



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3052

Introduced 2/5/2020, 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.

LRB101 19782 RPS 69293 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 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 under

1 age 55. The Tier 2 monthly retirement annuity is in lieu of any
2 age and service annuity or other form of retirement annuity
3 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 months
10 of service in which the total salary was the highest by the
11 number of months of service in that period; or (ii) the average
12 monthly salary obtained by dividing the total salary of the
13 policeman during the 48 consecutive months of service within
14 the last 60 months of service in which the total salary was the
15 highest by 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 Nothing in this amendatory Act of the 101st General
2 Assembly shall cause or otherwise result in any retroactive
3 adjustment of any employee contributions.

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

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

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

26 (A) If the deceased policeman was receiving an

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

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

24 (B) If the deceased policeman was not receiving an
25 earned annuity but had at least 10 years of service at
26 the time of death, the Tier 2 surviving spouse's

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

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

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

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

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

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

9 (D) If the performance of an act or acts of duty
10 results directly in the death of a policeman subject to
11 this Section, or prevents him from subsequently
12 resuming active service in the police department, and
13 if the policeman's Tier 2 surviving spouse would
14 otherwise meet the eligibility requirements for a
15 compensation annuity or supplemental annuity granted
16 under Section 5-144, then in addition to the Tier 2
17 surviving spouse's annuity provided under subdivision
18 (A), (B), or (C) of this paragraph (1), whichever
19 applies, the Tier 2 surviving spouse shall be qualified
20 to receive compensation annuity or supplemental
21 annuity, as would be provided under Section 5-144, in
22 order to bring the total benefit up to the applicable
23 75% salary limitation provided in that Section, but
24 subject to the Tier 2 salary cap provided under
25 subsection (b) of this Section; except that no such
26 annuity shall be paid to the surviving spouse of a

1 policeman who dies while in receipt of disability
2 benefits when the policeman's death was caused by an
3 intervening illness or injury unrelated to the illness
4 or injury that had prevented him from subsequently
5 resuming active service in the police department.

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 (but not less than zero) in the
16 consumer price index-u for the 12 months ending with
17 the September preceding each November 1, whichever is
18 less, of the originally granted Tier 2 surviving
19 spouse's annuity. If the unadjusted percentage change
20 in the consumer price index-u for a 12-month period
21 ending in September is zero or, when compared with the
22 preceding period, decreases, then the annuity shall
23 not be increased.

24 For the purposes of this Section, "consumer price
25 index-u" means the index published by the Bureau of
26 Labor Statistics of the United States Department of

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

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

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

1 the combined annuities of the family shall be deemed to
2 refer to the combined Tier 2 surviving spouse's annuity, if
3 any, and the Tier 2 child's annuities payable under this
4 subsection (c).

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

19 Notwithstanding Section 1-103.1, the changes made to this
20 subsection by this amendatory Act of the 101st General Assembly
21 apply without regard to whether the deceased policeman was in
22 service on or after the effective date of this amendatory Act
23 of the 101st General Assembly. The changes made by this
24 amendatory Act of the 101st General Assembly shall not diminish
25 the survivor's benefits described in this Section.

26 (d) The General Assembly finds and declares that the

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

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

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

24 Section 90. The State Mandates Act is amended by adding
25 Section 8.44 as follows:

1 (30 ILCS 805/8.44 new)

2 Sec. 8.44. Exempt mandate. Notwithstanding Sections 6 and 8
3 of this Act, no reimbursement by the State is required for the
4 implementation of any mandate created by this amendatory Act of
5 the 101st General Assembly.

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

1

INDEX

2

Statutes amended in order of appearance

3

40 ILCS 5/5-238

4

30 ILCS 805/8.44 new