



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2105

Introduced 2/26/2021, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

40 ILCS 5/5-167.1 from Ch. 108 1/2, par. 5-167.1
40 ILCS 5/5-238
30 ILCS 805/8.45 new

Amends the Chicago Police Article of the Illinois Pension Code. Removes a birthdate restriction on eligibility at age 55 for a 3% automatic annual increase in retirement annuity that is not subject to a maximum increase of 30%. 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 Tier 2 limitation on salary 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. Provides that the surviving spouse's annuity for certain Tier 2 policemen shall be 54% of the policeman's monthly salary. Makes changes to the benefits paid to the guardian or surviving spouse of a deceased Tier 2 policeman if the policeman was the parent of a child. Makes other changes. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB102 12572 RPS 17910 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 5-167.1 and 5-238 as follows:

6 (40 ILCS 5/5-167.1) (from Ch. 108 1/2, par. 5-167.1)

7 Sec. 5-167.1. Automatic increase in annuity; retirement
8 from service after September 1, 1967.

9 (a) A policeman who retires from service after September
10 1, 1967 with at least 20 years of service credit shall, upon
11 either the first of the month following the first anniversary
12 of his date of retirement if he is age 55 ~~60 (age 55 if born~~
13 ~~before January 1, 1966)~~ or over on that anniversary date, or
14 upon the first of the month following his attainment of age 55
15 ~~60 (age 55 if born before January 1, 1966)~~ if it occurs after
16 the first anniversary of his retirement date, have his then
17 fixed and payable monthly annuity increased by 3% ~~4 1/2%~~ and
18 such first fixed annuity as granted at retirement increased by
19 an additional 3% ~~4 1/2%~~ in January of each year thereafter ~~up~~
20 ~~to a maximum increase of 30%. Beginning January 1, 1983 for~~
21 ~~policemen born before January 1, 1930, and beginning January~~
22 ~~1, 1988 for policemen born on or after January 1, 1930 but~~
23 ~~before January 1, 1940, and beginning January 1, 1996 for~~

1 ~~policemen born on or after January 1, 1940 but before January~~
2 ~~1, 1945, and beginning January 1, 2000 for policemen born on or~~
3 ~~after January 1, 1945 but before January 1, 1950, and~~
4 ~~beginning January 1, 2005 for policemen born on or after~~
5 ~~January 1, 1950 but before January 1, 1955, and beginning~~
6 ~~January 1, 2017 for policemen born on or after January 1, 1955~~
7 ~~but before January 1, 1966, such increases shall be 3% and such~~
8 ~~policemen shall not be subject to the 30% maximum increase.~~

9 Any policeman born before January 1, 1945 who qualifies
10 for a minimum annuity and retires after September 1, 1967 but
11 has not received the initial increase under this subsection
12 before January 1, 1996 is entitled to receive the initial
13 increase under this subsection on (1) January 1, 1996, (2) the
14 first anniversary of the date of retirement, or (3) attainment
15 of age 55, whichever occurs last. The changes to this Section
16 made by Public Act 89-12 apply beginning January 1, 1996 and
17 without regard to whether the policeman or annuitant
18 terminated service before the effective date of that Act.

19 Any policeman born before January 1, 1950 who qualifies
20 for a minimum annuity and retires after September 1, 1967 but
21 has not received the initial increase under this subsection
22 before January 1, 2000 is entitled to receive the initial
23 increase under this subsection on (1) January 1, 2000, (2) the
24 first anniversary of the date of retirement, or (3) attainment
25 of age 55, whichever occurs last. The changes to this Section
26 made by this amendatory Act of the 92nd General Assembly apply

1 without regard to whether the policeman or annuitant
2 terminated service before the effective date of this
3 amendatory Act.

4 Any policeman born before January 1, 1955 who qualifies
5 for a minimum annuity and retires after September 1, 1967 but
6 has not received the initial increase under this subsection
7 before January 1, 2005 is entitled to receive the initial
8 increase under this subsection on (1) January 1, 2005, (2) the
9 first anniversary of the date of retirement, or (3) attainment
10 of age 55, whichever occurs last. The changes to this Section
11 made by this amendatory Act of the 94th General Assembly apply
12 without regard to whether the policeman or annuitant
13 terminated service before the effective date of this
14 amendatory Act.

15 Any policeman born before January 1, 1966 who qualifies
16 for a minimum annuity and retires after September 1, 1967 but
17 has not received the initial increase under this subsection
18 before January 1, 2017 is entitled to receive an initial
19 increase under this subsection on (1) January 1, 2017, (2) the
20 first anniversary of the date of retirement, or (3) attainment
21 of age 55, whichever occurs last, in an amount equal to 3% for
22 each complete year following the date of retirement or
23 attainment of age 55, whichever occurs later. The changes to
24 this subsection made by this amendatory Act of the 99th
25 General Assembly apply without regard to whether the policeman
26 or annuitant terminated service before the effective date of

1 this amendatory Act.

2 Any policeman born after January 1, 1966 who qualifies for
3 a minimum annuity and retires after September 1, 1967 but has
4 not received the initial increase under this subsection before
5 January 1, 2021 is entitled to receive the initial increase
6 under this subsection on (1) January 1, 2021, (2) the first
7 anniversary of the date of retirement, or (3) attainment of
8 age 55, whichever occurs last. The changes to this Section
9 made by this amendatory Act of the 102nd General Assembly
10 apply without regard to whether the policeman or annuitant
11 terminated service before the effective date of this
12 amendatory Act.

13 (b) Subsection (a) of this Section is not applicable to an
14 employee receiving a term annuity.

15 (c) To help defray the cost of such increases in annuity,
16 there shall be deducted, beginning September 1, 1967, from
17 each payment of salary to a policeman, 1/2 of 1% of each salary
18 payment concurrently with and in addition to the salary
19 deductions otherwise made for annuity purposes.

20 The city, in addition to the contributions otherwise made
21 by it for annuity purposes under other provisions of this
22 Article, shall make matching contributions concurrently with
23 such salary deductions.

24 Each such 1/2 of 1% deduction from salary and each such
25 contribution by the city of 1/2 of 1% of salary shall be
26 credited to the Automatic Increase Reserve, to be used to

1 defray the cost of the annuity increase provided by this
2 Section. Any balance in such reserve as of the beginning of
3 each calendar year shall be credited with interest at the rate
4 of 3% per annum.

5 Such deductions from salary and city contributions shall
6 continue while the policeman is in service.

7 The salary deductions provided in this Section are not
8 subject to refund, except to the policeman himself, in any
9 case in which: (i) the policeman withdraws prior to
10 qualification for minimum annuity or Tier 2 monthly retirement
11 annuity and applies for refund, (ii) the policeman applies for
12 an annuity of a type that is not subject to annual increases
13 under this Section, or (iii) a term annuity becomes payable.
14 In such cases, the total of such salary deductions shall be
15 refunded to the policeman, without interest, and charged to
16 the Automatic Increase Reserve.

17 (d) Notwithstanding any other provision of this Article,
18 the Tier 2 monthly retirement annuity of a person who first
19 becomes a policeman under this Article on or after the
20 effective date of this amendatory Act of the 97th General
21 Assembly shall be increased on the January 1 occurring either
22 on or after (i) the attainment of age 60 or (ii) the first
23 anniversary of the annuity start date, whichever is later.
24 Each annual increase shall be calculated at 3% or one-half the
25 annual unadjusted percentage increase (but not less than zero)
26 in the consumer price index-u for the 12 months ending with the

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

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

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

17 (40 ILCS 5/5-238)

18 Sec. 5-238. Provisions applicable to new hires; Tier 2.

19 (a) Notwithstanding any other provision of this Article,
20 the provisions of this Section apply to a person who first
21 becomes a policeman under this Article on or after January 1,
22 2011, and to certain qualified survivors of such a policeman.
23 Such persons, and the benefits and restrictions that apply
24 specifically to them under this Article, may be referred to as
25 "Tier 2".

1 (b) A policeman who has withdrawn from service, has
2 attained age 50 or more, and has 10 or more years of service in
3 that capacity shall be entitled, upon proper application being
4 received by the Fund, to receive a Tier 2 monthly retirement
5 annuity for his service as a police officer. The Tier 2 monthly
6 retirement annuity shall be computed by multiplying 2.5% for
7 each year of such service by his or her final average salary,
8 subject to an annuity reduction factor of one-half of 1% for
9 each month that the police officer's age at retirement is
10 under age 55. The Tier 2 monthly retirement annuity is in lieu
11 of any age and service annuity or other form of retirement
12 annuity under this Article.

13 The maximum retirement annuity under this subsection (b)
14 shall be 75% of final average salary.

15 For the purposes of this subsection (b), "final average
16 salary" means the greater of: (i) the average monthly salary
17 obtained by dividing the total salary of the policeman during
18 the 96 consecutive months of service within the last 120
19 months of service in which the total salary was the highest by
20 the number of months of service in that period; or (ii) the
21 average monthly salary obtained by dividing the total salary
22 of the policeman during the 48 consecutive months of service
23 within the last 60 months of service in which the total salary
24 was the highest by the number of months of service in that
25 period.

26 Beginning on January 1, 2011, for all purposes under this

1 Code (including without limitation the calculation of benefits
2 and employee contributions), the annual salary based on the
3 plan year of a member or participant to whom this Section
4 applies shall not exceed \$106,800; however, that amount shall
5 annually thereafter be increased by the lesser of (i) 3% of
6 that amount, including all previous adjustments, or (ii)
7 ~~one-half~~ the annual unadjusted percentage increase (but not
8 less than zero) in the consumer price index-u for the 12 months
9 ending with the September preceding each November 1, including
10 all previous adjustments.

11 Nothing in this amendatory Act of the 102nd General
12 Assembly shall cause or otherwise result in any retroactive
13 adjustment of any employee contributions.

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

20 (1) The surviving spouse of a deceased policeman to
21 whom this Section applies shall be deemed qualified to
22 receive a Tier 2 surviving spouse's annuity under this
23 paragraph (1) if: (i) the deceased policeman meets the
24 requirements specified under subdivision (A), (B), (C), or
25 (D) of this paragraph (1); and (ii) the surviving spouse
26 would not otherwise be excluded from receiving a widow's

1 annuity under the eligibility requirements for a widow's
2 annuity set forth in Section 5-146. The Tier 2 surviving
3 spouse's annuity is in lieu of the widow's annuity
4 determined under any other Section of this Article and is
5 subject to the requirements of Section 5-147.1.

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

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

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 earned annuity 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 (B) If the deceased policeman was not receiving an
9 earned annuity but had at least 10 years of service at
10 the time of death, the Tier 2 surviving spouse's
11 annuity under this paragraph (1) shall be the greater
12 of: (i) 30% of the annual maximum salary attached to
13 the classified civil service position of a first class
14 patrolman at the time of his death; (ii) 54% of the
15 policeman's monthly salary at the time of the
16 policeman's death; or (iii) ~~(ii)~~ 66 2/3% of the Tier 2
17 monthly retirement annuity that the deceased policeman
18 would have been eligible to receive under subsection
19 (b) of this Section, based upon the actual service
20 accrued through the day before the policeman's death,
21 but determined as though the policeman was at least
22 age 55 on the day before his or her death and retired
23 on that day.

24 If the deceased policeman was a parent of a child
25 or children, including any child who has been
26 conceived but not yet born, and there is a surviving

1 spouse, 12% of the policeman's monthly salary at the
2 date of death shall be granted to the guardian of any
3 such minor child or children for each such child until
4 attainment of age 18. Upon the death of the surviving
5 spouse leaving one or more children under the age of
6 18, or upon the death of a policeman leaving one or
7 more children under the age of 18 but no surviving
8 spouse, a monthly pension of 20% of the policeman's
9 monthly salary at the date of death shall be granted to
10 the duly appointed guardian of each such child for the
11 support and maintenance of each such child until the
12 child reaches age 18. The benefit in this paragraph is
13 in lieu of a benefit under paragraph (2) of this
14 subsection (c) but does not apply if the beneficiary
15 is entitled to receive a greater benefit under
16 paragraph (2) of this subsection (c).

17 (C) If the deceased policeman was an active
18 policeman with at least 1 1/2 but less than 10 years of
19 service at the time of death, the Tier 2 surviving
20 spouse's annuity under this paragraph (1) shall be the
21 greater of: (i) ~~in the amount of~~ 30% of the annual
22 maximum salary attached to the classified civil
23 service position of a first class patrolman at the
24 time of his death; or (ii) 54% of the policeman's
25 monthly salary at the time of the policeman's death.

26 If the deceased policeman was a parent of a child

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

19 (D) If the performance of an act or acts of duty
20 results directly in the death of a policeman subject
21 to this Section, or prevents him from subsequently
22 resuming active service in the police department, and
23 if the policeman's Tier 2 surviving spouse would
24 otherwise meet the eligibility requirements for a
25 compensation annuity or supplemental annuity granted
26 under Section 5-144, then in addition to the Tier 2

1 surviving spouse's annuity provided under subdivision
2 (A), (B), or (C) of this paragraph (1), whichever
3 applies, the Tier 2 surviving spouse shall be
4 qualified to receive compensation annuity or
5 supplemental annuity, as would be provided under
6 Section 5-144, in order to bring the total benefit up
7 to the applicable 75% salary limitation provided in
8 that Section, but subject to the Tier 2 salary cap
9 provided under subsection (b) of this Section; except
10 that no such annuity shall be paid to the surviving
11 spouse of a policeman who dies while in receipt of
12 disability benefits when the policeman's death was
13 caused by an intervening illness or injury unrelated
14 to the illness or injury that had prevented him from
15 subsequently resuming active service in the police
16 department.

17 (E) Notwithstanding any other provision of this
18 Article, the monthly Tier 2 surviving spouse's annuity
19 under subdivision (A) or (B) of this paragraph (1)
20 shall be increased on the January 1 next occurring
21 after (i) attainment of age 60 by the recipient of the
22 Tier 2 surviving spouse's annuity or (ii) the first
23 anniversary of the Tier 2 surviving spouse's annuity
24 start date, whichever is later, and on each January 1
25 thereafter, by 3% or one-half the annual unadjusted
26 percentage increase (but not less than zero) in the

1 consumer price index-u for the 12 months ending with
2 the September preceding each November 1, whichever is
3 less, of the originally granted Tier 2 surviving
4 spouse's annuity. If the unadjusted percentage change
5 in the consumer price index-u for a 12-month period
6 ending in September is zero or, when compared with the
7 preceding period, decreases, then the annuity shall
8 not be increased.

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

19 (F) Notwithstanding the other provisions of this
20 paragraph (1), for a qualified surviving spouse who is
21 entitled to a Tier 2 surviving spouse's annuity under
22 subdivision (A), (B), (C), or (D) of this paragraph
23 (1), that Tier 2 surviving spouse's annuity shall not
24 be less than the amount of the minimum widow's annuity
25 established from time to time under Section 5-167.4.

26 (2) Surviving children of a deceased policeman subject

1 to this Section who would otherwise meet the eligibility
2 requirements for a child's annuity set forth in Sections
3 5-151 and 5-152 shall be deemed qualified to receive a
4 Tier 2 child's annuity under this subsection (c), which
5 shall be in lieu of, but in the same amount and paid in the
6 same manner as, the child's annuity provided under those
7 Sections; except that any salary used for computing a Tier
8 2 child's annuity shall be subject to the Tier 2 salary cap
9 provided under subsection (b) of this Section. For
10 purposes of determining any pro rata reduction in child's
11 annuities under this subsection (c), references in Section
12 5-152 to the combined annuities of the family shall be
13 deemed to refer to the combined Tier 2 surviving spouse's
14 annuity, if any, and the Tier 2 child's annuities payable
15 under this subsection (c).

16 (3) Surviving parents of a deceased policeman subject
17 to this Section who would otherwise meet the eligibility
18 requirements for a parent's annuity set forth in Section
19 5-152 shall be deemed qualified to receive a Tier 2
20 parent's annuity under this subsection (c), which shall be
21 in lieu of, but in the same amount and paid in the same
22 manner as, the parent's annuity provided under Section
23 5-152.1; except that any salary used for computing a Tier
24 2 parent's annuity shall be subject to the Tier 2 salary
25 cap provided under subsection (b) of this Section. For the
26 purposes of this Section, a reference to "annuity" in

1 Section 5-152.1 includes: (i) in the context of a widow, a
2 Tier 2 surviving spouse's annuity and (ii) in the context
3 of a child, a Tier 2 child's annuity.

4 Notwithstanding Section 1-103.1, the changes made to this
5 subsection by this amendatory Act of the 102nd General
6 Assembly apply without regard to whether the deceased
7 policeman was in service on or after the effective date of this
8 amendatory Act of the 102nd General Assembly. The changes made
9 by this amendatory Act of the 102nd General Assembly shall not
10 diminish the survivor's benefits described in this Section.

11 (d) The General Assembly finds and declares that the
12 provisions of this Section, as enacted by Public Act 96-1495,
13 require clarification relating to necessary eligibility
14 standards and the manner of determining and paying the
15 intended Tier 2 benefits and contributions in order to enable
16 the Fund to unambiguously implement and administer benefits
17 for Tier 2 members. The changes to this Section and the
18 conforming changes to Sections 5-153, 5-155, 5-163, 5-167.1
19 (except for the changes to subsection (a) of that Section),
20 5-169, and 5-170 made by this amendatory Act of the 99th
21 General Assembly are enacted to clarify the provisions of this
22 Section as enacted by Public Act 96-1495, and are hereby
23 declared to represent and be consistent with the original and
24 continuing intent of this Section and Public Act 96-1495.

25 (e) The changes to Sections 5-153, 5-155, 5-163, 5-167.1
26 (except for the changes to subsection (a) of that Section),

1 5-169, and 5-170 made by this amendatory Act of the 99th
2 General Assembly are intended to be retroactive to January 1,
3 2011 (the effective date of Public Act 96-1495) and, for the
4 purposes of Section 1-103.1 of this Code, they apply without
5 regard to whether the relevant policeman was in service on or
6 after the effective date of this amendatory Act of the 99th
7 General Assembly.

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

9 Section 90. The State Mandates Act is amended by adding
10 Section 8.45 as follows:

11 (30 ILCS 805/8.45 new)

12 Sec. 8.45. Exempt mandate. Notwithstanding Sections 6 and
13 8 of this Act, no reimbursement by the State is required for
14 the implementation of any mandate created by this amendatory
15 Act of the 102nd General Assembly.

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