



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5343

Introduced 1/31/2022, by Rep. Frances Ann Hurley

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-160
40 ILCS 5/14-152.1

Amends the Illinois Pension Code. Provides that a State policeman under the Tier 2 provisions is entitled to an annuity calculated under the alternative retirement formula, in lieu of the regular or minimum retirement annuity, only if the person has withdrawn from service with not less than 20 years of eligible creditable service and has attained age 55 (instead of age 60), regardless of whether the attainment of age 55 (instead of age 60) occurs while the person is still in service. Provides that any benefit increase that results from the amendatory Act is excluded from the definition of "new benefit increase". Effective immediately.

LRB102 24924 RPS 34175 b

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 Sections 1-160 and 14-152.1 as follows:

6 (40 ILCS 5/1-160)

7 Sec. 1-160. Provisions applicable to new hires.

8 (a) The provisions of this Section apply to a person who,
9 on or after January 1, 2011, first becomes a member or a
10 participant under any reciprocal retirement system or pension
11 fund established under this Code, other than a retirement
12 system or pension fund established under Article 2, 3, 4, 5, 6,
13 7, 15, or 18 of this Code, notwithstanding any other provision
14 of this Code to the contrary, but do not apply to any
15 self-managed plan established under this Code or to any
16 participant of the retirement plan established under Section
17 22-101; except that this Section applies to a person who
18 elected to establish alternative credits by electing in
19 writing after January 1, 2011, but before August 8, 2011,
20 under Section 7-145.1 of this Code. Notwithstanding anything
21 to the contrary in this Section, for purposes of this Section,
22 a person who is a Tier 1 regular employee as defined in Section
23 7-109.4 of this Code or who participated in a retirement

1 system under Article 15 prior to January 1, 2011 shall be
2 deemed a person who first became a member or participant prior
3 to January 1, 2011 under any retirement system or pension fund
4 subject to this Section. The changes made to this Section by
5 Public Act 98-596 are a clarification of existing law and are
6 intended to be retroactive to January 1, 2011 (the effective
7 date of Public Act 96-889), notwithstanding the provisions of
8 Section 1-103.1 of this Code.

9 This Section does not apply to a person who first becomes a
10 noncovered employee under Article 14 on or after the
11 implementation date of the plan created under Section 1-161
12 for that Article, unless that person elects under subsection
13 (b) of Section 1-161 to instead receive the benefits provided
14 under this Section and the applicable provisions of that
15 Article.

16 This Section does not apply to a person who first becomes a
17 member or participant under Article 16 on or after the
18 implementation date of the plan created under Section 1-161
19 for that Article, unless that person elects under subsection
20 (b) of Section 1-161 to instead receive the benefits provided
21 under this Section and the applicable provisions of that
22 Article.

23 This Section does not apply to a person who elects under
24 subsection (c-5) of Section 1-161 to receive the benefits
25 under Section 1-161.

26 This Section does not apply to a person who first becomes a

1 member or participant of an affected pension fund on or after 6
2 months after the resolution or ordinance date, as defined in
3 Section 1-162, unless that person elects under subsection (c)
4 of Section 1-162 to receive the benefits provided under this
5 Section and the applicable provisions of the Article under
6 which he or she is a member or participant.

7 (b) "Final average salary" means, except as otherwise
8 provided in this subsection, the average monthly (or annual)
9 salary obtained by dividing the total salary or earnings
10 calculated under the Article applicable to the member or
11 participant during the 96 consecutive months (or 8 consecutive
12 years) of service within the last 120 months (or 10 years) of
13 service in which the total salary or earnings calculated under
14 the applicable Article was the highest by the number of months
15 (or years) of service in that period. For the purposes of a
16 person who first becomes a member or participant of any
17 retirement system or pension fund to which this Section
18 applies on or after January 1, 2011, in this Code, "final
19 average salary" shall be substituted for the following:

20 (1) (Blank).

21 (2) In Articles 8, 9, 10, 11, and 12, "highest average
22 annual salary for any 4 consecutive years within the last
23 10 years of service immediately preceding the date of
24 withdrawal".

25 (3) In Article 13, "average final salary".

26 (4) In Article 14, "final average compensation".

1 (5) In Article 17, "average salary".

2 (6) In Section 22-207, "wages or salary received by
3 him at the date of retirement or discharge".

4 A member of the Teachers' Retirement System of the State
5 of Illinois who retires on or after June 1, 2021 and for whom
6 the 2020-2021 school year is used in the calculation of the
7 member's final average salary shall use the higher of the
8 following for the purpose of determining the member's final
9 average salary:

10 (A) the amount otherwise calculated under the first
11 paragraph of this subsection; or

12 (B) an amount calculated by the Teachers' Retirement
13 System of the State of Illinois using the average of the
14 monthly (or annual) salary obtained by dividing the total
15 salary or earnings calculated under Article 16 applicable
16 to the member or participant during the 96 months (or 8
17 years) of service within the last 120 months (or 10 years)
18 of service in which the total salary or earnings
19 calculated under the Article was the highest by the number
20 of months (or years) of service in that period.

21 (b-5) Beginning on January 1, 2011, for all purposes under
22 this Code (including without limitation the calculation of
23 benefits and employee contributions), the annual earnings,
24 salary, or wages (based on the plan year) of a member or
25 participant to whom this Section applies shall not exceed
26 \$106,800; however, that amount shall annually thereafter be

1 increased by the lesser of (i) 3% of that amount, including all
2 previous adjustments, or (ii) one-half the annual unadjusted
3 percentage increase (but not less than zero) in the consumer
4 price index-u for the 12 months ending with the September
5 preceding each November 1, including all previous adjustments.

6 For the purposes of this Section, "consumer price index-u"
7 means the index published by the Bureau of Labor Statistics of
8 the United States Department of Labor that measures the
9 average change in prices of goods and services purchased by
10 all urban consumers, United States city average, all items,
11 1982-84 = 100. The new amount resulting from each annual
12 adjustment shall be determined by the Public Pension Division
13 of the Department of Insurance and made available to the
14 boards of the retirement systems and pension funds by November
15 1 of each year.

16 (c) A member or participant is entitled to a retirement
17 annuity upon written application if he or she has attained age
18 67 (age 65, with respect to service under Article 12 that is
19 subject to this Section, for a member or participant under
20 Article 12 who first becomes a member or participant under
21 Article 12 on or after January 1, 2022 or who makes the
22 election under item (i) of subsection (d-15) of this Section)
23 and has at least 10 years of service credit and is otherwise
24 eligible under the requirements of the applicable Article.

25 A member or participant who has attained age 62 (age 60,
26 with respect to service under Article 12 that is subject to

1 this Section, for a member or participant under Article 12 who
2 first becomes a member or participant under Article 12 on or
3 after January 1, 2022 or who makes the election under item (i)
4 of subsection (d-15) of this Section) and has at least 10 years
5 of service credit and is otherwise eligible under the
6 requirements of the applicable Article may elect to receive
7 the lower retirement annuity provided in subsection (d) of
8 this Section.

9 (c-5) A person who first becomes a member or a participant
10 subject to this Section on or after July 6, 2017 (the effective
11 date of Public Act 100-23), notwithstanding any other
12 provision of this Code to the contrary, is entitled to a
13 retirement annuity under Article 8 or Article 11 upon written
14 application if he or she has attained age 65 and has at least
15 10 years of service credit and is otherwise eligible under the
16 requirements of Article 8 or Article 11 of this Code,
17 whichever is applicable.

18 (d) The retirement annuity of a member or participant who
19 is retiring after attaining age 62 (age 60, with respect to
20 service under Article 12 that is subject to this Section, for a
21 member or participant under Article 12 who first becomes a
22 member or participant under Article 12 on or after January 1,
23 2022 or who makes the election under item (i) of subsection
24 (d-15) of this Section) with at least 10 years of service
25 credit shall be reduced by one-half of 1% for each full month
26 that the member's age is under age 67 (age 65, with respect to

1 service under Article 12 that is subject to this Section, for a
2 member or participant under Article 12 who first becomes a
3 member or participant under Article 12 on or after January 1,
4 2022 or who makes the election under item (i) of subsection
5 (d-15) of this Section).

6 (d-5) The retirement annuity payable under Article 8 or
7 Article 11 to an eligible person subject to subsection (c-5)
8 of this Section who is retiring at age 60 with at least 10
9 years of service credit shall be reduced by one-half of 1% for
10 each full month that the member's age is under age 65.

11 (d-10) Each person who first became a member or
12 participant under Article 8 or Article 11 of this Code on or
13 after January 1, 2011 and prior to July 6, 2017 (the effective
14 date of Public Act 100-23) ~~this amendatory Act of the 100th~~
15 ~~General Assembly~~ shall make an irrevocable election either:

16 (i) to be eligible for the reduced retirement age
17 provided in subsections (c-5) and (d-5) of this Section,
18 the eligibility for which is conditioned upon the member
19 or participant agreeing to the increases in employee
20 contributions for age and service annuities provided in
21 subsection (a-5) of Section 8-174 of this Code (for
22 service under Article 8) or subsection (a-5) of Section
23 11-170 of this Code (for service under Article 11); or

24 (ii) to not agree to item (i) of this subsection
25 (d-10), in which case the member or participant shall
26 continue to be subject to the retirement age provisions in

1 subsections (c) and (d) of this Section and the employee
2 contributions for age and service annuity as provided in
3 subsection (a) of Section 8-174 of this Code (for service
4 under Article 8) or subsection (a) of Section 11-170 of
5 this Code (for service under Article 11).

6 The election provided for in this subsection shall be made
7 between October 1, 2017 and November 15, 2017. A person
8 subject to this subsection who makes the required election
9 shall remain bound by that election. A person subject to this
10 subsection who fails for any reason to make the required
11 election within the time specified in this subsection shall be
12 deemed to have made the election under item (ii).

13 (d-15) Each person who first becomes a member or
14 participant under Article 12 on or after January 1, 2011 and
15 prior to January 1, 2022 shall make an irrevocable election
16 either:

17 (i) to be eligible for the reduced retirement age
18 specified in subsections (c) and (d) of this Section, the
19 eligibility for which is conditioned upon the member or
20 participant agreeing to the increase in employee
21 contributions for service annuities specified in
22 subsection (b) of Section 12-150; or

23 (ii) to not agree to item (i) of this subsection
24 (d-15), in which case the member or participant shall not
25 be eligible for the reduced retirement age specified in
26 subsections (c) and (d) of this Section and shall not be

1 subject to the increase in employee contributions for
2 service annuities specified in subsection (b) of Section
3 12-150.

4 The election provided for in this subsection shall be made
5 between January 1, 2022 and April 1, 2022. A person subject to
6 this subsection who makes the required election shall remain
7 bound by that election. A person subject to this subsection
8 who fails for any reason to make the required election within
9 the time specified in this subsection shall be deemed to have
10 made the election under item (ii).

11 (e) Any retirement annuity or supplemental annuity shall
12 be subject to annual increases on the January 1 occurring
13 either on or after the attainment of age 67 (age 65, with
14 respect to service under Article 12 that is subject to this
15 Section, for a member or participant under Article 12 who
16 first becomes a member or participant under Article 12 on or
17 after January 1, 2022 or who makes the election under item (i)
18 of subsection (d-15); and beginning on July 6, 2017 (the
19 effective date of Public Act 100-23) ~~this amendatory Act of~~
20 ~~the 100th General Assembly~~, age 65 with respect to service
21 under Article 8 or Article 11 for eligible persons who: (i) are
22 subject to subsection (c-5) of this Section; or (ii) made the
23 election under item (i) of subsection (d-10) of this Section)
24 or the first anniversary of the annuity start date, whichever
25 is later. Each annual increase shall be calculated at 3% or
26 one-half the annual unadjusted percentage increase (but not

1 less than zero) in the consumer price index-u for the 12 months
2 ending with the September preceding each November 1, whichever
3 is less, of the originally granted retirement annuity. If the
4 annual unadjusted percentage change in the consumer price
5 index-u for the 12 months ending with the September preceding
6 each November 1 is zero or there is a decrease, then the
7 annuity shall not be increased.

8 For the purposes of Section 1-103.1 of this Code, the
9 changes made to this Section by Public Act 102-263 ~~this~~
10 ~~amendatory Act of the 102nd General Assembly~~ are applicable
11 without regard to whether the employee was in active service
12 on or after August 6, 2021 (the effective date of Public Act
13 102-263) ~~this amendatory Act of the 102nd General Assembly~~.

14 For the purposes of Section 1-103.1 of this Code, the
15 changes made to this Section by Public Act 100-23 ~~this~~
16 ~~amendatory Act of the 100th General Assembly~~ are applicable
17 without regard to whether the employee was in active service
18 on or after July 6, 2017 (the effective date of Public Act
19 100-23) ~~this amendatory Act of the 100th General Assembly~~.

20 (f) The initial survivor's or widow's annuity of an
21 otherwise eligible survivor or widow of a retired member or
22 participant who first became a member or participant on or
23 after January 1, 2011 shall be in the amount of 66 2/3% of the
24 retired member's or participant's retirement annuity at the
25 date of death. In the case of the death of a member or
26 participant who has not retired and who first became a member

1 or participant on or after January 1, 2011, eligibility for a
2 survivor's or widow's annuity shall be determined by the
3 applicable Article of this Code. The initial benefit shall be
4 $66 \frac{2}{3}\%$ of the earned annuity without a reduction due to age. A
5 child's annuity of an otherwise eligible child shall be in the
6 amount prescribed under each Article if applicable. Any
7 survivor's or widow's annuity shall be increased (1) on each
8 January 1 occurring on or after the commencement of the
9 annuity if the deceased member died while receiving a
10 retirement annuity or (2) in other cases, on each January 1
11 occurring after the first anniversary of the commencement of
12 the annuity. Each annual increase shall be calculated at 3% or
13 one-half the annual unadjusted percentage increase (but not
14 less than zero) in the consumer price index-u for the 12 months
15 ending with the September preceding each November 1, whichever
16 is less, of the originally granted survivor's annuity. If the
17 annual unadjusted percentage change in the consumer price
18 index-u for the 12 months ending with the September preceding
19 each November 1 is zero or there is a decrease, then the
20 annuity shall not be increased.

21 (g) The benefits in Section 14-110 apply ~~only~~ if the
22 person is ~~a State policeman,~~ a fire fighter in the fire
23 protection service of a department, a conservation police
24 officer, an investigator for the Secretary of State, an arson
25 investigator, a Commerce Commission police officer,
26 investigator for the Department of Revenue or the Illinois

1 Gaming Board, a security employee of the Department of
2 Corrections or the Department of Juvenile Justice, or a
3 security employee of the Department of Innovation and
4 Technology, as those terms are defined in subsection (b) and
5 subsection (c) of Section 14-110. A person who meets the
6 requirements of this Section is entitled to an annuity
7 calculated under the provisions of Section 14-110, in lieu of
8 the regular or minimum retirement annuity, only if the person
9 has withdrawn from service with not less than 20 years of
10 eligible creditable service and has attained age 60,
11 regardless of whether the attainment of age 60 occurs while
12 the person is still in service.

13 (g-5) The benefits in Section 14-110 apply if the person
14 is a State policeman. A person who meets the requirements of
15 this Section is entitled to an annuity calculated under the
16 provisions of Section 14-110, in lieu of the regular or
17 minimum retirement annuity, only if the person has withdrawn
18 from service with not less than 20 years of eligible
19 creditable service and has attained age 55, regardless of
20 whether the attainment of age 55 occurs while the person is
21 still in service.

22 (h) If a person who first becomes a member or a participant
23 of a retirement system or pension fund subject to this Section
24 on or after January 1, 2011 is receiving a retirement annuity
25 or retirement pension under that system or fund and becomes a
26 member or participant under any other system or fund created

1 by this Code and is employed on a full-time basis, except for
2 those members or participants exempted from the provisions of
3 this Section under subsection (a) of this Section, then the
4 person's retirement annuity or retirement pension under that
5 system or fund shall be suspended during that employment. Upon
6 termination of that employment, the person's retirement
7 annuity or retirement pension payments shall resume and be
8 recalculated if recalculation is provided for under the
9 applicable Article of this Code.

10 If a person who first becomes a member of a retirement
11 system or pension fund subject to this Section on or after
12 January 1, 2012 and is receiving a retirement annuity or
13 retirement pension under that system or fund and accepts on a
14 contractual basis a position to provide services to a
15 governmental entity from which he or she has retired, then
16 that person's annuity or retirement pension earned as an
17 active employee of the employer shall be suspended during that
18 contractual service. A person receiving an annuity or
19 retirement pension under this Code shall notify the pension
20 fund or retirement system from which he or she is receiving an
21 annuity or retirement pension, as well as his or her
22 contractual employer, of his or her retirement status before
23 accepting contractual employment. A person who fails to submit
24 such notification shall be guilty of a Class A misdemeanor and
25 required to pay a fine of \$1,000. Upon termination of that
26 contractual employment, the person's retirement annuity or

1 retirement pension payments shall resume and, if appropriate,
2 be recalculated under the applicable provisions of this Code.

3 (i) (Blank).

4 (j) In the case of a conflict between the provisions of
5 this Section and any other provision of this Code, the
6 provisions of this Section shall control.

7 (Source: P.A. 101-610, eff. 1-1-20; 102-16, eff. 6-17-21;
8 102-210, eff. 1-1-22; 102-263, eff. 8-6-21; revised 9-28-21.)

9 (40 ILCS 5/14-152.1)

10 Sec. 14-152.1. Application and expiration of new benefit
11 increases.

12 (a) As used in this Section, "new benefit increase" means
13 an increase in the amount of any benefit provided under this
14 Article, or an expansion of the conditions of eligibility for
15 any benefit under this Article, that results from an amendment
16 to this Code that takes effect after June 1, 2005 (the
17 effective date of Public Act 94-4). "New benefit increase",
18 however, does not include any benefit increase resulting from
19 the changes made to Article 1 or this Article by Public Act
20 96-37, Public Act 100-23, Public Act 100-587, Public Act
21 100-611, Public Act 101-10, Public Act 101-610, Public Act
22 102-210, or this amendatory Act of the 102nd General Assembly
23 ~~this amendatory Act of the 102nd General Assembly.~~

24 (b) Notwithstanding any other provision of this Code or
25 any subsequent amendment to this Code, every new benefit

1 increase is subject to this Section and shall be deemed to be
2 granted only in conformance with and contingent upon
3 compliance with the provisions of this Section.

4 (c) The Public Act enacting a new benefit increase must
5 identify and provide for payment to the System of additional
6 funding at least sufficient to fund the resulting annual
7 increase in cost to the System as it accrues.

8 Every new benefit increase is contingent upon the General
9 Assembly providing the additional funding required under this
10 subsection. The Commission on Government Forecasting and
11 Accountability shall analyze whether adequate additional
12 funding has been provided for the new benefit increase and
13 shall report its analysis to the Public Pension Division of
14 the Department of Insurance. A new benefit increase created by
15 a Public Act that does not include the additional funding
16 required under this subsection is null and void. If the Public
17 Pension Division determines that the additional funding
18 provided for a new benefit increase under this subsection is
19 or has become inadequate, it may so certify to the Governor and
20 the State Comptroller and, in the absence of corrective action
21 by the General Assembly, the new benefit increase shall expire
22 at the end of the fiscal year in which the certification is
23 made.

24 (d) Every new benefit increase shall expire 5 years after
25 its effective date or on such earlier date as may be specified
26 in the language enacting the new benefit increase or provided

1 under subsection (c). This does not prevent the General
2 Assembly from extending or re-creating a new benefit increase
3 by law.

4 (e) Except as otherwise provided in the language creating
5 the new benefit increase, a new benefit increase that expires
6 under this Section continues to apply to persons who applied
7 and qualified for the affected benefit while the new benefit
8 increase was in effect and to the affected beneficiaries and
9 alternate payees of such persons, but does not apply to any
10 other person, including, without limitation, a person who
11 continues in service after the expiration date and did not
12 apply and qualify for the affected benefit while the new
13 benefit increase was in effect.

14 (Source: P.A. 101-10, eff. 6-5-19; 101-81, eff. 7-12-19;
15 101-610, eff. 1-1-20; 102-210, eff. 7-30-21.)

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