



Commission on Government Forecasting and Accountability

PENSION IMPACT NOTE *103RD General Assembly*

BILL NO: **HB 5909**

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SPONSOR (S): Kifowit - Scherer

SYSTEM: All Systems

FISCAL IMPACT

HB 5909 makes significant changes to the Illinois Pension Code, focusing on Tier 2 members—those who began service on or after January 1, 2011. The bill aligns Tier 2 age-and-service provisions with Tier 1 standards across all affected systems and reduces the final average salary calculation period for Tier 2 members to the Tier 1 standard. The bill also introduces a non-compounded 3% COLA for Tier 2 members and adjusts the Tier 2 pensionable salary cap to the Social Security Wage Base. A comprehensive actuarial study will evaluate the bill's major provisions, with an updated impact note to follow upon completion of the study.

SUBJECT MATTER: HB 5909 adjusts various provisions applicable to members and participants of funds under the Illinois Pension Code that joined on or after January 1, 2011 (Tier 2). Each adjustment is summarized below in the Comment Section.

COMMENT:

***All provisions of HB 5909 outlined below are effective upon becoming law**

Increasing the Tier 2 Pensionable Salary Cap to Social Security Wage Base

Current Law

- Currently, the Tier 2 pensionable Salary Cap is equal to \$125,774 (this amount will increase to \$127,283 in CY 2025).

- Members do not make contributions on wages above the cap.
- The Tier 2 cap is increased annually by the lesser of:
 - 3%; or
 - $\frac{1}{2}$ the increase in CPI-U for the preceding 12 months.
 - If CPI-U = 0, no increase is paid.
 - The Tier 2 cap within JRS & GARS is the lesser of 3% or **the full increase** in CPI-U for the preceding 12 months.

HB 5909

Beginning January 1, 2025, under HB 5909, the Tier 2 pensionable salary cap would be brought into line with the Social Security Wage Base (SSWB), which as of 2024 is \$168,600. The bill does not allow retroactive adjustments of employee contributions or benefit payments for the period between January 1, 2011 and January 1, 2025. Earnings, salary, and wages received on or after Jan 1, 2011 but before January 1, 2025 will have the limitations retroactively increased to an amount equal to the SSWB for the applicable years; i.e., if a Tier 2 member is about to retire in TRS, for example, their pensionable salary will be based on the SSWB for the preceding four years. No additional employee contributions are required for this retroactive pensionable salary cap increase.

Changes to Tier 2 Final Average Salary (FAS) Requirements

HB 5909 makes changes to the Final Average Salary (FAS) used in the various Tier 2 formulas used by the funds of the Illinois Pension Code to determine the retirement annuities of its members. A table of the various FAS rates for the existing Tier 2 plans and the new rates can be found in Appendix I.

Change to the Tier 2 Automatic Annual Increase

Current Law

- All funds and systems except JRS & GARS have Tier 2 automatic annual increases that are non-compounded, and are calculated at the lesser of:
 - 3%; or
 - $\frac{1}{2}$ the annual unadjusted percentage increase (not less than zero) in the CPI-U.
 - If the increase in CPI-U is 0, no increase is payable.
- JRS & GARS Tier 2 automatic annual increases are compounded, and are calculated at the lesser of:
 - 3%; or
 - The annual unadjusted percentage increase in the CPI-U.
- Tier 2 COLAs are payable at the latter of age 67 or the first anniversary of retirement, except for public safety officials, who start receiving increases at age 60.

HB 5909

Beginning January 1, 2025, each Tier 2 annual increase (COLA) in a retirement annuity or supplemental annuity shall be a non-compounded 3% increase. The current statutory framework of Tier 2 COLAs being paid at the latter of the attainment of age 67 or the one-year anniversary of retirement (age 60 for public safety personnel) is not changed by this bill. Hence, the revised Tier 2 COLAs would be paid at the same schedule as required under current law.

Reduction in Tier 2 Age & Service Requirements

HB 5909 adjusts the age & service requirements by which members in the Tier 2 plans under the Illinois Pension Code become eligible for retirement. Tier 2 age and service requirements were set higher than Tier 1 requirements, and HB 5909 brings the Tier 2 age and service requirements in line with those of Tier 1. For ease of comparison, a graphic depiction is necessary to comprehend the full scope of the rollback of Tier 2 benefits back to Tier 1 as contemplated in this bill. A table showing the existing requirements and the requirements HB 5909 implements can be found in Appendix II.

Alternative Formula Eligibility and Applicable Service Credit Upgrade Provisions for Investigators/Security Employees of the Departments of Lottery and Human Services

The current SERS retirement benefits for both Tier 1 & 2 Investigators for the Department of the Lottery are detailed in the chart found below:

Current Law						
Employee	Tier	SS-Coordinated?	Contribution Rate	Multiplier	Full Retirement	Reduced Retirement
Investigator for the Dept. of Lottery	1	No	8%	2.20%	Age 60 with 8 years of service credit OR Rule of 85	Ages 55-60 with 25-30 years (Reduced 1/2 of 1% every year under age 60)
Investigator for the Dept. of Lottery	2	No	8%	2.20%	Age 67 with 10 years service credit	Ages 62-67 with 10 years (Reduced 1/2 of 1% every year under age 67)
HB 5909						
Investigator for the Dept. of Lottery	1	No	12.5%	3.00%	Age 55 with 20 years of service OR Age 50 with 25 years of service	N/A

HB 5909 amends the Illinois Pension Code to allow participation in the SERS Alternative Formula for investigators for the Department of the Lottery.

HB 5909 also allows a security employee of the Department of Human Services in the Alternative Formula to elect to convert up to 13 years of prior service credit as a security employee in the Department of Human Services into service credit under the Alternative Formula. HB 5909 also allows a State highway maintenance worker in the Alternative Formula to elect to convert up to 8 years of prior service credit. In both cases, the employee is required to pay an amount equal to the difference between the employee contributions already made and those that would have been paid had their prior service been rendered under the Alternative Formula, plus interest thereon at the statutory service credit purchase rate (the “effective rate”) of 6%, compounded annually, from the date of service to the date of payment.

Alternative Formula Participation for Certain Security Employees of the Department of Juvenile Justice

Currently, in order for a security employee of the Department of Juvenile Justice to participate in the SERS alternative formula, the employee must be employed in a position at a DJJ facility and have involvement in areas such as training of delinquent youths, providing rehabilitative and vocational training, and assisting other personnel who perform these duties. Additionally, the employee must:

- Be over the age of 21; and
- Possess a high school diploma or equivalent and either:
 - A bachelor’s or advanced degree from an accredited college or university; or
 - 2 or more years of experience providing direct care to youth in the form of residential care, coaching, case management, or mentoring.

HB 5909 stipulates that the bachelor’s or advanced degree requirement shall no longer determine eligibility for the alternative formula for the above-mentioned positions at DJJ. Affected employees may convert their prior regular formula service to alternative formula service by paying the difference between the employee contributions for that period of service and the amounts that would have been contributed had the member been participating in the alternative formula from the date of service to the date of payment. The member is not required to pay the employer’s normal cost nor interest for the period of service they wish to upgrade.

Accelerated Pension Benefits for GARS, CTPF & JRS

Current Law

- PA 100-0587 implemented an accelerated pension benefit payment in lieu of any pension benefit for SERS, SURS, & TRS (“Total Buyout”), as follows:
 - Inactive vested Tier 1 & Tier 2 members may elect to receive an accelerated pension payment equal to 60% of the present value of the member’s pension benefits in lieu of receiving a traditional retirement annuity.
- PA 100-0587 also established an accelerated pension benefit for a reduction in annual Tier 1 retirement annuity and survivor’s annuity increases in SERS, SURS, and TRS (“COLA Buyout”), as follows:

- A member may elect to receive a lump sum payment equal to 70% of the difference of the present value of the Tier One 3% compounded COLA and the present value of a reduced COLA (simple 1.5%); and
- Annual increases begin on the January 1 occurring on or after the first anniversary of retirement.
- If an eligible member returns to service, all benefits earned are based solely on service after returning; the accelerated payment may not be repaid and credit cannot be reinstated.
- PA 102-0718 extended the sunset date of the two buyout programs to June 30, 2026.

HB 5909

- HB 5909 establishes both a “Total Buyout” and “COLA Buyout” plan within GARS, JRS, and CTPF;
- The buyout plans mirror the existing plans in SERS, SURS, & TRS, **except** that:
 - Funding for the buyout programs will come from the General Revenue Fund and not from proceeds from the State Pension Obligation Acceleration Bonds, as is the case with the existing buyout programs; and
 - The reduced COLA under the “COLA Buyout” plan is payable on the first anniversary of retirement or age 67, whichever is later.
- HB 5909 establishes January 1, 2030 as the sunset date for the GARS, JRS, and CTPF buyout programs.

Placing Downstate Police & Fire and Chicago Police & Fire Articles Under the Ambit of the Retirement Systems Reciprocal Act

Current Law

Under current law, neither the Chicago Police and Chicago Fire, nor the Downstate Police and Downstate Firefighters’ Articles of the Illinois Pension code are included under the Retirement Systems Reciprocal Act, although reciprocity exists between the funds within each respective article (e.g., members of Downstate police funds can utilize reciprocity with other Downstate Police Funds, although this involves the transfer of service credits, whereas the Downstate Fire article has true reciprocity amongst fire pension funds).

The Retirement Systems Reciprocal Act allows for active employees to combine service credit earned from various participating systems to apply towards the minimum vesting requirements of the fund that they participate in currently or the fund that they last participated in before terminating active service. For example, a Tier 2 member in IMRF could utilize reciprocity and combine 4 years of prior service in SERS and 6 years in IMRF to meet the 10-year Tier 2 vesting requirement in IMRF.

HB 5909

HB 5909 would place the Downstate Police, Downstate Fire, Chicago Police, and Chicago Fire Articles of the Illinois Pension Code under the ambit of the Reciprocal Act. The bill states that participation under the Reciprocal Act would only apply to members who have not yet begun receiving retirement annuities as of the effective date. In other words, retired members would not be entitled to a recalculation of their pensions based upon reciprocal service.

IMRF's Sherriff's Law Enforcement Personnel (SLEP) Formula Eligibility for Certain Public Safety Officials

Under current law, county correctional and probation officers, firefighters, and sworn law enforcement officers working for municipalities without an established Article 3 or Article 4 pension fund, as the case may be, participate in the IMRF Regular Formula. Job titles for those who qualify as a "firefighter" include;

- A licensed emergency medical technician (EMT) who is a sworn member of a public fire department;
- A paramedic employed by a unit of local government; and
- An EMT, emergency medical technician – intermediate (EMT-I) or advanced emergency medical technician (A-EMT) employed by a unit of local government.

HB 5909 would make all of these job titles eligible for the IMRF SLEP Formula. The benefits for each formula are shown in the chart below.

	IMRF Regular		IMRF SLEP	
	Tier 1	Tier 2	Tier 1	Tier 2
Retirement Age	<ul style="list-style-type: none"> •Age 60 w/ 8+ years of service •Age 55 w/ 35+ •Age 55 w/ 8+ (Reduced) 	<ul style="list-style-type: none"> •Age 67 w/ 10+ •Age 62 w/ 35+ •Age 62 w/ 10+ (Reduced) 	Age 50 w/ 20+	<ul style="list-style-type: none"> •Age 55 w/ 10+ •Age 50 w/ 10+ (Reduced)
Formula	1.67% of FAS each year up to 15, 2% every year after 15		2.5% of FAS each year of service	
Max Annuity	75%		80%	75%
FAS	Avg of 4 highest consecutive years of final 10	Avg of highest 8 consecutive years of final 10	Avg of 4 highest consecutive years of final 10	Avg of highest 8 consecutive years of final 10
COLA	3% non-compounded	3% non-compounded or 1/2 CPI-U increase	3% non-compounded	3% non-compounded or 1/2 CPI-U increase
Employee Contributions	4.5% (SS coordinated)	4.5% (SS coordinated)	7%	7.50%

Addition of “De Facto Firefighters” Under the Downstate Fire Article

Under current law, the definition of “Firefighter” under Article 4, the Downstate Fire Article, includes the following job titles listed under Article 10 of the Illinois Municipal Code, found in the table below:

Division 1 Municipalities	Dvision 2.1 Municipalities	Municipalities w/o Division Designation*	Not Included
Firefighter	Firefighter	Firefighter	Anyone actively participating in SURS
Fire Engineer	Fire Engineer	Fire Engineer	
Marine Engineer	Marine Engineer	Marine Engineer	
Fire Pilot	Fire Pilot	Fire Pilot	
Bomb Technician	Bomb Technician	Bomb Technician	
Scuba Diver	Scuba Diver	Scuba Diver	
*Except those who served as a de facto and not as a de jure firefighter			

HB 5909 adds the definition of a “de facto firefighter” to the larger “Firefighter” definition under Article 4. The definition of a “de facto firefighter” is a firefighter who:

- Spends the majority of working time participating in the work of controlling and extinguishing fires at the location of such fires, preparing for such work, or waiting to respond to calls for such work, and;
- Has scheduled or actually works hours commensurate in duration and frequency with firefighters under both divisions under the Illinois Municipal Code.

This definition **does not** include;

- Part-time firefighters not already covered by the Code;
- Auxiliary, reserve, or voluntary firefighters (including paid-on-call firefighters);
- Clerks, dispatchers, or other civilian employees of fire departments or fire protection districts not routinely expected to perform firefighter duties.

Disability COLA Eligibility for Tier 2 Downstate Fire

Under current law, disabled Tier 2 firefighters under Article 4 (Downstate Fire) are eligible for COLAs upon the latter of the first anniversary of the disability annuity start date or at age 60. The Tier 2 disability COLA is equal to the lesser of 3% or one-half the increase in the CPI-U, and is non-compounded. Under HB 5099, Tier 2 disabled firefighters would receive a 3% non-compounded COLA, payable at the latter of the first anniversary of the disability annuity start date or age 60. In essence, the Tier 2 disability annuity COLA would be brought into line with the Tier 1 disability annuity COLA.

Adjustment of the Minimum Retirement Pension, Disability Pension, and Surviving Spouse Annuities for Downstate Fire

Current Law

PA 93-0689, effective July 1, 2004, amended the Downstate Fire Article of the Illinois Pension Code to set the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable, and the minimum surviving spouse's pension at \$1,159.27 per month.

HB 5909

HB 5909 sets the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable, and the minimum surviving spouse's pension on two separate dates. Beginning July 1, 2025, this amount will be set at \$1,822.50 per month. Beginning July 1, 2026, this amount shall be no less than 150% of the federal poverty level. "Federal poverty level" is defined as the poverty guidelines applicable to an individual in a single-person household in Illinois.

Removal of Tier 3 / Tier 2a Language from Chicago Municipal Employees, Chicago Laborers', and Chicago Park Employees Articles

Current Law

PA 100-0023, effective July 6, 2017, established identical “Tier 3” packages of benefits for the Chicago Municipal Employees’ and Chicago Laborers’ articles, respectively, applicable to new hires on or after the effective date. Existing Tier 2 members were given the option to elect to join these new tiers. These benefit packages generally traded a reduction in the age a member could retire with a full pension for an increase in the percentage of payroll that member would contribute each year (an increase in contributions from 7.5% to 9.5% in exchange for a 2-year reduction in Tier 2 retirement age, from 67 to 65)

Similarly, PA 102-0263, effective August 6, 2021, established a “Tier 2a” benefit structure for the Chicago Park District Pension Fund for members who first entered service or after January 1, 2022. Similar to the two previously mentioned “Tier 3” packages, existing Tier 2 members were given the option to elect to join this new tier. In exchange for a reduction in the regular retirement age (age 67 to age 65), participants contribute 9% as opposed to 7%.

HB 5909

In the spirit of aligning Tier 2 age-and-service provisions with those of Tier 1, HB 5909 eliminates the language added by PA 100-0023 and P.A. 102-0263, effectively closing these separate tiers of benefits. HB 5909 adds language allowing any elections made under the provisions added by PA 100-0253 and P.A. 102-0263 to be declared null. These changes are not intended to limit an employee’s entitlement to a refund under any provision of the Code.

Adjustment to Amount of Service Credit Allowed for Conversion of Unused Sick Time in SURS**Current Law**

Prior to PA 98-0599, effective June 1, 2014, SURS participants were entitled, within 60 days immediately preceding retirement, to convert unused sick leave time into credit for service in accordance with the following schedule:

- 30-90 full calendar days and 20-59 full work days of unused sick leave = $\frac{1}{4}$ year of service
- 91-180 full calendar days and 60-119 full work days of unused sick leave = $\frac{1}{2}$ year of service
- 181-270 full calendar days and 120-179 full work days of unused sick leave = $\frac{3}{4}$ year of service
- 271-360 full calendar days and 180-240 full work days of unused sick leave = 1 year of service.

PA 98-0599 was ruled unconstitutional due to changes that impacted Tier 1 benefit accruals. The Act limited this conversion of credit to participants who joined the fund before the effective date (June 1, 2014), adding language eliminating participants who joined on or after the date from receiving service credit for unused sick leave time. In the absence of the aforementioned

sick leave service credit accrual schedule, current law provides no limitation on the amount of service credit that can be accrued via sick leave in SURS.

HB 5909

HB 5909 sets a limit on the amount of service credit a participant can earn from the conversion of unused sick leave time to a maximum of 2 years of service credit.

Adjustment to Final Average Salary (FAS) Cap Penalty in SURS and TRS

P.A. 94-0004, effective June 1, 2005, amended the SURS and TRS Articles of the Illinois Pension Code in regard to participant salary increases. If the amount of a participant's earnings for any academic year used to determine the final rate of earnings exceeds the previous year's amount by more than 6%, that participant's employer must pay the present value of the increase in earnings that is in excess of 6% to the respective system. This provision is known as the "FAS Cap Penalty."

HB 5909 deletes a paragraph in the FAS Cap Penalty Section of both the SURS and TRS articles of the Pension Code pertaining to salary increases granted in accordance with collective bargaining increases. The intent of this change is unclear. Whether it is intended to exempt all prospective salary increases above 6% that are granted via a collective bargaining increase from the FAS Cap Penalty, or whether it is a purely technical change is unknown at this time. TRS was not able to illuminate the intent of this change. CGFA will update this section in future iterations of this PIN as more information becomes available.

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Appendix I

Appendix I below is a summary of the Tier 2 age-and-service changes made in HB 5909.

Age and Service Eligibility for Full Annuity by Fund and Tier					
Pension System		Current Law			HB 5909
		Tier 1	Tier 2	Tier 3	New Tier 2
TRS		Age 62 with 5 years; Age 60 with 10 years; Age 55 with 35 years; or Rule of 85 for TRS members who are employees of the State of Illinois	Age 67 with 10 years		
SERS	Regular Formula	Rule of 85; Age 60 with 8 years; or Any age with 35 years			
		Alternative Formula	Age 55 with 20 years; or Age 50 with 25 years	Age 60 with at least 20 years of service Age 55 with 20 years for certain positions only	
SURS	Traditional/Portable DB Formula	Age 62 with 5 years of service; Age 60 with 8 years; or Any age with 30 years	Age 67 with 10 years		
	Police/Fire	Age 50 with 25 years; or Age 55 with 20 years	Age 60 with 20 years		
JRS		Age 60 with 10 years; or Age 62 with 6 years	Age 67 with 8 years		
GARS		Age 55 with 8 years; or Age 62 with 4 years			
Downstate Police		Age 50 and 20 years;	Age 55 with 10 years	N/A	
Downstate Firefighters					
Chicago Police		Age 50 with 20 years; or Mandatory retirement at age 63	Age 55 with 10 years; or Mandatory retirement at age 63		Tier 2 eligibility would become identical to Tier 1 eligibility.*
Chicago Firefighters		Age 50 with 20 years; or Mandatory retirement at age 63, except for emergency medical technicians.	Age 55 with 10 years		
IMRF	Regular	Age 60 with 8 years; or Age 55 with 35 years	Age 67 with 10 years; or Age 62 with 35 years		
	SLEP	Age 50 with 20 years	Age 55 with 10 years		
Cook County		Age 60 with 10 years; or Age 50 with 30 years	Age 67 with 10 years		
Cook County Forest Preserve					
Metropolitan Water Reclamation District		Age 60 with 5 years; or Age 55 with 30 years	Age 67 with 10 years; or Age 62 with 30 years		
Chicago Teachers		Age 60 with 20 years; Age 62 with 5 years; or Age 55 with 33.91 years for members who began employment on or after September 1, 1983	Age 67 with 10 years		
Chicago Municipal		Age 60 with 10 years; or Age 50 with 30 years Age 55 with 10 years (money purchase)			
Chicago Laborers		Age 60 with 10 years; Age 55 with 25 years; or Age 50 with 30 years Age 55 with 10 years (money purchase); or Age 60 with any number of years (money purchase)	Age 65 with 10 years		
Chicago Park District		Age 60 with 4 years; or Age 50 with 30 years			

*HB 5909 removes the Tier 3 language from Articles 8, 11, and 12 (Chicago Municipal, Chicago Laborers, and Chicago Park District). As a result, the Tier 3 members would be treated as Tier 2 members, whose eligibility would become identical to Tier 1 eligibility under this legislation.

Appendix II

Appendix II below is a summary of the Tier 2 pensionable salary changes made in HB 5909.

Final Average Salary (FAS)					
Pension System		Current Law			HB 5909
		Tier 1	Tier 2	Tier 3	New Tier 2
TRS		Average of the highest 4 consecutive annual salary within the last 10 years (or 48 consecutive months within the last 120 months)			
SERS	Regular Formula				
	Alternative Formula	Salary on the last day; or Average of the highest 48 consecutive months; or Average of the highest 48 consecutive months within the last 120 months (for those in service before January 1, 1998), whichever is greater	Average of the highest 8 consecutive annual salary within the last 10 years (or 96 consecutive months in the last 120 months)		
SURS	Traditional/Portable DB Formula	Average of the highest 4 consecutive annual salary (or the last 48 months)			
	Police/Fire	highest 4 consecutive academic years; Last 48 months of employment; or last day, whichever is greater			
JRS		For those who first became a participant before August 10, 2009: Salary on last day For those who first became a participant from August 10, 2009 through December 31, 2010: Average of the highest 4 consecutive annual salary within the last 10 years			
GARS					
Downstate Police		Salary on the last day	Average of the highest 48 consecutive months within the last 60 months; or Average of the highest 96 consecutive months within the last 120 months, whichever is greater	N/A	
Downstate Firefighters					
Chicago Police		Average of the highest 4 consecutive annual salary within the last 10 years (or 48 consecutive months within the last 120 months)	Average of the highest 8 consecutive annual salary within the last 10 years (or 96 consecutive months in the last 120 months)		Tier 2 FAS would become identical to Tier 1 FAS*
Chicago Firefighters			Highest 96 consecutive months within the last 120 months; or Highest average salary for 48 consecutive months within the last 60 months		
IMRF	Regular				
	SLEP				
Cook County		Average of the highest 4 consecutive annual salary within the last 10 years			
Cook County Forest Preserve					
Metropolitan Water Reclamation District		Any 52 consecutive pay periods within the last 10 years			
Chicago Teachers		Average of the highest 8 consecutive annual salary within the last 10 years (or 96 consecutive months in the last 120 months)			
Chicago Municipal		Average of the highest 4 consecutive annual salary within the last 10 years			
Chicago Laborers					Average of the highest 8 consecutive annual salary within the last 10 years
Chicago Park District					

*HB 5909 removes the Tier 3 language from Articles 8, 11, and 12 (Chicago Municipal, Chicago Laborers, and Chicago Park District). As a result, the Tier 3 members would be treated as Tier 2 members, whose FAS would become identical to Tier 1 FAS under this legislation.