

Proposed Legislation: Mandatory Cost-of-Living Adjustment for Certain Police (and Firefighter?) Retirees



House Bill 2237 was introduced in the Pennsylvania state legislature on January 11, 2022 and proposes an ad-hoc Cost-of-Living Adjustment (COLA) to certain public safety retirees similar to that granted under Act 64 of 2002. This comes as no surprise with the last mandated COLA effective 20 years ago. The consumer price index has increased over 50% since 2002 and will continue to grow with the recent surge in inflation. What is surprising, though, is that fire retirees are excluded from the current bill. However, we suspect that could be a drafting error as the memo from Rep. Martina A. White, R-Philadelphia clearly

indicates the COLA is for both retired police officers and firefighters. We anticipate seeing a clarifying amendment to the bill that will also include updating the “years on retirement” definition.

History of Public Safety Mandatory COLAs

Act 147 of 1988 resulted in a mandated monthly COLA to certain retired and disabled police officers and firefighters, effective 1/1/1989, that was either \$25, \$50, \$75 or \$150 depending on how long the police officer or firefighter was retired. The municipality received an annual dollar-for-dollar reimbursement by submitting Form AG-490. Although surviving spouses in pay status on 1/1/1989 were excluded from the COLA, the 1989 COLA continued (either 50% or 100%) to spouses of retirees who were entitled to the COLA.

Act 64 of 2002 provided a 6/30/2002 COLA. It was calculated very differently and included an offset for the 1989 COLA and a partial offset for all prior voluntary COLAs granted by the municipality after 12/31/1988 and before 1/1/2002. The reimbursement was very different as well (by submitting Form AG-64) and removed the windfall (as highlighted to the right). In contrast to the 1989 COLA, the Act 64 language was designed to preclude the continued payment (either 50% or 100%) to surviving spouses. However, a surviving spouse challenged it and ultimately prevailed in a 2005 court case (*Maletta v. City of Bradford*) so, same as the 1989 COLA, the Act 64 COLA is continued to surviving spouses.

NOTE:

Municipalities with well-funded pension plans who received less than a full state aid unit value allocation in a year subsequent to 1988 received additional state aid due to 1989 COLA because it increased their “Need” calculation. The 2002 amendment (Act 64) removed this windfall.

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Proposed HB 2237 COLA

Base Formula

HB 2237 merely updates the Act 64 COLA calculation with an increase in the base formula. The calculation is based on prior years of service (YOS) with the municipality as well as years on retirement (YOR).

The preliminary COLA amount for a retiree with 20 years of service will likely range from \$22.50 per month for the most recently retired officers to \$240.00 per month for officers who retired 30 years ago (likely in their 70s or 80s), prior to consideration of voluntary COLA offsets.

Base Adjustment:
 $\$0.20 \times \text{YOS} \times \text{YOR}$

Longevity Factor:
 $(0.025 \times \text{YOR}) + (0.05 \times \text{YOR in excess of 25, if any})$

Preliminary COLA:
 $\text{Base Adjustment} \times (1 + \text{Longevity Factor})$

Offsets and Final COLA

The mandated COLA is reduced by a value equal to 65% of all prior COLAs provided to the retiree after 1/1/2002 and before 12/31/2022, and paid before 2023. For example, if a preliminary COLA of \$100 is calculated as described above and the municipality had granted a \$30 COLA in 2005, then the final COLA would be $\$100 - (65\% \times \$30) = \$80.50$.

Reimbursements

Reimbursement by the Commonwealth to municipalities is identical to Act 64, through annual submission of the Form AG-64. In general, the basis of the reimbursement will be the amortization contribution requirement on the preceding year's MMO attributable to the ad-hoc COLA, adjusted for state aid.

Eligibility and Effective Date

HB 2237 is proposed for *police officers* who retired before 1/1/2018 and would be effective for 1/1/2023. But, as mentioned above, firefighters will likely be added to the final bill.

Conclusion

Because of the offset, those municipalities currently engaged in a renewal of their collective bargaining agreements may wish to hold off or modify discussions around a voluntary 2022 COLA as this legislation is, we believe, likely to pass before the end of summer. In the meantime, municipalities may want to assemble the information needed to calculate the mandated COLA.



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