



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2096

Introduced 2/26/2021, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

40 ILCS 5/6-229
30 ILCS 805/8.45 new

Amends the Chicago Firefighter Article of the Illinois Pension Code. Provides that for Tier 2 firemen, final average salary is the greater of (1) the average monthly salary obtained by dividing the total salary of the fireman during the 96 consecutive months of service within the last 120 months of service in which the total salary was the highest by the number of months of service in that period or (2) the average monthly salary obtained by dividing the total salary of the fireman during the 48 consecutive months of service within the last 120 months of service in which the total salary was the highest by the number of months of service in that period (currently, the final average salary is the average monthly salary obtained by dividing the total salary of the firefighter during the 96 consecutive months of service within the last 120 months of service in which the total salary was the highest by the number of months of service in that period). Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB102 14429 RPS 19781 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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
5 changing Section 6-229 as follows:

6 (40 ILCS 5/6-229)

7 Sec. 6-229. Provisions applicable to new hires; Tier 2.

8 (a) Notwithstanding any other provision of this Article,
9 the provisions of this Section apply to a person who first
10 becomes a fireman under this Article on or after January 1,
11 2011, and to certain qualified survivors of such a fireman.
12 Such persons, and the benefits and restrictions that apply
13 specifically to them under this Article, may be referred to as
14 "Tier 2".

15 (b) A fireman who has withdrawn from service, has attained
16 age 50 or more, and has 10 or more years of service in that
17 capacity shall be entitled, upon proper application being
18 received by the Fund, to receive a Tier 2 monthly retirement
19 annuity for his service as a fireman. The Tier 2 monthly
20 retirement annuity shall be computed by multiplying 2.5% for
21 each year of such service by his or her final average salary,
22 subject to an annuity reduction factor of one-half of 1% for
23 each month that the fireman's age at retirement is under age

1 55. The Tier 2 monthly retirement annuity is in lieu of any age
2 and service annuity or other form of retirement annuity under
3 this Article.

4 The maximum retirement annuity under this subsection (b)
5 shall be 75% of final average salary.

6 For the purposes of this subsection (b), "final average
7 salary" means the greater of (1) the average monthly salary
8 obtained by dividing the total salary of the fireman during
9 the 96 consecutive months of service within the last 120
10 months of service in which the total salary was the highest by
11 the number of months of service in that period or (2) the
12 average monthly salary obtained by dividing the total salary
13 of the fireman during the 48 consecutive months of service
14 within the last 120 months of service in which the total salary
15 was the highest by the number of months of service in that
16 period.

17 Beginning on January 1, 2011, for all purposes under this
18 Code (including without limitation the calculation of benefits
19 and employee contributions), the annual salary based on the
20 plan year of a member or participant to whom this Section
21 applies shall not exceed \$106,800; however, that amount shall
22 annually thereafter be increased by the lesser of (i) 3% of
23 that amount, including all previous adjustments, or (ii)
24 one-half the annual unadjusted percentage increase (but not
25 less than zero) in the consumer price index-u for the 12 months
26 ending with the September preceding each November 1, including

1 all previous adjustments.

2 (b-5) For the purposes of this Section, "consumer price
3 index-u" means the index published by the Bureau of Labor
4 Statistics of the United States Department of Labor that
5 measures the average change in prices of goods and services
6 purchased by all urban consumers, United States city average,
7 all items, 1982-84 = 100. The new amount resulting from each
8 annual adjustment shall be determined by the Public Pension
9 Division of the Department of Insurance and made available to
10 the boards of the retirement systems and pension funds by
11 November 1 of each year.

12 (c) Notwithstanding any other provision of this Article,
13 for a person who first becomes a fireman under this Article on
14 or after January 1, 2011, eligibility for and the amount of the
15 annuity to which the qualified surviving spouse, children, and
16 parents of the fireman are entitled under this subsection (c)
17 shall be determined as follows:

18 (1) The surviving spouse of a deceased fireman to whom
19 this Section applies shall be deemed qualified to receive
20 a Tier 2 surviving spouse's annuity under this paragraph
21 (1) if: (i) the deceased fireman meets the requirements
22 specified under subdivision (A), (B), (C), or (D) of this
23 paragraph (1); and (ii) the surviving spouse would not
24 otherwise be excluded from receiving a widow's annuity
25 under the eligibility requirements for a widow's annuity
26 set forth in Section 6-142. The Tier 2 surviving spouse's

1 annuity is in lieu of the widow's annuity determined under
2 any other Section of this Article and is subject to the
3 requirements of Section 6-143.2.

4 As used in this subsection (c), "earned pension" means
5 a Tier 2 monthly retirement annuity determined under
6 subsection (b) of this Section, including any increases
7 the fireman had received pursuant to Section 6-164.

8 (A) If the deceased fireman was receiving an
9 earned pension at the date of his or her death, the
10 Tier 2 surviving spouse's annuity under this paragraph
11 (1) shall be in the amount of 66 2/3% of the fireman's
12 earned pension at the date of death.

13 (B) If the deceased fireman was not receiving an
14 earned pension but had at least 10 years of service at
15 the time of death, the Tier 2 surviving spouse's
16 annuity under this paragraph (1) shall be the greater
17 of: (i) 30% of the salary attached to the rank of first
18 class firefighter in the classified career service at
19 the time of the fireman's death; or (ii) 66 2/3% of the
20 Tier 2 monthly retirement annuity that the deceased
21 fireman would have been eligible to receive under
22 subsection (b) of this Section, based upon the actual
23 service accrued through the day before the fireman's
24 death, but determined as though the fireman was at
25 least age 55 on the day before his or her death and
26 retired on that day.

1 (C) If the deceased fireman was an active fireman
2 with at least 1 1/2 but less than 10 years of service
3 at the time of death, the Tier 2 surviving spouse's
4 annuity under this paragraph (1) shall be in the
5 amount of 30% of the salary attached to the rank of
6 first class firefighter in the classified career
7 service at the time of the fireman's death.

8 (D) Notwithstanding subdivisions (A), (B), and (C)
9 of this paragraph (1), if the performance of an act or
10 acts of duty results directly in the death of a fireman
11 subject to this Section, or prevents him from
12 subsequently resuming active service in the fire
13 department, then a surviving spouse who would
14 otherwise meet the eligibility requirements for a
15 death in the line of duty widow's annuity granted
16 under Section 6-140 shall be deemed to be qualified
17 for a Tier 2 surviving spouse's annuity under this
18 subdivision (D); except that no such annuity shall be
19 paid to the surviving spouse of a fireman who dies
20 while in receipt of disability benefits when the
21 fireman's death was caused by an intervening illness
22 or injury unrelated to the illness or injury that had
23 prevented him from subsequently resuming active
24 service in the fire department. The Tier 2 surviving
25 spouse's annuity calculated under this subdivision (D)
26 shall be in lieu of, but in the same amount and paid in

1 the same manner as, the widow's annuity provided under
2 Section 6-140; except that the salary used for
3 computing a Tier 2 surviving spouse's annuity under
4 this subdivision (D) shall be subject to the Tier 2
5 salary cap provided under subsection (b) of this
6 Section.

7 (E) Notwithstanding any other provision of this
8 Article, the monthly Tier 2 surviving spouse's annuity
9 under subdivision (A) or (B) of this paragraph (1)
10 shall be increased on the January 1 next occurring
11 after (i) attainment of age 60 by the recipient of the
12 Tier 2 surviving spouse's annuity or (ii) the first
13 anniversary of the Tier 2 surviving spouse's annuity
14 start date, whichever is later, and on each January 1
15 thereafter, by 3% or one-half the annual unadjusted
16 percentage increase in the consumer price index-u for
17 the 12 months ending with September preceding each
18 November 1, whichever is less, of the originally
19 granted Tier 2 surviving spouse's annuity. If the
20 annual unadjusted percentage change in the consumer
21 price index-u for a 12-month period ending in
22 September is zero or, when compared with the preceding
23 period, decreases, then the annuity shall not be
24 increased.

25 (F) Notwithstanding the other provisions of this
26 paragraph (1), for a qualified surviving spouse who is

1 entitled to a Tier 2 surviving spouse's annuity under
2 subdivision (A), (B), (C), or (D) of this paragraph
3 (1), that Tier 2 surviving spouse's annuity shall not
4 be less than the amount of the minimum widow's annuity
5 established from time to time under Section 6-128.4.

6 (2) Surviving children of a deceased fireman subject
7 to this Section who would otherwise meet the eligibility
8 requirements for a child's annuity set forth in Sections
9 6-147 and 6-148 shall be deemed qualified to receive a
10 Tier 2 child's annuity under this subsection (c), which
11 shall be in lieu of, but in the same amount and paid in the
12 same manner as, the child's annuity provided under those
13 Sections; except that any salary used for computing a Tier
14 2 child's annuity shall be subject to the Tier 2 salary cap
15 provided under subsection (b) of this Section. For
16 purposes of determining any pro rata reduction in child's
17 annuities under this subsection (c), references in Section
18 6-148 to the combined annuities of the family shall be
19 deemed to refer to the combined Tier 2 surviving spouse's
20 annuity, if any, and the Tier 2 child's annuities payable
21 under this subsection (c).

22 (3) Surviving parents of a deceased fireman subject to
23 this Section who would otherwise meet the eligibility
24 requirements for a parent's annuity set forth in Section
25 6-149 shall be deemed qualified to receive a Tier 2
26 parent's annuity under this subsection (c), which shall be

1 in lieu of, but in the same amount and paid in the same
2 manner as, the parent's annuity provided under Section
3 6-149; except that any salary used for computing a Tier 2
4 parent's annuity shall be subject to the Tier 2 salary cap
5 provided under subsection (b) of this Section. For the
6 purposes of this Section, a reference to "annuity" in
7 Section 6-149 includes: (i) in the context of a widow, a
8 Tier 2 surviving spouse's annuity and (ii) in the context
9 of a child, a Tier 2 child's annuity.

10 (d) The General Assembly finds and declares that the
11 provisions of this Section, as enacted by Public Act 96-1495,
12 require clarification relating to necessary eligibility
13 standards and the manner of determining and paying the
14 intended Tier 2 benefits and contributions in order to enable
15 the Fund to unambiguously implement and administer benefits
16 for Tier 2 members. The changes to this Section and the
17 conforming changes to Sections 6-150, 6-158, 6-164 (except for
18 the changes to subsection (a) of that Section), 6-166, and
19 6-167 made by this amendatory Act of the 99th General Assembly
20 are enacted to clarify the provisions of this Section as
21 enacted by Public Act 96-1495, and are hereby declared to
22 represent and be consistent with the original and continuing
23 intent of this Section and Public Act 96-1495.

24 (e) The changes to Sections 6-150, 6-158, 6-164 (except
25 for the changes to subsection (a) of that Section), 6-166, and
26 6-167 made by this amendatory Act of the 99th General Assembly

1 are intended to be retroactive to January 1, 2011 (the
2 effective date of Public Act 96-1495) and, for the purposes of
3 Section 1-103.1 of this Code, they apply without regard to
4 whether the relevant fireman was in service on or after the
5 effective date of this amendatory Act of the 99th General
6 Assembly.

7 (Source: P.A. 99-905, eff. 11-29-16.)

8 Section 90. The State Mandates Act is amended by adding
9 Section 8.45 as follows:

10 (30 ILCS 805/8.45 new)

11 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and
12 8 of this Act, no reimbursement by the State is required for
13 the implementation of any mandate created by this amendatory
14 Act of the 102nd General Assembly.

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