



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB2906

by Rep. Robert Martwick

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/6-229  
30 ILCS 805/8.43 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.

LRB101 09102 RPS 54195 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 changing  
5 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15 (b) A fireman who has withdrawn from service, has attained  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 the  
9 96 consecutive months of service within the last 120 months of  
10 service in which the total salary was the highest by the number  
11 of months of service in that period or (2) the average monthly  
12 salary obtained by dividing the total salary of the fireman  
13 during the 48 consecutive months of service within the last 120  
14 months of service in which the total salary was the highest by  
15 the number of months of service in that period.

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

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

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

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

1 any other Section of this Article and is subject to the  
2 requirements of Section 6-143.2.

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

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

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

26 (C) If the deceased fireman was an active fireman

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

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

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

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

23 (F) Notwithstanding the other provisions of this  
24 paragraph (1), for a qualified surviving spouse who is  
25 entitled to a Tier 2 surviving spouse's annuity under  
26 subdivision (A), (B), (C), or (D) of this paragraph

1           (1), that Tier 2 surviving spouse's annuity shall not  
2           be less than the amount of the minimum widow's annuity  
3           established from time to time under Section 6-128.4.

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

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



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

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

22          (e) The changes to Sections 6-150, 6-158, 6-164 (except for  
23          the changes to subsection (a) of that Section), 6-166, and  
24          6-167 made by this amendatory Act of the 99th General Assembly  
25          are intended to be retroactive to January 1, 2011 (the  
26          effective date of Public Act 96-1495) and, for the purposes of

1 Section 1-103.1 of this Code, they apply without regard to  
2 whether the relevant fireman was in service on or after the  
3 effective date of this amendatory Act of the 99th General  
4 Assembly.

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

6 Section 90. The State Mandates Act is amended by adding  
7 Section 8.43 as follows:

8 (30 ILCS 805/8.43 new)

9 Sec. 8.43. Exempt mandate. Notwithstanding Sections 6 and 8  
10 of this Act, no reimbursement by the State is required for the  
11 implementation of any mandate created by this amendatory Act of  
12 the 101st General Assembly.

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