

# HB5811



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5811

by Rep. Barbara Wheeler

### SYNOPSIS AS INTRODUCED:

40 ILCS 5/3-144.2  
40 ILCS 5/4-138.10

from Ch. 108 1/2, par. 3-144.2

Amends the Downstate Police and Downstate Firefighter Articles of the Illinois Pension Code. In provisions concerning mistakes in benefit amounts, removes provisions that define "mistake". Effective immediately.

LRB099 16150 RPS 40476 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

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 Sections 3-144.2 and 4-138.10 as follows:

6 (40 ILCS 5/3-144.2) (from Ch. 108 1/2, par. 3-144.2)  
7 Sec. 3-144.2. Mistake in benefit.

8 (a) If the Fund commits a mistake by setting any benefit at  
9 an incorrect amount, it shall adjust the benefit to the correct  
10 level as soon as may be practicable after the mistake is  
11 discovered. ~~The term "mistake" includes a clerical or~~  
12 ~~administrative error executed by the Fund or participant as it~~  
13 ~~relates to a benefit under this Article; however, in no case~~  
14 ~~shall "mistake" include any benefit as it relates to the~~  
15 ~~reasonable calculation of the benefit or aspects of the benefit~~  
16 ~~based on salary, service credit, calculation or determination~~  
17 ~~of a disability, date of retirement, or other factors~~  
18 ~~significant to the calculation of the benefit that were~~  
19 ~~reasonably understood or agreed to by the Fund at the time of~~  
20 ~~retirement.~~

21 (b) If the benefit was mistakenly set too low, the Fund  
22 shall make a lump sum payment to the recipient of an amount  
23 equal to the difference between the benefits that should have

1 been paid and those actually paid, plus interest at the rate  
2 prescribed by the Public Pension Division of the Department of  
3 Insurance from the date the unpaid amounts accrued to the date  
4 of payment.

5 (c) If the benefit was mistakenly set too high, the Fund  
6 may recover the amount overpaid from the recipient thereof,  
7 either directly or by deducting such amount from the remaining  
8 benefits payable to the recipient as is indicated by the  
9 recipient. If the overpayment is recovered by deductions from  
10 the remaining benefits payable to the recipient, the monthly  
11 deduction shall not exceed 10% of the corrected monthly benefit  
12 unless otherwise indicated by the recipient.

13 However, if (i) the amount of the benefit was mistakenly  
14 set too high, and (ii) the error was undiscovered for 3 years  
15 or longer, and (iii) the error was not the result of fraud  
16 committed by the affected participant or beneficiary, then upon  
17 discovery of the mistake the benefit shall be adjusted to the  
18 correct level, but the recipient of the benefit need not repay  
19 to the Fund the excess amounts received in error.

20 (Source: P.A. 98-1117, eff. 8-26-14.)

21 (40 ILCS 5/4-138.10)

22 Sec. 4-138.10. Mistake in benefit.

23 (a) If the Fund commits a mistake by setting any benefit at  
24 an incorrect amount, it shall adjust the benefit to the correct  
25 level as soon as may be practicable after the mistake is

1 discovered. ~~The term "mistake" includes a clerical or~~  
2 ~~administrative error executed by the Fund or participant as it~~  
3 ~~relates to a benefit under this Article; however, in no case~~  
4 ~~shall "mistake" include any benefit as it relates to the~~  
5 ~~reasonable calculation of the benefit or aspects of the benefit~~  
6 ~~based on salary, service credit, calculation or determination~~  
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7 (Source: P.A. 98-1117, eff. 8-26-14.)

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