



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1632

Introduced 2/8/2023, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

See Index

Amends the Chicago Police Article of the Illinois Pension Code. Provides that for Tier 2 policemen, "final average salary" is the greater of: (i) the average monthly salary obtained by dividing the total salary of the policeman during the 96 consecutive months of service within the last 120 months of service in which the total salary was the highest; or (ii) the average monthly salary obtained by dividing the total salary of the policeman during the 48 consecutive months of service within the last 60 months of service in which the total salary was the highest. Provides that the limit on salary for all purposes under the Code for Tier 2 policemen shall annually be increased by the lesser of 3% or the annual (instead of one-half of the annual) unadjusted percentage increase in the consumer price index-u, including all previous adjustments. Provides that the surviving spouse's annuity for certain Tier 2 policemen shall be 54% of the policeman's monthly salary at the time of the policeman's death. Provides that if the deceased policeman was a parent of a child or children and there is a surviving spouse, 12% of the policeman's monthly salary at the date of death, or 12% of the policeman's earned pension, shall be granted to the guardian of any such minor child or children. Provides that upon the death of the surviving spouse leaving one or more children under the age of 18, or upon the death of a policeman leaving one or more children but no surviving spouse, a monthly pension of 20% of the policeman's monthly salary at the date of death or 20% of the policeman's earned pension at the date of death shall be granted to the guardian of each such child until the child reaches age 18. Makes other changes. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB103 27796 RPS 54174 b

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 5-238 as follows:

6 (40 ILCS 5/5-238)

7 Sec. 5-238. 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 policeman under this Article on or after January 1,
11 2011, and to certain qualified survivors of such a policeman.
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 policeman who has withdrawn from service, has
16 attained age 50 or more, and has 10 or more years of service in
17 that 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 police officer. 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 police officer's age at retirement is

1 under age 55. The Tier 2 monthly retirement annuity is in lieu
2 of any age and service annuity or other form of retirement
3 annuity under 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: (i) the average monthly salary
8 obtained by dividing the total salary of the policeman 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 (ii) the
12 average monthly salary obtained by dividing the total salary
13 of the policeman during the 48 consecutive months of service
14 within the last 60 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 Nothing in this amendatory Act of the 103rd General
3 Assembly shall cause or otherwise result in any retroactive
4 adjustment of any employee contributions.

5 (c) Notwithstanding any other provision of this Article,
6 for a person who first becomes a policeman under this Article
7 on or after January 1, 2011, eligibility for and the amount of
8 the annuity to which the qualified surviving spouse, children,
9 and parents are entitled under this subsection (c) shall be
10 determined as follows:

11 (1) The surviving spouse of a deceased policeman to
12 whom this Section applies shall be deemed qualified to
13 receive a Tier 2 surviving spouse's annuity under this
14 paragraph (1) if: (i) the deceased policeman meets the
15 requirements specified under subdivision (A), (B), (C), or
16 (D) of this paragraph (1); and (ii) the surviving spouse
17 would not otherwise be excluded from receiving a widow's
18 annuity under the eligibility requirements for a widow's
19 annuity set forth in Section 5-146. The Tier 2 surviving
20 spouse's annuity is in lieu of the widow's annuity
21 determined under any other Section of this Article and is
22 subject to the requirements of Section 5-147.1.

23 As used in this subsection (c), "earned annuity" means
24 a Tier 2 monthly retirement annuity determined under
25 subsection (b) of this Section, including any increases
26 the policeman had received pursuant to Section 5-167.1.

1 (A) If the deceased policeman was receiving an
2 earned annuity at the date of his or her death, the
3 Tier 2 surviving spouse's annuity under this paragraph
4 (1) shall be in the amount of 66 2/3% of the
5 policeman's earned annuity at the date of death.

6 If the deceased policeman was a parent of a child
7 or children, including any child who has been
8 conceived but not yet born, and there is a surviving
9 spouse, 12% of the policeman's earned annuity at the
10 date of death shall be granted to the guardian of any
11 such minor child or children for each such child until
12 attainment of age 18. Upon the death of the surviving
13 spouse leaving one or more children under the age of
14 18, or upon the death of a policeman leaving one or
15 more children under the age of 18 but no surviving
16 spouse, a monthly pension of 20% of the policeman's
17 monthly salary at the date of death shall be granted to
18 the duly appointed guardian of each such child for the
19 support and maintenance of each such child until the
20 child reaches age 18. The benefit in this paragraph is
21 in lieu of a benefit under paragraph (2) of this
22 subsection (c) but does not apply if the beneficiary
23 is entitled to receive a greater benefit under
24 paragraph (2) of this subsection (c).

25 (B) If the deceased policeman was not receiving an
26 earned annuity but had at least 10 years of service at

1 the time of death, the Tier 2 surviving spouse's
2 annuity under this paragraph (1) shall be the greater
3 of: (i) 30% of the annual maximum salary attached to
4 the classified civil service position of a first class
5 patrolman at the time of his death; (ii) 54% of the
6 policeman's monthly salary at the time of the
7 policeman's death; or (iii) ~~(ii)~~ 66 2/3% of the Tier 2
8 monthly retirement annuity that the deceased policeman
9 would have been eligible to receive under subsection
10 (b) of this Section, based upon the actual service
11 accrued through the day before the policeman's death,
12 but determined as though the policeman was at least
13 age 55 on the day before his or her death and retired
14 on that day.

15 If the deceased policeman was a parent of a child
16 or children, including any child who has been
17 conceived but not yet born, and there is a surviving
18 spouse, 12% of the policeman's monthly salary at the
19 date of death shall be granted to the guardian of any
20 such minor child or children for each such child until
21 attainment of age 18. Upon the death of the surviving
22 spouse leaving one or more children under the age of
23 18, or upon the death of a policeman leaving one or
24 more children under the age of 18 but no surviving
25 spouse, a monthly pension of 20% of the policeman's
26 monthly salary at the date of death shall be granted to

1 the duly appointed guardian of each such child for the
2 support and maintenance of each such child until the
3 child reaches age 18. The benefit in this paragraph is
4 in lieu of a benefit under paragraph (2) of this
5 subsection (c) but does not apply if the beneficiary
6 is entitled to receive a greater benefit under
7 paragraph (2) of this subsection (c).

8 (C) If the deceased policeman was an active
9 policeman with at least 1 1/2 but less than 10 years of
10 service at the time of death, the Tier 2 surviving
11 spouse's annuity under this paragraph (1) shall be the
12 greater of: (i) ~~in the amount of~~ 30% of the annual
13 maximum salary attached to the classified civil
14 service position of a first class patrolman at the
15 time of his death; or (ii) 54% of the policeman's
16 monthly salary at the time of the policeman's death.

17 If the deceased policeman was a parent of a child
18 or children, including any child who has been
19 conceived but not yet born, and there is a surviving
20 spouse, 12% of the policeman's monthly salary at the
21 date of death shall be granted to the guardian of any
22 such minor child or children for each such child until
23 attainment of age 18. Upon the death of the surviving
24 spouse leaving one or more children under the age of
25 18, or upon the death of a policeman leaving one or
26 more children under the age of 18 but no surviving

1 spouse, a monthly pension of 20% of the policeman's
2 monthly salary at the date of death shall be granted to
3 the duly appointed guardian of each such child for the
4 support and maintenance of each such child until the
5 child reaches age 18. The benefit in this paragraph is
6 in lieu of a benefit under paragraph (2) of this
7 subsection (c) but does not apply if the beneficiary
8 is entitled to receive a greater benefit under
9 paragraph (2) of this subsection (c).

10 (D) If the performance of an act or acts of duty
11 results directly in the death of a policeman subject
12 to this Section, or prevents him from subsequently
13 resuming active service in the police department, and
14 if the policeman's Tier 2 surviving spouse would
15 otherwise meet the eligibility requirements for a
16 compensation annuity or supplemental annuity granted
17 under Section 5-144, then in addition to the Tier 2
18 surviving spouse's annuity provided under subdivision
19 (A), (B), or (C) of this paragraph (1), whichever
20 applies, the Tier 2 surviving spouse shall be
21 qualified to receive compensation annuity or
22 supplemental annuity, as would be provided under
23 Section 5-144, in order to bring the total benefit up
24 to the applicable 75% salary limitation provided in
25 that Section, but subject to the Tier 2 salary cap
26 provided under subsection (b) of this Section; except

1 that no such annuity shall be paid to the surviving
2 spouse of a policeman who dies while in receipt of
3 disability benefits when the policeman's death was
4 caused by an intervening illness or injury unrelated
5 to the illness or injury that had prevented him from
6 subsequently resuming active service in the police
7 department.

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

26 For the purposes of this Section, "consumer price

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

10 (F) Notwithstanding the other provisions of this
11 paragraph (1), for a qualified surviving spouse who is
12 entitled to a Tier 2 surviving spouse's annuity under
13 subdivision (A), (B), (C), or (D) of this paragraph
14 (1), that Tier 2 surviving spouse's annuity shall not
15 be less than the amount of the minimum widow's annuity
16 established from time to time under Section 5-167.4.

17 (2) Surviving children of a deceased policeman subject
18 to this Section who would otherwise meet the eligibility
19 requirements for a child's annuity set forth in Sections
20 5-151 and 5-152 shall be deemed qualified to receive a
21 Tier 2 child's annuity under this subsection (c), which
22 shall be in lieu of, but in the same amount and paid in the
23 same manner as, the child's annuity provided under those
24 Sections; except that any salary used for computing a Tier
25 2 child's annuity shall be subject to the Tier 2 salary cap
26 provided under subsection (b) of this Section. For

1 purposes of determining any pro rata reduction in child's
2 annuities under this subsection (c), references in Section
3 5-152 to the combined annuities of the family shall be
4 deemed to refer to the combined Tier 2 surviving spouse's
5 annuity, if any, and the Tier 2 child's annuities payable
6 under this subsection (c).

7 (3) Surviving parents of a deceased policeman subject
8 to this Section who would otherwise meet the eligibility
9 requirements for a parent's annuity set forth in Section
10 5-152 shall be deemed qualified to receive a Tier 2
11 parent's annuity under this subsection (c), which shall be
12 in lieu of, but in the same amount and paid in the same
13 manner as, the parent's annuity provided under Section
14 5-152.1; except that any salary used for computing a Tier
15 2 parent's annuity shall be subject to the Tier 2 salary
16 cap provided under subsection (b) of this Section. For the
17 purposes of this Section, a reference to "annuity" in
18 Section 5-152.1 includes: (i) in the context of a widow, a
19 Tier 2 surviving spouse's annuity and (ii) in the context
20 of a child, a Tier 2 child's annuity.

21 Notwithstanding Section 1-103.1, the changes made to this
22 subsection by this amendatory Act of the 103rd General
23 Assembly apply without regard to whether the deceased
24 policeman was in service on or after the effective date of this
25 amendatory Act of the 103rd General Assembly. The changes made
26 by this amendatory Act of the 103rd General Assembly shall not

1 diminish the survivor's benefits described in this Section.

2 (d) The General Assembly finds and declares that the
3 provisions of this Section, as enacted by Public Act 96-1495,
4 require clarification relating to necessary eligibility
5 standards and the manner of determining and paying the
6 intended Tier 2 benefits and contributions in order to enable
7 the Fund to unambiguously implement and administer benefits
8 for Tier 2 members. The changes to this Section and the
9 conforming changes to Sections 5-153, 5-155, 5-163, 5-167.1
10 (except for the changes to subsection (a) of that Section),
11 5-169, and 5-170 made by this amendatory Act of the 99th
12 General Assembly are enacted to clarify the provisions of this
13 Section as enacted by Public Act 96-1495, and are hereby
14 declared to represent and be consistent with the original and
15 continuing intent of this Section and Public Act 96-1495.

16 (e) The changes to Sections 5-153, 5-155, 5-163, 5-167.1
17 (except for the changes to subsection (a) of that Section),
18 5-169, and 5-170 made by this amendatory Act of the 99th
19 General Assembly are intended to be retroactive to January 1,
20 2011 (the effective date of Public Act 96-1495) and, for the
21 purposes of Section 1-103.1 of this Code, they apply without
22 regard to whether the relevant policeman was in service on or
23 after the effective date of this amendatory Act of the 99th
24 General Assembly.

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

1 Section 90. The State Mandates Act is amended by adding
2 Section 8.47 as follows:

3 (30 ILCS 805/8.47 new)

4 Sec. 8.47. Exempt mandate. Notwithstanding Sections 6 and
5 8 of this Act, no reimbursement by the State is required for
6 the implementation of any mandate created by this amendatory
7 Act of the 103rd General Assembly.

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

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2

Statutes amended in order of appearance

3

40 ILCS 5/5-238

4

30 ILCS 805/8.47 new