

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 7-139, 7-146, and 7-150 as follows:

(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 48 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. The required interest shall be calculated at the regular interest rate.

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

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. Except as provided in item b-1, 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.

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

service under this item b-1, the sick leave days from the last employer shall be considered first, then the remaining sick leave days shall be considered until there are no more days or the maximum creditable sick leave threshold under item f of this paragraph 8 has been reached.

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, 8, 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, 8-226.7, 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.

Until January 1, 2010, members who transferred service from an Article 3 system under the provisions of Public Act 94-356 may establish additional credit in this Fund, but only up to the amount of the service credit reduction in that transfer, as calculated under the actuarial assumptions. This credit may be established upon payment by the member of an amount to be determined by the board, equal to (1) the amount that would have been contributed as employee and employer contributions had all the service been as an employee under this Article, plus interest thereon compounded annually from the date of service to the date of transfer, less (2) the total amount transferred

from the Article 3 system, plus (3) interest on the difference at the effective rate for each year, compounded annually, from the date of the transfer to the date of payment. The additional service credit is allowed under this amendatory Act of the 95th General Assembly notwithstanding the provisions of Article 3 terminating all transferred credits on the date of transfer.

(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. 95-483, eff. 8-28-07; 95-486, eff. 8-28-07; 95-504, eff. 8-28-07; 95-812, eff. 8-13-08; 95-876, eff. 8-21-08; 96-299, eff. 8-11-09.)

(40 ILCS 5/7-146) (from Ch. 108 1/2, par. 7-146)

Sec. 7-146. Temporary disability benefits - Eligibility. Temporary disability benefits shall be payable to participating employees as hereinafter provided.

(a) The participating employee shall be considered temporarily disabled if:

1. He is unable to perform the duties of any position which might reasonably be assigned to him by his employing municipality or instrumentality thereof or participating instrumentality due to mental or physical disability caused by bodily injury or disease, other than as a result of self-inflicted injury or addiction to narcotic drugs;

2. The Board has received written certifications from at least one licensed and practicing physician and the governing body of the employing municipality or instrumentality thereof or participating instrumentality stating that the employee meets the conditions set forth in subparagraph 1 of this paragraph (a).

(b) A temporary disability benefit shall be payable to a temporarily disabled employee provided:

1. He:

- (i) has at least one year of service immediately preceding at the date the temporary disability was incurred and has made contributions to the fund for at least the number of months of service normally required in his position during a 12-month period, or has at least 5 years of service credit, the last year of which

immediately precedes such date; or

(ii) had qualified under clause (i) above, but had an interruption in service with the same participating municipality or participating instrumentality of not more than 3 months in the 12 months preceding the date the temporary disability was incurred and was not paid a separation benefit; or

(iii) had qualified under clause (i) above, but had an interruption after 20 or more years of creditable service, was not paid a separation benefit, and returned to service prior to the date the disability was incurred.

Item (iii) of this subdivision shall apply to all employees whose disabilities were incurred on or after July 1, 1985, and any such employee who becomes eligible for a disability benefit under item (iii) shall be entitled to receive a lump sum payment of any accumulated disability benefits which may accrue from the date the disability was incurred until the effective date of this amendatory Act of 1987.

Periods of qualified leave granted in compliance with the federal Family and Medical Leave Act shall be ignored for purposes of determining the number of consecutive months of employment under this subdivision (b)1.

2. He has been temporarily disabled for at least 30 days, except where a former temporary or permanent and

total disability has reoccurred within 6 months after the employee has returned to service.

3. He is receiving no earnings from a participating municipality or instrumentality thereof or participating instrumentality, except as allowed under subsection (f) of Section 7-152.

4. He has not refused to submit to a reasonable physical examination by a physician appointed by the Board.

5. His disability is not the result of a mental or physical condition which existed on the earliest date of service from which he has uninterrupted service, including prior service, at the date of his disability, provided that this limitation is not applicable if the date of disability is after December 31, 2001, nor is it applicable to a participating employee who: (i) on the date of disability has 5 years of creditable service, exclusive of creditable service for periods of disability; or (ii) received no medical treatment for the condition for the 3 years immediately prior to such earliest date of service.

6. He is not separated from the service of the participating municipality or instrumentality thereof or participating instrumentality which employed him on the date his temporary disability was incurred; for the purposes of payment of temporary disability benefits, a participating employee, whose employment relationship is terminated by his employing municipality, shall be deemed

not to be separated from the service of his employing municipality or participating instrumentality if he continues disabled by the same condition and so long as he is otherwise entitled to such disability benefit.

7. He has not failed or refused to consent to and sign an authorization allowing the Board to receive copies of or to examine his medical and hospital records.

8. He has not failed or refused to provide complete information regarding any other employment for compensation he has received since becoming disabled.

(Source: P.A. 92-424, eff. 8-17-01.)

(40 ILCS 5/7-150) (from Ch. 108 1/2, par. 7-150)

Sec. 7-150. Total and permanent disability benefits - Eligibility. Total and permanent disability benefits shall be payable to participating employees as hereinafter provided, including those employees receiving disability benefit on July 1, 1962.

(a) A participating employee shall be considered totally and permanently disabled if:

1. He is unable to engage in any gainful activity because of any medically determinable physical or mental impairment which can be expected to result in death or be of a long continued and indefinite duration, other than as a result of self-inflicted injury or addiction to narcotic drugs;

2. The Board has received a written certification by at least 1 licensed and practicing physician stating that the employee meets the qualifications of subparagraph 1 of this paragraph (a).

(b) A totally and permanently disabled employee is entitled to a permanent disability benefit provided:

1. He has exhausted his temporary disability benefits.

2. He:

(i) has at least one year of service immediately preceding the date the disability was incurred and has made contributions to the fund for at least the number of months of service normally required in his position during a 12 month period, or has at least 5 years of service credit, the last year of which immediately preceded the date the disability was incurred; or

(ii) had qualified under clause (i) above, but had an interruption in service with the same participating municipality or participating instrumentality of not more than 3 months in the 12 months preceding the date the temporary disability was incurred and was not paid a separation benefit; or

(iii) had qualified under clause (i) above, but had an interruption after 20 or more years of creditable service, was not paid a separation benefit, and returned to service prior to the date the disability was incurred.

Item (iii) of this subdivision shall apply to all employees whose disabilities were incurred on or after July 1, 1985, and any such employee who becomes eligible for a disability benefit under item (iii) shall be entitled to receive a lump sum payment of any accumulated disability benefits which may accrue from the date the disability was incurred until the effective date of this amendatory Act of 1987.

Periods of qualified leave granted in compliance with the federal Family and Medical Leave Act shall be ignored for purposes of determining the number of consecutive months of employment under this subdivision (b)2.

3. He is receiving no earnings from a participating municipality or instrumentality thereof or participating instrumentality, except as allowed under subsection (f) of Section 7-152.

4. He has not refused to submit to a reasonable physical examination by a physician appointed by the Board.

5. His disability is not the result of a mental or physical condition which existed on the earliest date of service from which he has uninterrupted service, including prior service, at the date of his disability, provided that this limitation shall not be applicable to a participating employee who, without receiving a disability benefit, receives 5 years of creditable service.

6. He is not separated from the service of his

employing participating municipality or instrumentality thereof or participating instrumentality on the date his temporary disability was incurred; for the purposes of payment of total and permanent disability benefits, a participating employee, whose employment relationship is terminated by his employing municipality, shall be deemed not to be separated from the service of his employing municipality or participating instrumentality if he continues disabled by the same condition and so long as he is otherwise entitled to such disability benefit.

7. He has not refused to apply for a disability benefit under the Federal Social Security Act at the request of the Board.

8. He has not failed or refused to consent to and sign an authorization allowing the Board to receive copies of or to examine his medical and hospital records.

9. He has not failed or refused to provide complete information regarding any other employment for compensation he has received since becoming disabled.

(c) A participating employee shall remain eligible and may make application for a total and permanent disability benefit within 90 days after the termination of his temporary disability benefits or within such longer period terminating at the end of the period during which his employing municipality is prevented from employing him by reason of any statutory prohibition.

Public Act 097-0415

HB3334 Enrolled

LRB097 10851 JDS 51355 b

(Source: P.A. 90-766, eff. 8-14-98.)

Section 90. The State Mandates Act is amended by adding Section 8.35 as follows:

(30 ILCS 805/8.35 new)

Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 97th General Assembly.

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