

SB0449



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB0449

Introduced 1/23/2013, by Sen. John J. Cullerton

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.

LRB098 04666 EFG 34694 b

PENSION IMPACT
NOTE ACT MAY
APPLY

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.

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

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

23 d. Benefits under the provisions of Sections
24 7-141, 7-146, 7-150 and 7-163 shall become payable to
25 employees on authorized leave of absence, or their
26 designated beneficiary, only if such leave of absence

1 is creditable hereunder, and if the employee has at
2 least one year of creditable service other than the
3 service granted for leave of absence. Any employee
4 contributions due may be deducted from any benefits
5 payable.

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

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

1 service and no additional death and no disability benefits
2 are payable for death or disability during such period.

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

19 Notwithstanding the foregoing, any participating
20 employee shall be entitled to creditable service as
21 required by any federal law relating to re-employment
22 rights of persons who served in the United States Armed
23 Services. Such creditable service shall be granted upon
24 payment by the member of an amount equal to the employee
25 contributions which would have been required had the
26 employee continued in service at the same rate of earnings

1 during the military leave period, plus interest at the
2 effective rate.

3 5.1. In addition to any creditable service established
4 under paragraph 5 of this subsection (a), creditable
5 service may be granted for up to 48 months of service in
6 the armed forces of the United States.

7 In order to receive creditable service for military
8 service under this paragraph 5.1, a participating employee
9 must (1) apply to the Fund in writing and provide evidence
10 of the military service that is satisfactory to the Board;
11 (2) obtain the written approval of the current employer;
12 and (3) make contributions to the Fund equal to (i) the
13 employee contributions that would have been required had
14 the service been rendered as a member, plus (ii) an amount
15 determined by the board to be equal to the employer's
16 normal cost of the benefits accrued for that military
17 service, plus (iii) interest on items (i) and (ii) from the
18 date of first membership in the Fund to the date of
19 payment. The required interest shall be calculated at the
20 regular interest rate.

21 The changes made to this paragraph 5.1 by Public Acts
22 95-483 and 95-486 apply only to participating employees in
23 service on or after August 28, 2007 (the effective date of
24 those Public Acts).

25 6. For out-of-state service: Creditable service shall
26 be granted for service rendered to an out-of-state local

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

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

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

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

25 8. For accumulated unused sick leave: A participating
26 employee who is applying for a retirement annuity shall be

1 entitled to creditable service for that portion of the
2 employee's accumulated unused sick leave for which payment
3 is not received, as follows:

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

9 b. Except as provided in item b-1, only sick leave
10 days accumulated with a participating municipality or
11 participating instrumentality with which the employee
12 was in service within 60 days of the effective date of
13 his retirement annuity shall be credited; If the
14 employee was in service with more than one employer
15 during this period only the sick leave days with the
16 employer with which the employee has the greatest
17 number of unpaid sick leave days shall be considered.

18 b-1. If the employee was in the service of more
19 than one employer as defined in item (2) of paragraph
20 (a) of subsection (A) of Section 7-132, then the sick
21 leave days from all such employers shall be credited,
22 as long as the creditable service attributed to those
23 sick leave days does not exceed the limitation in item
24 f of this paragraph 8. In calculating the creditable
25 service under this item b-1, the sick leave days from
26 the last employer shall be considered first, then the

1 remaining sick leave days shall be considered until
2 there are no more days or the maximum creditable sick
3 leave threshold under item f of this paragraph 8 has
4 been reached.

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

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

16 e. Employee contributions shall not be required
17 for creditable service under this subdivision 8.

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

24 9. For service transferred from another system:
25 Credits and creditable service shall be granted for service
26 under Article 3, 4, 5, 8, 14, or 16 of this Act, to any

1 active member of this Fund, and to any inactive member who
2 has been a county sheriff, upon transfer of such credits
3 pursuant to Section 3-110.3, 4-108.3, 5-235, 8-226.7,
4 14-105.6, or 16-131.4, and payment by the member of the
5 amount by which (1) the employer and employee contributions
6 that would have been required if he had participated in
7 this Fund as a sheriff's law enforcement employee during
8 the period for which credit is being transferred, plus
9 interest thereon at the effective rate for each year,
10 compounded annually, from the date of termination of the
11 service for which credit is being transferred to the date
12 of payment, exceeds (2) the amount actually transferred to
13 the Fund. Such transferred service shall be deemed to be
14 service as a sheriff's law enforcement employee for the
15 purposes of Section 7-142.1.

16 10. For service transferred from an Article 3 system
17 under Section 3-110.8: Credits and creditable service
18 shall be granted for service under Article 3 of this Act as
19 provided in Section 3-110.8, to any active member of this
20 Fund upon transfer of such credits pursuant to Section
21 3-110.8. If the amount by which (1) the employer and
22 employee contributions that would have been required if he
23 had participated in this Fund during the period for which
24 credit is being transferred, plus interest thereon at the
25 effective rate for each year, compounded annually, from the
26 date of termination of the service for which credit is

1 being transferred to the date of payment, exceeds (2) the
2 amount actually transferred to the Fund, then the amount of
3 creditable service established under this paragraph 10
4 shall be reduced by a corresponding amount in accordance
5 with the rules and procedures established under this
6 paragraph 10.

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

13 Until January 1, 2010, members who transferred service
14 from an Article 3 system under the provisions of Public Act
15 94-356 may establish additional credit in this Fund, but
16 only up to the amount of the service credit reduction in
17 that transfer, as calculated under the actuarial
18 assumptions. This credit may be established upon payment by
19 the member of an amount to be determined by the board,
20 equal to (1) the amount that would have been contributed as
21 employee and employer contributions had all the service
22 been as an employee under this Article, plus interest
23 thereon compounded annually from the date of service to the
24 date of transfer, less (2) the total amount transferred
25 from the Article 3 system, plus (3) interest on the
26 difference at the effective rate for each year, compounded

1 annually, from the date of the transfer to the date of
2 payment. The additional service credit is allowed under
3 this amendatory Act of the 95th General Assembly
4 notwithstanding the provisions of Article 3 terminating
5 all transferred credits on the date of transfer.

6 (b) Creditable service - amount:

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

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

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

26 (c) No application for correction of credits or creditable

1 service shall be considered unless the board receives an
2 application for correction while (1) the applicant is a
3 participating employee and in active employment with a
4 participating municipality or instrumentality, or (2) while
5 the applicant is actively participating in a pension fund or
6 retirement system which is a participating system under the
7 Retirement Systems Reciprocal Act. A participating employee or
8 other applicant shall not be entitled to credits or creditable
9 service unless the required employee contributions are made in
10 a lump sum or in installments made in accordance with board
11 rule.

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

20 (Source: P.A. 96-299, eff. 8-11-09; 97-415, eff. 8-16-11.)