

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 803

Session of
1985

INTRODUCED BY MAYERNIK, CESSAR, TRELLO, OLIVER, CIVERA, MILLER,
VAN HORNE, DUFFY, PERZEL, MICOZZIE, BURD, COLAFELLA,
DOMBROWSKI, GREENWOOD, O'DONNELL, HUTCHINSON, STEWART,
PISTELLA, KUKOVICH, BUNT, COHEN, PETRARCA, DeLUCA, SEVENTY,
STABACK, JOHNSON, POTT, LAUGHLIN, GANNON, ANGSTADT, MARKOSEK,
F. E. TAYLOR, BOOK, PETRONE, OLASZ, DALEY, KOSINSKI, COSLETT,
McVERRY, KENNEY, O'BRIEN, COLE, FOX, J. J. TAYLOR, SCHULER,
ARTY AND GAMBLE, APRIL 9, 1985

REFERRED TO COMMITTEE ON FINANCE, APRIL 9, 1985

AN ACT

1 Authorizing municipal pension plans to adopt automatic
2 postretirement adjustment mechanism applicable to active and
3 retired members of municipal police and firefighters pension
4 plans.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Special
9 Automatic Municipal Police and Firefighters Postretirement
10 Adjustment Mechanism Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Active employment." The situation of a person, other than
16 an independent contractor, who performs for compensation regular

1 services or a municipality on active duty in the municipal fire
2 department or municipal police department and who is regularly
3 entered on the payroll of the municipality.

4 "Approved actuary." A person who has at least five years of
5 actuarial experience with public pension plans and who is either
6 enrolled as a member of the American Academy of Actuaries or
7 enrolled as an actuary under the Employee Retirement Income
8 Security Act of 1974 (Public Law 93-406, 88 Stat. 832).

9 "Benefit plan." That portion of a pension plan which deals
10 specifically with the retirement annuity and benefit coverage
11 provided by the pension plan, including, but not limited to, the
12 types of coverage, the eligibility for and entitlement to
13 retirement annuities and benefits and the amount of retirement
14 annuities and benefits.

15 "Chief administrative officer." The person who has primary
16 responsibility for the execution of the administrative affairs
17 of the municipalities in the case of a municipality or of the
18 pension plan in the case of a pension plan, or the designee of
19 that person.

20 "Consumer price index." The consumer price index for urban
21 consumers nationally covering all items as published by the
22 Bureau of Labor Statistics of the United States Department of
23 Labor.

24 "Municipal pension plan." A relationship between a
25 municipality and a municipal employee with respect to the
26 provision of benefits in the event of retirement from active
27 employment, whether established under the law of this
28 Commonwealth, municipal ordinance or resolution or an instrument
29 to which the municipality is a party on behalf of its municipal
30 employees.

1 "Municipality." A city, borough, incorporated town, township
2 or home rule municipality.

3 "Paid firefighter." A person who is engaged in the duties of
4 firefighting, who holds a position or office in the fire
5 department of a municipality and who has retirement coverage
6 provided by a pension plan to which an allocation of the
7 proceeds of the foreign fire insurance premium tax under the act
8 of December 18, 1984 (P.L.1005, No.205), known as the Municipal
9 Pension Plan Funding Standard and Recovery Act, is ultimately
10 payable.

11 "Police officer." A person who is engaged in the duties of
12 protecting the safety and property of others, other than duties
13 performed by a paid firefighter, who has the power to arrest by
14 warrant, under the law of this Commonwealth, and who has
15 retirement coverage provided by a pension plan to which an
16 allocation of the proceeds of the foreign casualty insurance
17 premium tax under the act of May 12, 1943 (P.L.259, No.120),
18 referred to as the Foreign Casualty Insurance Premium Tax
19 Allocation Law, is ultimately payable.

20 "Postretirement adjustment." An increase in or change in the
21 amount of any retirement annuity, retirement benefit, disability
22 benefit or service pension granted or effective after the date
23 on which active employment ceases.

24 Section 3. Special automatic municipal police and firefighters
25 postretirement adjustment mechanism.

26 (a) Authorization.--A municipality, by ordinance, shall
27 adopt a special automatic municipal police and firefighters
28 postretirement adjustment mechanism as provided for in this act.
29 Before taking final action on the special automatic
30 postretirement adjustment mechanism, the municipality shall

1 comply with the requirements of section 5. Subsequent to
2 adoption of the special automatic postretirement adjustment
3 mechanism, the municipality shall comply with the requirements
4 of sections 6 and 7.

5 (b) Persons eligible for coverage by mechanism.--The
6 following persons shall be eligible for coverage by the special
7 automatic municipal police and firefighters postretirement
8 adjustment mechanism adopted by the municipality:

9 (1) A person who, as of the effective date of the
10 adoption of the ordinance implementing the special automatic
11 postretirement adjustment mechanism, has terminated active
12 employment by the municipality as a police officer or a paid
13 firefighter, whichever is applicable; is receiving a
14 retirement annuity, retirement benefit, service pension or
15 disability benefit from a municipal police or paid
16 firefighters pension plan on the basis of that active
17 employment; has attained the retirement superannuation age;
18 and has commenced receipt of that annuity, pension or benefit
19 at least three years prior to the effective date of the
20 adoption of the ordinance.

21 (2) A person who, on or after the effective date of the
22 adoption of the ordinance implementing the special automatic
23 postretirement adjustment mechanism, is engaged in or
24 commences active employment by the municipality as a police
25 officer or a paid firefighter, whichever is applicable;
26 obtains sufficient service; attains sufficient years of age;
27 meets other requirements to become entitled to receive, and
28 commences receipt of, a retirement annuity, retirement
29 benefit, disability benefit or service pension; continues
30 receipt of that annuity, pension or benefit for a minimum of

1 three years; and has attained at least 55 years of age.

2 (c) Amount of special automatic postretirement adjustment
3 mechanism.--

4 (1) An automatic postretirement adjustment shall be
5 payable to all eligible persons as of January 1 of each year
6 if there has been an increase of at least 2% in the consumer
7 price index since the later of the January 1 next following
8 the date of the commencement of the receipt of the retirement
9 annuity, retirement benefit, disability benefit or service
10 pension or the date of the most recent automatic
11 postretirement adjustment previously payable under this act.
12 The amount of the automatic postretirement adjustment shall
13 be calculated pursuant to paragraph (2).

14 (2) The amount of any automatic postretirement
15 adjustment payable shall be equal to one-half of the
16 percentage increase in the consumer price index during the
17 applicable period specified in paragraph (1), but not to
18 exceed in any event 4%, and applied to the annuity, benefit
19 or pension payable during the December immediately prior to
20 the calculation of the adjustment.

21 (d) Calculation and payment of special automatic
22 postretirement adjustment.--A determination of whether or not an
23 automatic postretirement adjustment is payable and the amount of
24 any automatic postretirement adjustment under this act shall be
25 made by the chief administrative officer as soon as is
26 practicable following January 1 of each year occurring after the
27 adoption of the municipal ordinance implementing the
28 postretirement adjustment mechanism under section 3. Any
29 adjustment is payable as of January 1 and shall be included in
30 the monthly annuity, benefit or pension as soon as is

1 practicable thereafter. The initial payment of the adjustment
2 shall include any omitted payments payable from January 1
3 through the date of the initial payment.

4 Section 4. Funding of special automatic postretirement
5 adjustment mechanism.

6 (a) Member contributions.--If a municipal ordinance
7 implementing an automatic postretirement adjustment mechanism
8 has been adopted, there shall be implemented an increase in
9 member contribution as soon as is practicable thereafter. The
10 increase in member contributions shall be equal to one-third of
11 the increase in the normal cost attributable to the benefit
12 increase. The increased member contribution shall be initially
13 set based on the actuarial cost estimate provided in connection
14 with consideration of the automatic postretirement adjustment
15 mechanism under section 5. The increased member contribution
16 shall be ultimately set based on the actuarial report next
17 required under section 6 or under an applicable comprehensive
18 municipal pension plan actuarial reporting statute. The
19 increased member contribution shall be payable at the same times
20 and in the same manner as any member contribution payable or
21 provided for law prior to the establishment of the automatic
22 postretirement adjustment mechanism.

23 (b) Municipal contributions.--If a municipal ordinance
24 implementing an automatic postretirement adjustment mechanism
25 has been adopted, the municipality shall increase its
26 contributions to the pension plan to equal that portion of the
27 increase in normal cost of the pension plan not paid by the
28 increase in member contributions and any additional Commonwealth
29 aid received under subsection (c)(1), and shall increase its
30 contributions to the pension plan to equal that portion of the

1 increase in the amortization requirement of the pension plan not
2 met by any additional Commonwealth aid under subsection (c)(2).
3 The municipal contributions shall be made under section 7.

4 (c) Commonwealth aid in connection with automatic
5 postretirement adjustments.--If a municipal ordinance
6 implementing an automatic postretirement adjustment mechanism
7 has been adopted, the Commonwealth shall provide additional
8 financial support in certain cases as follows:

9 (1) If the percentage funding ratio of the actuarial
10 value of assets to the accrued actuarial liability of the
11 municipal pension plan is less than 150%, the Commonwealth
12 shall provide additional financial support equal to one-third
13 of the increase in the normal cost attributable to the
14 benefit increase. The additional financial support for normal
15 cost shall initially be equal to the increase in member
16 contributions made under subsection (a) and shall ultimately
17 be based on the actuarial report next required under section
18 6 or pursuant to any applicable comprehensive municipal
19 pension plan actuarial reporting law.

20 (2) If the unfunded accrued liability of the municipal
21 pension plan for pension plan benefits other than the special
22 automatic postretirement adjustment mechanism is equal to or
23 greater than the annual covered payroll of plan participants,
24 the Commonwealth shall provide additional financial support
25 to amortize the unfunded accrued actuarial liability
26 attributable to the special automatic postretirement
27 adjustment mechanism on a ten-year period, level-annual-
28 dollar amortization basis in the following percentage of the
29 total amortization cost of the special automatic
30 postretirement adjustment mechanism:

1	Unfunded Accrued	Applicable
2	Actuarial Liability as	Commonwealth
3	Percent of Covered Payroll	Share Percentage
4	200 or more	100
5	100 to 199	50

6 The initial determination of the applicable Commonwealth
7 share percentage and periodic redeterminations, which shall
8 occur every four years thereafter, shall be based on the then
9 most recent municipal pension plan actuarial valuation report
10 filed with the Commonwealth.

11 (3) Any Commonwealth additional financial support under
12 this section shall be funded from the required portion of the
13 proceeds of the tax on domestic casualty insurance premiums
14 and the proceeds of the tax on domestic fire insurance
15 premiums in proportion to the relationship that the proceeds
16 of each tax bear to the total proceeds of both taxes.
17 Annually, the Auditor General shall certify to the General
18 Assembly the applicable estimated amount of additional
19 financial support for each eligible municipality and for all
20 eligible municipalities in total. Payment of the additional
21 financial support shall be made on the first business day in
22 September, annually, and the appropriation should be
23 deposited in a special account for this purpose on the last
24 business day in August. The Auditor General is authorized and
25 directed to issue regulations specifying the form and
26 contents of necessary certifications provided by
27 municipalities.

28 Section 5. Actuarial cost estimate required for adoption of
29 automatic postretirement adjustment mechanism.

30 Prior to adoption of an automatic postretirement adjustment

1 mechanism, the chief administrative officer of the applicable
2 pension plan shall provide to the governing body of the
3 municipality a cost estimate of the effect of the proposed
4 benefit plan modification. The cost estimate shall be prepared
5 by an approved actuary and shall be an estimate of the expected
6 actuarial impact attributable to the proposed benefit plan
7 modification. The cost estimate of the effect of the proposed
8 benefit plan modification shall be complete and accurate and
9 shall be presented in a way reasonably calculated to disclose to
10 the average member of the governing body of the municipality the
11 impact of the proposed benefit plan, the modification on the
12 future financial requirements of the pension plan and the future
13 minimum obligation of the municipality with respect to the
14 pension plan.

15 Section 6. Actuarial reporting by certain municipal pension
16 plans.

17 (a) General rule.--Any municipal police or firefighters
18 pension plan to which the automatic postretirement adjustment
19 mechanism provided for in this act applies shall cause an
20 actuarial valuation report to be made biennially.

21 (b) Filing date for actuarial valuation report.--The
22 biennial actuarial valuation report required by subsection (a)
23 shall be made as of the beginning of each plan year occurring in
24 an odd-numbered calendar year and shall be filed with the
25 executive director of the Public Employee Retirement Study
26 Commission no later than the last business day of March,
27 occurring in the following calendar year. For the initial filing
28 under this subsection, the actuarial valuation report shall be
29 made as of the beginning of the plan year occurring in calendar
30 year 1985.

1 (c) Responsibility for preparation and filing of report.--

2 The actuarial valuation report required by subsection (a) shall
3 be prepared under the supervision and at the direction of the
4 chief administrative officer, who shall also be responsible for
5 filing the document. The actuarial valuation report shall be
6 signed by the chief administrative officer, indicating that, to
7 the extent of the understanding and knowledge of the officer,
8 the report or investigation represents a true and accurate
9 portrayal of the actuarial, financial and demographic condition
10 of the pension plan of the municipality.

11 (d) Actuarial valuation report as public record.--Each

12 actuarial valuation report filed under this act is a public
13 record. The chief administrative officer shall take whatever
14 steps are deemed necessary to ensure that the information
15 contained in the actuarial valuation report or experience
16 investigation is made available to active members or benefit
17 recipients of the pension plan.

18 (e) Contents of actuarial valuation report.--

19 (1) The actuarial valuation report shall be prepared and
20 certified by an approved actuary.

21 (2) The actuarial valuation report shall be prepared in
22 accordance with the entry age normal actuarial cost method
23 with entry age established as the actual entry age for all
24 plan members. The actuarial cost method shall be used to
25 value all aspects of the benefit plan or plans of the pension
26 plan. The actuarial exhibits shall use actuarial assumptions
27 which are, in the judgment of the actuary and the governing
28 body of the plan, the best available estimate of future
29 occurrences in the case of each assumption. With respect to
30 economic actuarial assumptions, the assumptions shall either

1 be 7% for future investment income and 6% for future salary
2 increases or as chosen by the actuary with full documentation
3 explaining and justifying the choice of assumptions. The
4 actuarial exhibits shall measure all aspects of the benefit
5 plans of the pension plan in accordance with modifications in
6 the benefit plans, if any, and salaries which as of the
7 valuation date are known or can reasonably be expected to be
8 in force during the ensuing plan year. The actuarial
9 valuation report shall contain the following actuarial
10 exhibits:

11 (i) An exhibit of the normal cost of the benefits
12 provided by the benefit plan as of the date of the
13 actuarial valuation, expressed as a percentage of the
14 future covered payroll of the active membership of the
15 pension plan as of the date of the actuarial valuation.

16 (ii) An exhibit of the actuarial accrued liability
17 of the benefit plan as of the date of the actuarial
18 valuation in total, the actuarial present value of all
19 projected benefits provided by the benefit plan, the
20 actuarial present value of future normal costs; and the
21 actuarial present values for the various pension plan
22 benefits.

23 (iii) An exhibit of the unfunded actuarial accrued
24 liability of the pension plan in total, which shall be
25 the actuarial accrued liability of the pension plan
26 calculated under this paragraph, less the actuarial value
27 of assets of the pension plan in total and by its
28 particular components. The initial determination of the
29 unfunded actuarial accrued liability attributable to a
30 modification in the benefit plan governing the pension

1 plan or to a modification in the actuarial assumptions
2 used to calculate the actuarial accrued liability of the
3 pension plan shall be made by calculating the unfunded
4 actuarial accrued liability of the pension plan in
5 accordance with the benefit plan provisions and actuarial
6 assumptions which were in effect prior to the
7 modification and by calculating the unfunded actuarial
8 accrued liability of the pension plan in accordance with
9 the modification in the provisions of the benefit plan
10 governing the pension plan or in the actuarial
11 assumptions used to calculate the actuarial accrued
12 liability of the pension plan, whichever is applicable,
13 and the remaining benefit plan provisions and actuarial
14 assumptions. The initial determination of the unfunded
15 actuarial accrued liability attributable to an actuarial
16 loss shall be made in conjunction with the analysis of
17 increases or decreases in the unfunded actuarial accrued
18 liability of the pension plan required under subparagraph
19 (vi).

20 (iv) An exhibit of any additional funding costs
21 associated with the amortization of any unfunded
22 actuarial accrued liability of the pension plan,
23 indicating for each increment of unfunded actuarial
24 accrued liability, the level annual dollar contribution
25 required to pay an amount equal to the actuarial
26 assumption as to investment earnings applied to the
27 principal amount of the remaining balance of the
28 increment of unfunded actuarial accrued liability and to
29 retire by the applicable amortization target date
30 specified in this subparagraph the principal amount of

1 the remaining balance of the increment of unfunded
2 actuarial accrued liability.

3 (A) The amortization target date applicable for
4 each type of increment of unfunded actuarial accrued
5 liability shall be as follows:

6 (I) Unfunded actuarial accrued liability in
7 existence as of the beginning of the plan year
8 occurring in calendar year 1985, at the end of
9 the plan year occurring in calendar year 2015.

10 (II) Increment or decrement of net unfunded
11 actuarial accrued liability attributable to a
12 change in actuarial assumptions, at the end of
13 the plan year occurring 20 years after the
14 calendar year in which actuarial assumption
15 modification was effective.

16 (III) Increment of net unfunded actuarial
17 accrued liability attributable to a modification
18 in the benefit plan applicable to active members,
19 at the end of the plan year occurring 20 years
20 after the calendar year in which the benefit plan
21 modification was effective.

22 (IV) Increment of unfunded actuarial accrued
23 liability attributable to a modification in the
24 benefit plan applicable to retired members and
25 other benefit recipients, at the end of the plan
26 year occurring ten years after the calendar year
27 in which the benefit plan modification was
28 effective.

29 (V) Increment or decrement of net unfunded
30 actuarial accrued liability attributable to an

1 actuarial experience loss or gain, at the end of
2 the plan year occurring 15 years after the
3 calendar year in which the actuarial experience
4 loss or gain was recognized.

5 (B) The exhibit shall also indicate the plan
6 year in which any unfunded actuarial accrued
7 liability of the pension plan would be fully
8 amortized if the total annual additional funding cost
9 calculated under this paragraph were met continuously
10 without increase or decrease in amount until the
11 total unfunded actuarial accrued liability currently
12 existing was fully amortized. In calculating the
13 additional funding costs associated with the
14 amortization of any unfunded actuarial accrued
15 liability of the pension plan in any plan year, any
16 amortization contribution made in the interval since
17 the last actuarial valuation report shall be
18 allocated to each type of increment of unfunded
19 actuarial accrued liability in proportion to the
20 remaining dollar amount of each type.

21 (v) An exhibit of the total administrative cost of
22 the pension plan for the plan year occurring immediately
23 prior to the plan year for which the actuarial valuation
24 report is made.

25 (vi) An exhibit containing an analysis of the
26 increase or decrease in the unfunded actuarial accrued
27 liability of the pension plan since the most recent prior
28 actuarial valuation report. The analysis shall be based
29 on the best professional judgment of the approved actuary
30 reached after preparing the various applicable actuarial

exhibits of the actuarial valuation report.

(vii) An exhibit summarizing the economic and demographic actuarial assumptions used in the preparation of the actuarial exhibits.

(viii) A summary of the principal provisions of the benefit plan of the pension plan upon which the actuarial exhibits are based.

Section 7. Minimum funding standard.

(a) Application.--Notwithstanding any provision of statute, municipal ordinance, municipal resolution, municipal charter, pension plan agreement or pension plan contract to the contrary, the applicable provisions of this section apply to a municipality that adopts a special automatic postretirement adjustment mechanism and to the respective municipal pension plans.

(b) Financial requirements of the pension plan.--

(1) Annually, the chief administrative officer shall determine the financial requirements of the pension plan for the following plan year. The financial requirements of the pension plan for the following plan year shall be based on the most recent actuarial valuation report of the pension plan required. Unless the assets of the pension plan equal the present value of future benefits, the financial requirements of the pension plan shall be the normal cost and administrative expense requirements for the following plan year and, if the pension plan has an unfunded actuarial accrued liability pursuant to the most recent actuarial valuation report, the amortization contribution requirement for the following plan year. The financial requirements of the pension plan, however, shall at least be equal to the

1 annual amount of retirement and other benefit anticipated to
2 be payable from the pension plan for the following plan year
3 less the market value of the assets of the pension plan as of
4 the date on which the financial requirements of the pension
5 plan are determined.

6 (2) The normal cost and administrative expense
7 requirements for the following plan years shall be expressed
8 as a dollar amount and shall be determined by applying the
9 normal cost of the benefit plan and the administrative
10 expense payable from the assets attributable to the benefit
11 plan, as reported in the actuarial valuation report of the
12 pension plan and expressed as a percentage of covered
13 payroll, to the estimated covered payroll of the active
14 membership of the pension plan, including any projected
15 increase in active membership for the following year.

16 (3) The amortization contribution requirement for the
17 following plan year shall be expressed as a dollar amount and
18 shall be the additional amount reported in the actuarial
19 valuation report of the pension plan as sufficient to
20 amortize on a level dollar basis the various increments of
21 the unfunded actuarial accrued liability of the benefit plan
22 by the applicable amortization target dates as established in
23 section 6(e)(2)(iv)(A).

24 (c) Minimum obligation of the municipality.--Annually, the
25 chief administrative officer of the pension plan shall determine
26 the minimum obligation of the municipality with respect to the
27 pension plan for the following plan year. The minimum obligation
28 of the municipality with respect to the pension plan shall be
29 equal to the financial requirements of the pension plan reduced
30 by the following amounts:

(1) The amount of money from the Commonwealth anticipated as receivable by the municipality and to be allocated to the pension plan for the following plan year.

(2) The amount of member contributions anticipated as receivable for the following year.

(3) If the actuarial value of the assets of the pension plan exceed the actuarial accrued liability of the pension plan, an amount equal to one-tenth of the amount by which the actuarial value exceeds the actuarial accrued liability.

(d) Payment of minimum municipal obligation.--Annually, the municipality shall provide for the full amount of the minimum obligation of the municipality in the budget of the municipality. The minimum obligation of the municipality shall be payable to the pension plan from the revenue of the municipality. Payment of the minimum obligation of the municipality shall be made by the municipality and, if made during the month of January, it shall be payable without an interest. If made subsequent to the month of January, but prior to December 31, it shall be payable, with interest, for the period since January 1 at a rate equal to the interest assumption used for the actuarial valuation report, expressed on a monthly basis.

(e) Interest penalty on omitted municipal contributions.--Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial

1 valuation report or the discount rate applicable to Treasury
2 bills issued by the Federal Treasury Department with a six-month
3 maturity as of the last business day in December of the plan
4 year in which the obligation was due, whichever is greater,
5 expressed as a monthly rate and compounded monthly.

6 (f) Submission of financial requirements.--The chief
7 administrative officer of each pension plan shall submit the
8 financial requirements of the pension plan and the minimum
9 obligation of the municipality with respect to the pension plan,
10 with appropriate documenting detail, annually, to the governing
11 body of the municipality on or before the last business day in
12 September. The submission shall include a certification by the
13 chief administrative officer as to the accuracy of the
14 calculations and their conformance with the applicable
15 provisions of this act.

16 Section 8. Failure to enact legislation.

17 (a) Remedy--Should any municipality fail to enact this
18 required legislation, any police officer or firefighter may, by
19 suit in mandamus, compel the municipal authorities to enact the
20 legislation.

21 (b) Generally.--In the event that a municipality fails to
22 enact this required legislation, the failure may be remedied by
23 the institution of legal proceedings for mandamus. Every
24 municipality is, by this act on notice as to its duty to enact
25 this required legislation. No other remedy at law shall be
26 deemed to be sufficiently adequate and appropriate to bar the
27 commencement of this action. A person or entity who institutes
28 the action shall be deemed to have been injured by the failure
29 of the municipality to comply with its legal duty to enact this
30 legislation, and that injury shall be deemed to be immediate. No

1 issuance of mandamus shall be deemed to threaten the creation of
2 confusion, disorder or excessive burden on the municipality or
3 to threaten a result which is detrimental to the public
4 interest.

5 (c) Persons beneficially interested.--A person who is
6 beneficially interested in the affairs of the municipal pension
7 plan shall have standing to institute a legal proceeding for
8 mandamus as provided for in this section. A beneficially
9 interested person is a person who does one of the following:

10 (1) Has the relationship with the municipal pension plan
11 of:

12 (i) an active member, whether or not any minimum
13 service requirement for acquiring a vested right to a
14 retirement benefit has been met;

15 (ii) an inactive member with a vested right to
16 deferred receipt of a retirement benefit;

17 (iii) a retired member;

18 (iv) a recipient of retirement benefit other than a
19 retire member;

20 (v) a former member with member contributions to the
21 credit of the member with the municipal pension plan; or

22 (vi) a spouse, child or other potential beneficiary
23 pursuant to the terms of the plan document of the
24 municipal pension plan of a person described in
25 subparagraphs (i) or (v).

26 (2) Serves in the position of a fiduciary with respect
27 to the municipal pension plan.

28 (3) Represents active members of the municipal pension
29 plan as collective bargaining agent.

30 (4) Serves as an elected or appointed official of the

1 municipality.

2 (d) Others with standing to bring action.--The commission
3 shall have standing to institute a legal proceeding for mandamus
4 as provided for in this section. The Attorney General or the
5 district attorney of the county in which the municipality is
6 located, in addition to any other powers and duties conferred on
7 that office by law, shall also proceed in the name of the
8 Commonwealth, upon request of the commission or upon the
9 person's own motion, to institute a legal proceeding for
10 mandamus as provided for in this section.

11 (e) Scope of remedy.--A mandamus under this section may
12 compel the addition by the municipality to the current municipal
13 budget of any omitted amount of the minimum obligation of the
14 municipality and the subsequent payment of any budgeted amount,
15 or the immediate or scheduled periodic payment of any omitted
16 amount of minimum obligation of the municipality, with interest
17 at the applicable compound rate, whichever is applicable.

18 (f) Reimbursement for certain costs.--In an action pursuant
19 to this section which is instituted or joined by a person who is
20 beneficially interested, unless the court otherwise directs,
21 party costs, disbursements, reasonable attorney fees and witness
22 fees relating to the action shall be allowed to the prevailing
23 party upon a motion by the prevailing party if one of the
24 following applies:

25 (1) The prevailing party is a person who is beneficially
26 interested and, prior to the issuance of mandamus, has given
27 the opposing party timely notice of intent to claim an award.

28 (2) The prevailing party is the municipality and the
29 complaining party has brought an action which the complaining
30 party knew or ought to have known was groundless, frivolous,

1 without merit and without a basis in fact.

2 Section 9. Enforcement proceedings by commission.

3 Whenever the commission is of the opinion that a municipality
4 has failed, omitted, neglected or refused to perform any duty
5 enjoined upon it under this act, the commission has the power
6 and duty to order compliance by the municipality with that duty.
7 If the municipality fails, omits, neglects or refuses to comply
8 with a lawful order of the commission, then the commission may
9 institute legal proceedings for injunction, mandamus or other
10 appropriate remedy at law or equity to enforce compliance with,
11 or restrain violation of, the order of the commission.

12 Section 10. Effective date.

13 This act shall take effect in 60 days.