 (40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)
2 Sec. 7-132. Municipalities, instrumentalities and
3 participating instrumentalities included and effective dates.

4 (A) Municipalities and their instrumentalities.

5 (a) The following described municipalities, but not
6 including any with more than 1,000,000 inhabitants, and the
7 instrumentalities thereof, shall be included within and be
8 subject to this Article beginning upon the effective dates
9 specified by the Board:

10 (1) Except as to the municipalities and
11 instrumentalities thereof specifically excluded under this
12 Article, every county shall be subject to this Article, and
13 all cities, villages and incorporated towns having a
14 population in excess of 5,000 inhabitants as determined by
15 the last preceding decennial or subsequent federal census,
16 shall be subject to this Article following publication of
17 the census by the Bureau of the Census. Within 90 days
18 after publication of the census, the Board shall notify any
19 municipality that has become subject to this Article as a
20 result of that census, and shall provide information to the
21 corporate authorities of the municipality explaining the
22 duties and consequences of participation. The notification
23 shall also include a proposed date upon which participation
24 by the municipality will commence.

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

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

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

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

1 board of such action.

2 (b) A municipality that is about to begin participation
3 shall submit to the Board an application to participate, in a
4 form acceptable to the Board, not later than 90 days prior to
5 the proposed effective date of participation. The Board shall
6 act upon the application within 90 days, and if it finds that
7 the application is in conformity with its requirements and the
8 requirements of this Article, participation by the applicant
9 shall commence on a date acceptable to the municipality and
10 specified by the Board, but in no event more than one year from
11 the date of application.

12 (c) A participating municipality which succeeds to the
13 functions of a participating municipality which is dissolved or
14 terminates its existence shall assume and be transferred the
15 net accumulation balance in the municipality reserve and the
16 municipality account receivable balance of the terminated
17 municipality.

18 (d) In the case of a Veterans Assistance Commission whose
19 employees were being treated by the Fund on January 1, 1990 as
20 employees of the county served by the Commission, the Fund may
21 continue to treat the employees of the Veterans Assistance
22 Commission as county employees for the purposes of this
23 Article, unless the Commission becomes a participating
24 instrumentality in accordance with subsection (B) of this
25 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.

1 ii. Multiple County and Consolidated Health
2 Departments created under Division 5-25 of the Counties
3 Code or its predecessor law.

4 iii. Public Building Commissions created under the
5 Public Building Commission Act, and located in counties of
6 less than 1,000,000 inhabitants.

7 iv. A multitype, consolidated or cooperative library
8 system created under the Illinois Library System Act. Any
9 library system created under the Illinois Library System
10 Act that has one or more predecessors that participated in
11 the Fund may participate in the Fund upon application. The
12 Board shall establish procedures for implementing the
13 transfer of rights and obligations from the predecessor
14 system to the successor system.

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

17 vi. Local Public Housing Authorities created under the
18 Housing Authorities Act, located in counties of less than
19 1,000,000 inhabitants.

20 vii. Illinois Municipal League, but only with respect
21 to service on or before the effective date of this
22 amendatory Act of the 97th General Assembly.

23 viii. Northeastern Illinois Metropolitan Area Planning
24 Commission.

25 ix. Southwestern Illinois Metropolitan Area Planning
26 Commission.

- 1 x. Illinois Association of Park Districts.
- 2 xi. Illinois Supervisors, County Commissioners and
3 Superintendents of Highways Association.
- 4 xii. Tri-City Regional Port District.
- 5 xiii. An association, or not-for-profit corporation,
6 membership in which is authorized under Section 85-15 of
7 the Township Code.
- 8 xiv. Drainage Districts operating under the Illinois
9 Drainage Code.
- 10 xv. Local mass transit districts created under the
11 Local Mass Transit District Act.
- 12 xvi. Soil and water conservation districts created
13 under the Soil and Water Conservation Districts Law.
- 14 xvii. Commissions created to provide water supply or
15 sewer services or both under Division 135 or Division 136
16 of Article 11 of the Illinois Municipal Code.
- 17 xviii. Public water districts created under the Public
18 Water District Act.
- 19 xix. Veterans Assistance Commissions established under
20 Section 9 of the Military Veterans Assistance Act that
21 serve counties with a population of less than 1,000,000.
- 22 xx. The governing body of an entity, other than a
23 vocational education cooperative, created under an
24 intergovernmental cooperative agreement established
25 between participating municipalities under the
26 Intergovernmental Cooperation Act, which by the terms of

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

15 xxi. The Illinois Municipal Electric Agency.

16 xxii. The Waukegan Port District.

17 xxiii. The Fox Waterway Agency created under the Fox
18 Waterway Agency Act.

19 xxiv. The Illinois Municipal Gas Agency.

20 xxv. The Kaskaskia Regional Port District.

21 xxvi. The Southwestern Illinois Development Authority.

22 xxvii. The Cairo Public Utility Company.

23 xxviii. Except with respect to employees who elect to
24 participate in the State Employees' Retirement System of
25 Illinois under Section 14-104.13 of this Code, the Chicago
26 Metropolitan Agency for Planning created under the

1 Regional Planning Act, provided that, with respect to the
2 benefits payable pursuant to Sections 7-146, 7-150, and
3 7-164 and the requirement that eligibility for such
4 benefits is conditional upon satisfying a minimum period of
5 service or a minimum contribution, any employee of the
6 Chicago Metropolitan Agency for Planning that was
7 immediately prior to such employment an employee of the
8 Chicago Area Transportation Study or the Northeastern
9 Illinois Planning Commission, such employee's service at
10 the Chicago Area Transportation Study or the Northeastern
11 Illinois Planning Commission and contributions to the
12 State Employees' Retirement System of Illinois established
13 under Article 14 and the Illinois Municipal Retirement Fund
14 shall count towards the satisfaction of such requirements.

15 xxix. United Counties Council (formerly the Urban
16 Counties Council), but only if the Council has a ruling
17 from the United States Internal Revenue Service that it is
18 a governmental entity.

19 xxx. The Will County Governmental League, but only if
20 the League has a ruling from the United States Internal
21 Revenue Service that it is a governmental entity and only
22 with respect to service on or before the effective date of
23 this amendatory Act of the 97th General Assembly.

24 (c) The governing boards of special education joint
25 agreements created under Section 10-22.31 of the School Code
26 without designation of an administrative district shall be

1 included within and be subject to this Article as participating
2 instrumentalities when the joint agreement becomes effective.
3 However, the governing board of any such special education
4 joint agreement in effect before September 5, 1975 shall not be
5 subject to this Article unless the joint agreement is modified
6 by the school districts to provide that the governing board is
7 subject to this Article, except as otherwise provided by this
8 Section.

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

1 employee is still in service. The employer may elect to make
2 the required contribution on behalf of the employee.

3 The governing board of a special education joint agreement
4 created under Section 10-22.31 of the School Code for which an
5 administrative district has been designated, if there are
6 employees of the cooperative educational entity who are not
7 employees of the administrative district, may elect to
8 participate in the Fund and be included within this Article as
9 a participating instrumentality, subject to such application
10 procedures and rules as the Board may prescribe.

11 The Boards of Control of cooperative or joint educational
12 programs or projects created and administered under Section
13 3-15.14 of the School Code, whether or not the Boards act as
14 their own administrative district, shall be included within and
15 be subject to this Article as participating instrumentalities
16 when the agreement establishing the cooperative or joint
17 educational program or project becomes effective.

18 The governing board of a special education joint agreement
19 entered into after June 30, 1984 and prior to September 17,
20 1985 which provides for representation on the governing board
21 by less than all the participating districts shall be included
22 within and subject to this Article as a participating
23 instrumentality. Such participation shall be effective as of
24 the date the joint agreement becomes effective.

25 The governing boards of educational service centers
26 established under Section 2-3.62 of the School Code shall be

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

21 The governing board of Paris Cooperative High School shall
22 be included within and be subject to this Article as a
23 participating instrumentality on the effective date of this
24 amendatory Act of the 96th General Assembly. If the governing
25 board of Paris Cooperative High School is unable to pay the
26 required employer contributions to the fund, then the school

1 districts served shall make payment of required contributions
2 as provided in Section 7-172. The payments shall be allocated
3 among the several school districts in proportion to the number
4 of students in average daily attendance for the last full
5 school year for each district in relation to the total number
6 of students in average attendance for such period for all
7 districts served. If Paris Cooperative High School is
8 dissolved, then the assets and obligations shall be distributed
9 among the districts in the same proportions unless otherwise
10 provided.

11 Financial Oversight Panels established under Article 1H of
12 the School Code shall be included within and be subject to this
13 Article as a participating instrumentality on the effective
14 date of this amendatory Act of the 97th General Assembly. If
15 the Financial Oversight Panel is unable to pay the required
16 employer contributions to the fund, then the school districts
17 served shall make payment of required contributions as provided
18 in Section 7-172. If the Financial Oversight Panel is
19 dissolved, then the assets and obligations shall be distributed
20 to the district served.

21 (d) The governing boards of special recreation joint
22 agreements created under Section 8-10b of the Park District
23 Code, operating without designation of an administrative
24 district or an administrative municipality appointed to
25 administer the program operating under the authority of such
26 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) The Illinois Medical District Commission created under
22 the Illinois Medical District Act may be included within and
23 subject to this Article as a participating instrumentality,
24 notwithstanding that the location of the District is entirely
25 within the City of Chicago. To become a participating
26 instrumentality, the Commission must apply to the Board in the

1 manner set forth in paragraph (a) of this subsection (B). If
2 the Board approves the application, under the criteria and
3 procedures set forth in paragraph (a) and any other applicable
4 rules, criteria, and procedures of the Board, participation by
5 the Commission shall commence on the effective date specified
6 by the Board.

7 (C) Prospective participants.

8 Beginning January 1, 1992, each prospective participating
9 municipality or participating instrumentality shall pay to the
10 Fund the cost, as determined by the Board, of a study prepared
11 by the Fund or its actuary, detailing the prospective costs of
12 participation in the Fund to be expected by the municipality or
13 instrumentality.

14 (Source: P.A. 96-211, eff. 8-10-09; 96-551, eff. 8-17-09;
15 96-1000, eff. 7-2-10; 96-1046, eff. 7-14-10; 97-429, eff.
16 8-16-11.)

17 (40 ILCS 5/8-226) (from Ch. 108 1/2, par. 8-226)

18 Sec. 8-226. Computation of service. In computing the term
19 of service of an employee prior to the effective date, the
20 entire period beginning on the date he was first appointed and
21 ending on the day before the effective date, except any
22 intervening period during which he was separated by withdrawal
23 from service, shall be counted for all purposes of this
24 Article, except that for any employee who was not in service on

1 the day before the effective date, service rendered prior to
2 such date shall not be considered for the purposes of Section
3 8-138.

4 For a person employed by an employer for whom this Article
5 was in effect prior to January 1, 1950, from whose salary
6 deductions are first made under this Article after December 31,
7 1949, any period of service rendered prior to the effective
8 date, unless he was in service on the day before the effective
9 date, shall not be counted as service.

10 The time a person was an employee of any territory annexed
11 to the city prior to the effective date shall be counted as a
12 period of service.

13 In computing the term of service of any employee subsequent
14 to the day before the effective date, the following periods
15 shall be counted as periods of service for age and service,
16 widow's and child's annuity purposes:

17 (a) The time during which he performed the duties of
18 his position;

19 (b) Vacations, leaves of absence with whole or part
20 pay, and leaves of absence without pay not longer than 90
21 days;

22 (c) Leaves of absence without pay during which a
23 participant is employed full-time by a local labor
24 organization that represents municipal employees, provided
25 that (1) the participant continues to make employee
26 contributions to the Fund as though he were an active

1 employee, based on the regular salary rate received by the
2 participant for his municipal employment immediately prior
3 to such leave of absence (and in the case of such
4 employment prior to December 9, 1987, pays to the Fund an
5 amount equal to the employee contributions for such
6 employment plus regular interest thereon as calculated by
7 the board), and based on his current salary with such labor
8 organization after the effective date of this amendatory
9 Act of 1991, (2) after January 1, 1989 the participant, or
10 the labor organization on the participant's behalf, makes
11 contributions to the Fund as though it were the employer,
12 in the same amount and same manner as specified under this
13 Article, based on the regular salary rate received by the
14 participant for his municipal employment immediately prior
15 to such leave of absence, and based on his current salary
16 with such labor organization after the effective date of
17 this amendatory Act of 1991, ~~and~~ (3) the participant does
18 not receive credit in any pension plan established by the
19 local labor organization based on his employment by the
20 organization, and (4) the employee and employer
21 contributions for the service are received by the Fund
22 before the effective date of this amendatory Act of the
23 97th General Assembly;

24 (d) Any period of disability for which he received (i)
25 a disability benefit under this Article, or (ii) a
26 temporary total disability benefit under the Workers'

1 Compensation Act if the disability results from a condition
2 commonly termed heart attack or stroke or any other
3 condition falling within the broad field of coronary
4 involvement or heart disease, or (iii) whole or part pay;

5 (e) Any period for which contributions and service
6 credit have been transferred to this Fund under subsection
7 (d) of Section 9-121.1 or subsection (d) of Section
8 12-127.1 of this Code.

9 For a person employed by an employer in which the 1921 Act
10 was in effect prior to January 1, 1950, from whose salary
11 deductions are first made under the 1921 Act or this Article
12 after December 31, 1949, any period of service rendered
13 subsequent to the effective date and prior to the date he
14 became an employee and contributor, shall not be counted as a
15 period of service under this Article, except such period for
16 which he made payment as provided in Section 8-230 of this
17 Article, in which case such period shall be counted as a period
18 of service for all annuity purposes hereunder.

19 In computing the term of service of an employee subsequent
20 to the day before the effective date for ordinary disability
21 benefit purposes, all periods described in the preceding
22 paragraph, except any such period for which he receives
23 ordinary disability benefit, shall be counted as periods of
24 service; provided, that for any person employed by an employer
25 in which this Article was in effect prior to January 1, 1950,
26 from whose salary deductions are first made under this Article

1 after December 31, 1949, any period of service rendered
2 subsequent to the effective date and prior to the date he
3 became an employee and contributor, shall not be counted as a
4 period of service for ordinary disability benefit purposes,
5 unless the person made payment for the period as provided in
6 Section 8-230 of this Article, in which case the period shall
7 be counted as a period of service for ordinary disability
8 purposes for periods of disability on or after the effective
9 date of this amendatory Act of 1997.

10 Overtime or extra service shall not be included in
11 computing any term of service. Not more than 1 year of service
12 shall be allowed for service rendered during any calendar year.
13 (Source: P.A. 90-511, eff. 8-22-97.)

14 (40 ILCS 5/11-215) (from Ch. 108 1/2, par. 11-215)

15 Sec. 11-215. Computation of service.

16 (a) In computing the term of service of an employee prior
17 to the effective date, the entire period beginning on the date
18 he was first appointed and ending on the day before the
19 effective date, except any intervening period during which he
20 was separated by withdrawal from service, shall be counted for
21 all purposes of this Article. Only the first year of each
22 period of lay-off or leave of absence without pay, continuing
23 or extending for a period in excess of one year, shall be
24 counted as such service.

25 (b) For a person employed by an employer for whom this

1 Article was in effect prior to August 1, 1949, from whose
2 salary deductions are first made under this Article after July
3 31, 1949, any period of service rendered prior to the effective
4 date, unless he was in service on the day before the effective
5 date, shall not be counted as service.

6 (c) In computing the term of service of an employee
7 subsequent to the day before the effective date, the following
8 periods of time shall be counted as periods of service for
9 annuity purposes:

10 (1) the time during which he performed the duties of
11 his position;

12 (2) leaves of absence with whole or part pay, and
13 leaves of absence without pay not longer than 90 days;

14 (3) leaves of absence without pay during which a
15 participant is employed full-time by a local labor
16 organization that represents municipal employees, provided
17 that (A) the participant continues to make employee
18 contributions to the Fund as though he were an active
19 employee, based on the regular salary rate received by the
20 participant for his municipal employment immediately prior
21 to such leave of absence (and in the case of such
22 employment prior to December 9, 1987, pays to the Fund an
23 amount equal to the employee contributions for such
24 employment plus regular interest thereon as calculated by
25 the board), and based on his current salary with such labor
26 organization after the effective date of this amendatory

1 Act of 1991, (B) after January 1, 1989 the participant, or
2 the labor organization on the participant's behalf, makes
3 contributions to the Fund as though it were the employer,
4 in the same amount and same manner as specified under this
5 Article, based on the regular salary rate received by the
6 participant for his municipal employment immediately prior
7 to such leave of absence, and based on his current salary
8 with such labor organization after the effective date of
9 this amendatory Act of 1991, ~~and~~ (C) the participant does
10 not receive credit in any pension plan established by the
11 local labor organization based on his employment by the
12 organization, and (D) the employee and employer
13 contributions for the service are received by the Fund
14 before the effective date of this amendatory Act of the
15 97th General Assembly;

16 (4) any period of disability for which he received (i)
17 a disability benefit under this Article, or (ii) a
18 temporary total disability benefit under the Workers'
19 Compensation Act if the disability results from a condition
20 commonly termed heart attack or stroke or any other
21 condition falling within the broad field of coronary
22 involvement or heart disease, or (iii) whole or part pay.

23 (d) For a person employed by an employer, or the retirement
24 board, in which "The 1935 Act" was in effect prior to August 1,
25 1949, from whose salary deductions are first made under "The
26 1935 Act" or this Article after July 31, 1949, any period of

1 service rendered subsequent to the effective date and prior to
2 August 1, 1949, shall not be counted as a period of service
3 under this Article, except such period for which he made
4 payment, as provided in Section 11-221 of this Article, in
5 which case such period shall be counted as a period of service
6 for all annuity purposes hereunder.

7 (e) In computing the term of service of an employee
8 subsequent to the day before the effective date for ordinary
9 disability benefit purposes, the following periods of time
10 shall be counted as periods of service:

11 (1) any period during which he performed the duties of
12 his position;

13 (2) leaves of absence with whole or part pay;

14 (3) any period of disability for which he received (i)
15 a duty disability benefit under this Article, or (ii) a
16 temporary total disability benefit under the Workers'
17 Compensation Act if the disability results from a condition
18 commonly termed heart attack or stroke or any other
19 condition falling within the broad field of coronary
20 involvement or heart disease, or (iii) whole or part pay.

21 However, any period of service rendered by an employee
22 contributor prior to the date he became a contributor to the
23 fund shall not be counted as a period of service for ordinary
24 disability purposes, unless the person made payment for the
25 period as provided in Section 11-221 of this Article, in which
26 case the period shall be counted as a period of service for

1 ordinary disability purposes for periods of disability on or
2 after the effective date of this amendatory Act of 1997.

3 Overtime or extra service shall not be included in
4 computing any term of service. Not more than 1 year of service
5 shall be allowed for service rendered during any calendar year.
6 (Source: P.A. 90-511, eff. 8-22-97.)

7 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

8 Sec. 15-107. Employee.

9 (a) "Employee" means any member of the educational,
10 administrative, secretarial, clerical, mechanical, labor or
11 other staff of an employer whose employment is permanent and
12 continuous or who is employed in a position in which services
13 are expected to be rendered on a continuous basis for at least
14 4 months or one academic term, whichever is less, who (A)
15 receives payment for personal services on a warrant issued
16 pursuant to a payroll voucher certified by an employer and
17 drawn by the State Comptroller upon the State Treasurer or by
18 an employer upon trust, federal or other funds, or (B) is on a
19 leave of absence without pay. Employment which is irregular,
20 intermittent or temporary shall not be considered continuous
21 for purposes of this paragraph.

22 However, a person is not an "employee" if he or she:

23 (1) is a student enrolled in and regularly attending
24 classes in a college or university which is an employer,
25 and is employed on a temporary basis at less than full

1 time;

2 (2) is currently receiving a retirement annuity or a
3 disability retirement annuity under Section 15-153.2 from
4 this System;

5 (3) is on a military leave of absence;

6 (4) is eligible to participate in the Federal Civil
7 Service Retirement System and is currently making
8 contributions to that system based upon earnings paid by an
9 employer;

10 (5) is on leave of absence without pay for more than 60
11 days immediately following termination of disability
12 benefits under this Article;

13 (6) is hired after June 30, 1979 as a public service
14 employment program participant under the Federal
15 Comprehensive Employment and Training Act and receives
16 earnings in whole or in part from funds provided under that
17 Act; or

18 (7) is employed on or after July 1, 1991 to perform
19 services that are excluded by subdivision (a)(7)(f) or
20 (a)(19) of Section 210 of the federal Social Security Act
21 from the definition of employment given in that Section (42
22 U.S.C. 410).

23 (b) Any employer may, by filing a written notice with the
24 board, exclude from the definition of "employee" all persons
25 employed pursuant to a federally funded contract entered into
26 after July 1, 1982 with a federal military department in a

1 program providing training in military courses to federal
2 military personnel on a military site owned by the United
3 States Government, if this exclusion is not prohibited by the
4 federally funded contract or federal laws or rules governing
5 the administration of the contract.

6 (c) Any person appointed by the Governor under the Civil
7 Administrative Code of the State is an employee, if he or she
8 is a participant in this system on the effective date of the
9 appointment.

10 (d) A participant on lay-off status under civil service
11 rules is considered an employee for not more than 120 days from
12 the date of the lay-off.

13 (e) A participant is considered an employee during (1) the
14 first 60 days of disability leave, (2) the period, not to
15 exceed one year, in which his or her eligibility for disability
16 benefits is being considered by the board or reviewed by the
17 courts, and (3) the period he or she receives disability
18 benefits under the provisions of Section 15-152, workers'
19 compensation or occupational disease benefits, or disability
20 income under an insurance contract financed wholly or partially
21 by the employer.

22 (f) Absences without pay, other than formal leaves of
23 absence, of less than 30 calendar days, are not considered as
24 an interruption of a person's status as an employee. If such
25 absences during any period of 12 months exceed 30 work days,
26 the employee status of the person is considered as interrupted

1 as of the 31st work day.

2 (g) A staff member whose employment contract requires
3 services during an academic term is to be considered an
4 employee during the summer and other vacation periods, unless
5 he or she declines an employment contract for the succeeding
6 academic term or his or her employment status is otherwise
7 terminated, and he or she receives no earnings during these
8 periods.

9 (h) An individual who was a participating employee employed
10 in the fire department of the University of Illinois's
11 Champaign-Urbana campus immediately prior to the elimination
12 of that fire department and who immediately after the
13 elimination of that fire department became employed by the fire
14 department of the City of Urbana or the City of Champaign shall
15 continue to be considered as an employee for purposes of this
16 Article for so long as the individual remains employed as a
17 firefighter by the City of Urbana or the City of Champaign. The
18 individual shall cease to be considered an employee under this
19 subsection (h) upon the first termination of the individual's
20 employment as a firefighter by the City of Urbana or the City
21 of Champaign.

22 (i) An individual who is employed on a full-time basis as
23 an officer or employee of a statewide teacher organization that
24 serves System participants or an officer of a national teacher
25 organization that serves System participants may participate
26 in the System and shall be deemed an employee, provided that

1 (1) the individual has previously earned creditable service
2 under this Article, (2) the individual files with the System an
3 irrevocable election to become a participant, ~~and~~ (3) the
4 individual does not receive credit for that employment under
5 any other Article of this Code and (4) the employee and
6 employer contribution for the service are received by the Fund
7 before the effective date of this amendatory Act of the 97th
8 General Assembly. An employee under this subsection (i) is
9 responsible for paying to the System both (A) employee
10 contributions based on the actual compensation received for
11 service with the teacher organization and (B) employer
12 contributions equal to the normal costs (as defined in Section
13 15-155) resulting from that service; all or any part of these
14 contributions may be paid on the employee's behalf or picked up
15 for tax purposes (if authorized under federal law) by the
16 teacher organization.

17 A person who is an employee as defined in this subsection
18 (i) may establish service credit for similar employment prior
19 to becoming an employee under this subsection by paying to the
20 System for that employment the contributions specified in this
21 subsection, plus interest at the effective rate from the date
22 of service to the date of payment. However, credit shall not be
23 granted under this subsection for any such prior employment for
24 which the applicant received credit under any other provision
25 of this Code, or during which the applicant was on a leave of
26 absence under Section 15-113.2.

1 (j) A person employed by the State Board of Higher
2 Education in a position with the Illinois Century Network as of
3 June 30, 2004 shall be considered to be an employee for so long
4 as he or she remains continuously employed after that date by
5 the Department of Central Management Services in a position
6 with the Illinois Century Network, the Bureau of Communication
7 and Computer Services, or, if applicable, any successor bureau
8 and meets the requirements of subsection (a).

9 (Source: P.A. 95-369, eff. 8-23-07.)

10 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)

11 Sec. 16-106. Teacher. "Teacher": The following
12 individuals, provided that, for employment prior to July 1,
13 1990, they are employed on a full-time basis, or if not
14 full-time, on a permanent and continuous basis in a position in
15 which services are expected to be rendered for at least one
16 school term:

17 (1) Any educational, administrative, professional or
18 other staff employed in the public common schools included
19 within this system in a position requiring certification
20 under the law governing the certification of teachers;

21 (2) Any educational, administrative, professional or
22 other staff employed in any facility of the Department of
23 Children and Family Services or the Department of Human
24 Services, in a position requiring certification under the
25 law governing the certification of teachers, and any person

1 who (i) works in such a position for the Department of
2 Corrections, (ii) was a member of this System on May 31,
3 1987, and (iii) did not elect to become a member of the
4 State Employees' Retirement System pursuant to Section
5 14-108.2 of this Code; except that "teacher" does not
6 include any person who (A) becomes a security employee of
7 the Department of Human Services, as defined in Section
8 14-110, after June 28, 2001 (the effective date of Public
9 Act 92-14), or (B) becomes a member of the State Employees'
10 Retirement System pursuant to Section 14-108.2c of this
11 Code;

12 (3) Any regional superintendent of schools, assistant
13 regional superintendent of schools, State Superintendent
14 of Education; any person employed by the State Board of
15 Education as an executive; any executive of the boards
16 engaged in the service of public common school education in
17 school districts covered under this system of which the
18 State Superintendent of Education is an ex-officio member;

19 (4) Any employee of a school board association
20 operating in compliance with Article 23 of the School Code
21 who is certificated under the law governing the
22 certification of teachers;

23 (5) Any person employed by the retirement system who:

24 (i) was an employee of and a participant in the
25 system on August 17, 2001 (the effective date of Public
26 Act 92-416), or

1 (ii) becomes an employee of the system on or after
2 August 17, 2001;

3 (6) Any educational, administrative, professional or
4 other staff employed by and under the supervision and
5 control of a regional superintendent of schools, provided
6 such employment position requires the person to be
7 certificated under the law governing the certification of
8 teachers and is in an educational program serving 2 or more
9 districts in accordance with a joint agreement authorized
10 by the School Code or by federal legislation;

11 (7) Any educational, administrative, professional or
12 other staff employed in an educational program serving 2 or
13 more school districts in accordance with a joint agreement
14 authorized by the School Code or by federal legislation and
15 in a position requiring certification under the laws
16 governing the certification of teachers;

17 (8) Any officer or employee of a statewide teacher
18 organization or officer of a national teacher organization
19 who is certified under the law governing certification of
20 teachers, provided: (i) the individual had previously
21 established creditable service under this Article, (ii)
22 the individual files with the system an irrevocable
23 election to become a member, ~~and~~ (iii) the individual does
24 not receive credit for such service under any other Article
25 of this Code, and (iv) the employee and employer
26 contributions for the service are received by the Fund

1 before the effective date of this amendatory Act of the
2 97th General Assembly;

3 (9) Any educational, administrative, professional, or
4 other staff employed in a charter school operating in
5 compliance with the Charter Schools Law who is certificated
6 under the law governing the certification of teachers.

7 (10) Any person employed, on the effective date of this
8 amendatory Act of the 94th General Assembly, by the
9 Macon-Piatt Regional Office of Education in a
10 birth-through-age-three pilot program receiving funds
11 under Section 2-389 of the School Code who is required by
12 the Macon-Piatt Regional Office of Education to hold a
13 teaching certificate, provided that the Macon-Piatt
14 Regional Office of Education makes an election, within 6
15 months after the effective date of this amendatory Act of
16 the 94th General Assembly, to have the person participate
17 in the system. Any service established prior to the
18 effective date of this amendatory Act of the 94th General
19 Assembly for service as an employee of the Macon-Piatt
20 Regional Office of Education in a birth-through-age-three
21 pilot program receiving funds under Section 2-389 of the
22 School Code shall be considered service as a teacher if
23 employee and employer contributions have been received by
24 the system and the system has not refunded those
25 contributions.

26 An annuitant receiving a retirement annuity under this

1 Article or under Article 17 of this Code who is employed by a
2 board of education or other employer as permitted under Section
3 16-118 or 16-150.1 is not a "teacher" for purposes of this
4 Article. A person who has received a single-sum retirement
5 benefit under Section 16-136.4 of this Article is not a
6 "teacher" for purposes of this Article.

7 A person who is a teacher as described in item (8) of this
8 Section may establish service credit for similar employment
9 prior to becoming certified as a teacher if he or she (i) is
10 certified as a teacher on or before the effective date of this
11 amendatory Act of the 94th General Assembly, (ii) applies in
12 writing to the system within 6 months after the effective date
13 of this amendatory Act of the 94th General Assembly, ~~and~~ (iii)
14 pays to the system contributions equal to the normal costs
15 calculated from the date of first full-time employment as
16 described in item (8) to the date of payment, compounded
17 annually at the rate of 8.5% per year for periods before the
18 effective date of this amendatory Act of the 94th General
19 Assembly and for subsequent periods at a rate equal to the
20 System's actuarially assumed rate of return on investments, and
21 (iv) the employee and employer contributions for the service
22 are received by the Fund before the effective date of this
23 amendatory Act of the 97th General Assembly. However, credit
24 shall not be granted under this paragraph for any such prior
25 employment for which the applicant received credit under any
26 other provision of this Code.

1 (Source: P.A. 93-320, eff. 7-23-03; 94-1111, eff. 2-27-07.)

2 (40 ILCS 5/17-134) (from Ch. 108 1/2, par. 17-134)

3 Sec. 17-134. Contributions for leaves of absence; military
4 service; computing service. In computing service for pension
5 purposes the following periods of service shall stand in lieu
6 of a like number of years of teaching service upon payment
7 therefor in the manner hereinafter provided: (a) time spent on
8 a leave of absence granted by the employer; (b) service with
9 teacher or labor organizations based upon special leaves of
10 absence therefor granted by an Employer; (c) a maximum of 5
11 years spent in the military service of the United States, of
12 which up to 2 years may have been served outside the pension
13 period; (d) unused sick days at termination of service to a
14 maximum of 244 days; (e) time lost due to layoff and
15 curtailment of the school term from June 6 through June 21,
16 1976; and (f) time spent after June 30, 1982 as a member of the
17 Board of Education, if required to resign from an
18 administrative or teaching position in order to qualify as a
19 member of the Board of Education.

20 (1) For time spent on or after September 6, 1948 on
21 sabbatical leaves of absence or sick leaves, for which
22 salaries are paid, an Employer shall make payroll
23 deductions at the applicable rates in effect during such
24 periods.

25 (2) For time spent on a leave of absence granted by the

1 employer for which no salaries are paid, teachers desiring
2 credit therefor shall pay the required contributions at the
3 rates in effect during such periods as though they were in
4 teaching service. If an Employer pays salary for vacations
5 which occur during a teacher's sick leave or maternity or
6 paternity leave without salary, vacation pay for which the
7 teacher would have qualified while in active service shall
8 be considered part of the teacher's total salary for
9 pension purposes. No more than 36 months of leave credit
10 may be allowed any person during the entire term of
11 service. Sabbatical leave credit shall be limited to the
12 time the person on leave without salary under an Employer's
13 rules is allowed to engage in an activity for which he
14 receives salary or compensation.

15 (3) For time spent prior to September 6, 1948, on
16 sabbatical leaves of absence or sick leaves for which
17 salaries were paid, teachers desiring service credit
18 therefor shall pay the required contributions at the
19 maximum applicable rates in effect during such periods.

20 (4) For service with teacher or labor organizations
21 authorized by special leaves of absence, for which no
22 payroll deductions are made by an Employer, teachers
23 desiring service credit therefor shall contribute to the
24 Fund upon the basis of the actual salary received from such
25 organizations at the percentage rates in effect during such
26 periods for certified positions with such Employer. To the

1 extent the actual salary exceeds the regular salary, which
2 shall be defined as the salary rate, as calculated by the
3 Board, in effect for the teacher's regular position in
4 teaching service on September 1, 1983 or on the effective
5 date of the leave with the organization, whichever is
6 later, the organization shall pay to the Fund the
7 employer's normal cost as set by the Board on the
8 increment. Notwithstanding any other provision of this
9 subdivision (4), teachers are only entitled to credit for
10 service under this subdivision (4) if the employee and
11 employer contributions for the service are received by the
12 System before the effective date of this amendatory Act of
13 the 97th General Assembly.

14 (5) For time spent in the military service, teachers
15 entitled to and desiring credit therefor shall contribute
16 the amount required for each year of service or fraction
17 thereof at the rates in force (a) at the date of
18 appointment, or (b) on return to teaching service as a
19 regularly certified teacher, as the case may be; provided
20 such rates shall not be less than \$450 per year of service.
21 These conditions shall apply unless an Employer elects to
22 and does pay into the Fund the amount which would have been
23 due from such person had he been employed as a teacher
24 during such time. In the case of credit for military
25 service not during the pension period, the teacher must
26 also pay to the Fund an amount determined by the Board to

1 be equal to the employer's normal cost of the benefits
2 accrued from such service, plus interest thereon at 5% per
3 year, compounded annually, from the date of appointment to
4 the date of payment.

5 The changes to this Section made by Public Act 87-795
6 shall apply not only to persons who on or after its
7 effective date are in service under the Fund, but also to
8 persons whose status as a teacher terminated prior to that
9 date, whether or not the person is an annuitant on that
10 date. In the case of an annuitant who applies for credit
11 allowable under this Section for a period of military
12 service that did not immediately follow employment, and who
13 has made the required contributions for such credit, the
14 annuity shall be recalculated to include the additional
15 service credit, with the increase taking effect on the date
16 the Fund received written notification of the annuitant's
17 intent to purchase the credit, if payment of all the
18 required contributions is made within 60 days of such
19 notice, or else on the first annuity payment date following
20 the date of payment of the required contributions. In
21 calculating the automatic annual increase for an annuity
22 that has been recalculated under this Section, the increase
23 attributable to the additional service allowable under
24 this amendatory Act of 1991 shall be included in the
25 calculation of automatic annual increases accruing after
26 the effective date of the recalculation.

1 The total credit for military service shall not exceed
2 5 years, except that any teacher who on July 1, 1963, had
3 validated credit for more than 5 years of military service
4 shall be entitled to the total amount of such credit.

5 (6) A maximum of 244 unused sick days credited to his
6 account by an Employer on the date of termination of
7 employment. Members, upon verification of unused sick
8 days, may add this service time to total creditable
9 service.

10 (7) In all cases where time spent on leave is
11 creditable and no payroll deductions therefor are made by
12 an Employer, persons desiring service credit shall make the
13 required contributions directly to the Fund.

14 (8) For time lost without pay due to layoff and
15 curtailment of the school term from June 6 through June 21,
16 1976, as provided in item (e) of the first paragraph of
17 this Section, persons who were contributors on the days
18 immediately preceding such layoff shall receive credit
19 upon paying to the Fund a contribution based on the rates
20 of compensation and employee contributions in effect at the
21 time of such layoff, together with an additional amount
22 equal to 12.2% of the compensation computed for such period
23 of layoff, plus interest on the entire amount at 5% per
24 annum from January 1, 1978 to the date of payment. If such
25 contribution is paid, salary for pension purposes for any
26 year in which such a layoff occurred shall include the

1 compensation recognized for purposes of computing that
2 contribution.

3 (9) For time spent after June 30, 1982, as a
4 nonsalaried member of the Board of Education, if required
5 to resign from an administrative or teaching position in
6 order to qualify as a member of the Board of Education, an
7 administrator or teacher desiring credit therefor shall
8 pay the required contributions at the rates and salaries in
9 effect during such periods as though the member were in
10 service.

11 Effective September 1, 1974, the interest charged for
12 validation of service described in paragraphs (2) through (5)
13 of this Section shall be compounded annually at a rate of 5%
14 commencing one year after the termination of the leave or
15 return to service.

16 (Source: P.A. 92-599, eff. 6-28-02.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.