

AN ACT concerning public employee benefits.

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

Section 5. The Illinois Pension Code is amended by changing Sections 3-110 and 7-139 and adding Sections 3-110.8 and 7-139.11 as follows:

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

Sec. 3-110. Creditable service.

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

(a-5) Up to 3 years of time during which the police officer receives a disability pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 shall be counted as creditable service, provided that (i) the police officer returns to active service after the disability for a period at least equal to the period for which credit is to be established and (ii) the police officer makes contributions to the fund based on the rates specified in Section 3-125.1 and the salary upon which the disability pension is based. These contributions may be paid at any time prior to the commencement of a retirement pension. The police officer may, but need not, elect to have the contributions deducted from the disability pension or to pay them in installments on a schedule approved by the board. If not deducted from the disability pension, the contributions shall include interest at the rate of 6% per year, compounded annually, from the date for which service credit is being

established to the date of payment. If contributions are paid under this subsection (a-5) in excess of those needed to establish the credit, the excess shall be refunded. This subsection (a-5) applies to persons receiving a disability pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 on the effective date of this amendatory Act of the 91st General Assembly, as well as persons who begin to receive such a disability pension after that date.

(b) Creditable service includes all periods of service in the military, naval or air forces of the United States entered upon while an active police officer of a municipality, provided that upon applying for a permanent pension, and in accordance with the rules of the board, the police officer pays into the fund the amount the officer would have contributed if he or she had been a regular contributor during such period, to the extent that the municipality which the police officer served has not made such contributions in the officer's behalf. The total amount of such creditable service shall not exceed 5 years, except that any police officer who on July 1, 1973 had more than 5 years of such creditable service shall receive the total amount thereof.

(c) Creditable service also includes service rendered by a police officer while on leave of absence from a police department to serve as an executive of an organization whose membership consists of members of a police department, subject to the following conditions: (i) the police officer is a participant of a fund established under this Article with at least 10 years of service as a police officer; (ii) the police officer received no credit for such service under any other retirement system, pension fund, or annuity and benefit fund included in this Code; (iii) pursuant to the rules of the board the police officer pays to the fund the amount he or she would have contributed had the officer been an active member of the police department; and (iv) the organization pays a contribution equal to the municipality's normal cost for that period of service.

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

(2) If the board of the pension fund to which creditable service and related contributions are transferred under Section 3-110.7 or 7-139.9 determines that the amount transferred is less than the true cost to the pension fund of allowing that creditable service to be established, then in order to establish that creditable service the police officer must pay to the pension fund, within the payment period specified in paragraph (3) of this subsection, an additional contribution equal to the difference, as determined by the board in accordance with the rules and procedures adopted under paragraph (6) of this subsection.

(3) Except as provided in paragraph (4), the additional contribution must be paid to the board (i) within 5 years from the date of the transfer of contributions under Section 3-110.7 or 7-139.9 and (ii) before the police officer terminates service with the fund. The additional contribution may be paid in a lump sum or in accordance with a schedule of installment payments authorized by the board.

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

(5) If the additional contribution is not paid in full within the required time, the creditable service shall not be granted and the police officer (or the officer's surviving spouse or estate) shall be entitled to receive a refund of (i) any partial payment of the additional contribution that has been made by the police officer and (ii) those portions of the amounts transferred under subdivision (a)(1) of Section 3-110.7 or subdivisions (a)(1) and (a)(3) of Section 7-139.9 that represent employee contributions paid by the police officer (but not the accumulated interest on those contributions) and interest paid by the police officer to the prior pension fund in order to reinstate service terminated by acceptance of a refund.

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

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

(6) The Public Employee Pension Fund Division of the Department of Insurance shall establish by rule the manner of making the calculation required under paragraph (2) of this subsection, taking into account the appropriate actuarial assumptions; the police officer's service, age, and salary history; the level of funding of the pension fund to which the credits are being transferred; and any other factors that the Division determines to be relevant.

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

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

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

(3) The Public Pension Division of the Department of Financial and Professional Regulation shall establish by rule the manner of making the calculation required under paragraph (2) of this subsection, taking into account the appropriate actuarial assumptions; the police officer's service, age, and salary history; the level of funding of the pension fund to which the credits are being transferred; and any other factors that the Division determines to be relevant. The rules may require that all calculations made under paragraph (2) be reported to the Division by the board performing the calculation, together with documentation of the creditable service to be transferred, the amounts of contributions and interest to

be transferred, the manner in which the calculation was performed, the numbers relied upon in making the calculation, the results of the calculation, and any other information the Division may deem useful.

(Source: P.A. 90-460, eff. 8-17-97; 91-887, eff. 7-6-00; 91-939, eff. 2-1-01.)

(40 ILCS 5/3-110.8 new)

Sec. 3-110.8. Transfer to IMRF.

(a) Until January 1, 2006, any active member of the Illinois Municipal Retirement Fund who has less than 8 years of creditable service in a police pension fund under this Article, may apply for transfer of his creditable service accumulated in that fund to the Illinois Municipal Retirement Fund. The creditable service shall be transferred upon payment by the police pension fund to the Illinois Municipal Retirement Fund of an amount equal to:

(1) the amounts accumulated to the credit of the applicant on the books of the fund on the date of transfer; and

(2) employer contributions in an amount equal to the amount determined under subparagraph (1); and

(3) any interest paid by the applicant in order to reinstate service.

Participation in this Fund shall terminate on the date of transfer.

(b) Until January 1, 2006, any member under subsection (a) may reinstate service which was terminated by receipt of a refund, by payment to the police pension fund of the amount of the refund with interest thereon at the rate of 6% per year, compounded annually, from the date of refund to the date of payment.

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

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

(a) Each participating employee shall be granted credits

and creditable service, for purposes of determining the amount of any annuity or benefit to which he or a beneficiary is entitled, as follows:

1. For prior service: Each participating employee who is an employee of a participating municipality or participating instrumentality on the effective date shall be granted creditable service, but no credits under paragraph 2 of this subsection (a), for periods of prior service for which credit has not been received under any other pension fund or retirement system established under this Code, as follows:

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

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

A municipality that (i) has at least 35 employees; (ii)

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

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

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

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

b. Normal credits of amounts equal to each payment of normal contributions received from him, as of the date the corresponding payment of earnings is payable to him, and normal contributions made for the purpose of establishing out-of-state service credits as permitted under the conditions set forth in paragraph 6

of this subsection (a).

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

d. Survivor credits equal to each payment of survivor contributions received from the participating employee as of the date the corresponding payment of earnings is payable, and survivor contributions made for the purpose of establishing out-of-state service credits.

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

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

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

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

c. Credits and creditable service shall be granted for leave of absence only if such leave is approved by the governing body of the municipality, including

approval of the estimated cost thereof to the municipality as determined by the fund, and employee contributions, plus interest at the effective rate applicable for each year from the end of the period of leave to date of payment, have been paid to the fund in accordance with Section 7-173. The contributions shall be computed upon the assumption earnings continued during the period of leave at the rate in effect when the leave began.

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

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

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

received at the time he left the employment to enter the armed forces. A participating employee in the armed forces shall not be considered an employee during such period of service and no additional death and no disability benefits are payable for death or disability during such period.

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

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

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

In order to receive creditable service for military

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

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

creditable service be granted under this provision.

7. For retroactive service: Any employee who could have but did not elect to become a participating employee, or who should have been a participant in the Municipal Public Utilities Annuity and Benefit Fund before that fund was superseded, may receive creditable service for the period of service not to exceed 50 months; however, a current or former elected or appointed official of a participating municipality may establish credit under this paragraph 7 for more than 50 months of service as an official of that municipality, if the excess over 50 months is approved by resolution of the governing body of the affected municipality filed with the Fund before January 1, 2002.

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

8. For accumulated unused sick leave: A participating employee who is applying for a retirement annuity shall be entitled to creditable service for that portion of the

employee's accumulated unused sick leave for which payment is not received, as follows:

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

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

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

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

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

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

9. For service transferred from another system:

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

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

The board shall establish by rule the manner of making the calculation required under this paragraph 10, taking into account the appropriate actuarial assumptions; the

member's service, age, and salary history; the level of funding of the employer; and any other factors that the board determines to be relevant.

(b) Creditable service - amount:

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

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

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

(c) No application for correction of credits or creditable service shall be considered unless the board receives an application for correction while (1) the applicant is a participating employee and in active employment with a participating municipality or instrumentality, or (2) while the applicant is actively participating in a pension fund or retirement system which is a participating system under the Retirement Systems Reciprocal Act. A participating employee or other applicant shall not be entitled to credits or creditable service unless the required employee contributions are made in a lump sum or in installments made in accordance with board rule.

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

(Source: P.A. 92-424, eff. 8-17-01; 93-933, eff. 8-13-04.)

(40 ILCS 5/7-139.11 new)

Sec. 7-139.11. Transfer to Article 3 pension fund.

(a) Until January 1, 2006, a person who has less than 8 years of creditable service under this Article and who has become an active participant in a police pension fund established under Article 3 of this Code may apply for transfer to that Article 3 fund of his or her creditable service accumulated under this Article. At the time of the transfer the Fund shall pay to the police pension fund an amount equal to:

(1) the amounts accumulated to the credit of the applicant under this Article, including interest; and

(2) the municipality credits based on that service, including interest; and

(3) any interest paid by the applicant in order to reinstate that service.

Participation in this Fund with respect to the transferred credits shall terminate on the date of transfer.

(b) An active member of a pension fund established under Article 3 of this Code may reinstate creditable service under this Article that was terminated by receipt of a refund, by paying to the Fund the amount of the refund plus interest thereon at the rate of 6% per year, compounded annually, from the date of refund to the date of payment.

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