

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

WEDNESDAY, AUGUST 26, 2009

SESSION OF 2009 193RD OF THE GENERAL ASSEMBLY

No. 74

SENATE

WEDNESDAY, August 26, 2009

The Senate met at 11 a.m., Eastern Daylight Saving Time.

The PRESIDENT (Lieutenant Governor Joseph B. Scarnati III) in the Chair.

PRAYER

The Chaplain, Reverend JEDIDIAH SLABODA, of Second City Church, Harrisburg, offered the following prayer:

Let us pray.

Almighty God, You are the fountain of wisdom, and it is Your will to be good and gracious to us. Your law is truth, and so we ask You to guide and bless our Senators assembled here in the legislature of this Commonwealth, that they would enact such laws as would please You and as would be to the glory of Your name and the welfare of all of the people of this Commonwealth. Through Jesus Christ, our Lord, we pray. Amen.

The PRESIDENT. The Chair thanks Reverend Slaboda, who is the guest today of Senator Piccola.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE ENVIRONMENTAL
HEARING BOARD**

August 25, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Michelle A. Coleman, Esquire, 5087 Sue Ann Drive, Harrisburg 17112, Dauphin County, Fifteenth Senator-

ial District, for reappointment as a member of the Environmental Hearing Board, to serve for a term of six years or until her successor is appointed and qualified.

EDWARD G. RENDELL
Governor

**MEMBER OF THE ENVIRONMENTAL
HEARING BOARD**

August 25, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, The Honorable Michael L. Krancer, 844 Harriton Road, Bryn Mawr 19010, Montgomery County, Seventeenth Senatorial District, for appointment as a member of the Environmental Hearing Board, to serve for a term of six years or until his successor is appointed and qualified, vice The Honorable Michael Krancer, Bryn Mawr, resigned.

EDWARD G. RENDELL
Governor

**MEMBER OF THE ENVIRONMENTAL
HEARING BOARD**

August 25, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Richard P. Mather, Esquire, 4428 Saybrook Lane, Harrisburg 17110, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Environmental Hearing Board, to serve for a term of six years or until his successor is appointed and qualified, vice George J. Miller, Esquire, Haverford, whose term expired.

EDWARD G. RENDELL
Governor

**MEMBER OF THE ENVIRONMENTAL
HEARING BOARD**

August 25, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas W. Renwand, Esquire, 426

Cadberry Court, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the Environmental Hearing Board, to serve for a term of six years or until his successor is appointed and qualified.

EDWARD G. RENDELL
Governor

MEMBER OF THE BOARD OF GOVERNORS OF
THE STATE SYSTEM OF HIGHER EDUCATION

August 25, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Nicholas James Barcio, 2816 Morningside Drive, Erie 16506, Erie County, Forty-ninth Senatorial District, for appointment as a member of the Board of Governors of the State System of Higher Education, to serve until graduated or separated from the University, vice Ryan R. Jerico, Canonsburg, graduated.

EDWARD G. RENDELL
Governor

MEMBER OF THE BOARD OF GOVERNORS OF
THE STATE SYSTEM OF HIGHER EDUCATION

August 25, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Ms. Jamie Lee Lutz, 358 President Village Road, Tionesta 16353, Forest County, Twenty-first Senatorial District, for appointment as a member of the Board of Governors of the State System of Higher Education, to serve until graduated or separated from the University, vice Larry L. Brink, Jr., Uniontown, graduated.

EDWARD G. RENDELL
Governor

MEMBER OF THE BOARD OF GOVERNORS OF
THE STATE SYSTEM OF HIGHER EDUCATION

August 25, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Mackenzie Marie Wrobel, 344 West Street, Bloomsburg 17815, Columbia County, Twenty-seventh Senatorial District, for appointment as a member of the Board of Governors of the State System of Higher Education, to serve until graduated or separated from the University, vice Jessica E. Carson, Quarryville, graduated.

EDWARD G. RENDELL
Governor

RECALL COMMUNICATION
REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE COUNCIL OF TRUSTEES OF
MILLERSVILLE UNIVERSITY OF PENNSYLVANIA
OF THE STATE SYSTEM OF HIGHER EDUCATION

August 26, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 6, 2009, for the appointment of Daniel Betancourt, 123 East Lemon Street, Lancaster 17602, Lancaster County, Thirteenth Senatorial District, as a member of the Council of Trustees of Millersville University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2013, and until his successor is appointed and qualified, vice Nelson Sears, Lancaster, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a legislative leave for Senator McIlhinney.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request a legislative leave for Senator Stout.

The PRESIDENT. Senator Pileggi requests a legislative leave for Senator McIlhinney.

Senator Mellow requests a legislative leave for Senator Stout. Without objection, the leaves will be granted.

LEAVES OF ABSENCE

Senator PILEGGI asked and obtained leaves of absence for Senator PICCOLA and Senator D. WHITE, for today's Session, for personal reasons.

Senator MELLOW asked and obtained a leave of absence for Senator LEACH, for today's Session, for personal reasons.

SPECIAL ORDER OF BUSINESS
JOURNAL APPROVED

The PRESIDENT. The Journal of the Session of July 17, 2009, is now in print.

The Clerk proceeded to read the Journal of the Session of July 17, 2009.

Senator PILEGGI. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-46

Alloway	Farnese	Musto	Tomlinson
Argall	Ferlo	O'Pake	Vance
Baker	Folmer	Orie	Vogel
Boscola	Fontana	Pileggi	Ward
Browne	Gordner	Pippy	Washington
Brubaker	Greenleaf	Rafferty	Waugh
Corman	Hughes	Robbins	White, Mary Jo
Costa	Kasunic	Scarnati	Williams
Dinniman	Kitchen	Smucker	Wozniak
Earll	Logan	Stack	Yaw
Eichelberger	McIlhinney	Stout	
Erickson	Mellow	Tartaglione	

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The Journal is approved.

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR JANE M. EARLL
PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentlewoman from Erie, Senator Earll.

Senator EARLL. Mr. President, today, I have two very special guests who made the long trip from Erie with me. I have my mom, Ruth Earll, and my niece, Maria Earll. My mother, who has become a recent addict to PCN, wanted to come down and see everyone live and in person and see how the Session works. And my niece, Maria, will be a sophomore next week at Villa Maria Academy in Erie. Today, she is celebrating her 16th birthday. So if the Senate would join me in giving them its usual warm welcome, I would appreciate it.

The PRESIDENT. Would the guests of Senator Earll please rise to be welcomed by the Senate.

(Applause.)

**GUESTS OF SENATOR ROBERT J. MELLOW
PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I would also like to make the introduction of two special people who are with me here today, and they are serving as guest Pages. They are Justin and Blake Hammert. They are going to start sixth grade in a few days. They are 11 years old, and they are twins. They go to Our Lady of Peace School, which is located in Clarks Summit in Lackawanna County. I would like you to give them a cordial welcome to the Senate of Pennsylvania.

The PRESIDENT. Would the Senate join in welcoming Senator Mellow's guests as guest Pages today.
(Applause.)

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus in the Majority Caucus Room.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I likewise ask for the Democratic Members to report to our caucus room at the rear of the Chamber.

The PRESIDENT. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator McIlhinney has returned, and his legislative leave is cancelled.

CALENDAR

THIRD CONSIDERATION CALENDAR

HB 1828 CALLED UP OUT OF ORDER

HB 1828 (Pr. No. 2606) -- Without objection, the bill was called up out of order, from page 4 of the Third Consideration Calendar, by Senator PILEGGI, as a Special Order of Business.

BILL AMENDED AND REREFERRED

HB 1828 (Pr. No. 2606) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, amending the title of the act; in preliminary provisions, further providing for definitions; in preliminary provisions, providing for methodology; in municipal pension plan actuarial reporting, further providing for contents of actuarial valuation report and providing for actuarial asset valuation and for revised actuarial valuation report; in minimum funding standard for municipal pension plans, further providing for minimum funding standard and defined benefit plans self-insured in whole or in part; in revisions applicable to municipal pension fund financing, further providing for revision of financing from State revenue sources and General Municipal Pension System State Aid Program; in financially distressed municipal pension plan determination procedure, further providing for initiation of distress determination, for pension plans to be included in determination and for determination procedure; in financially distressed municipal pension system recovery program, further providing for application, for election determination procedure, for recovery program level I, for recovery program level II, for recovery program level III, for remedies applicable to various recovery program levels, for supplemental State assistance program and fund and for municipal employee retirement program; in financially dis-

tressed municipal pension system recovery program, establishing programs for municipal pension recovery and municipal employee retirement; in financially distressed municipal pension system recovery program, further providing for rules and regulations; providing for standards for municipal pension systems; in alternative funding mechanism, providing special provisions relating to certain cities and counties; further providing for alternative funding mechanism; providing for cities of the first and second classes, for special taxing authority, for cities of the second class and for municipal excess payments; authorizing certain deferred retirement option plans; and making a related repeal.

On the question,

Will the Senate agree to the bill on third consideration?

Senator BROWNE offered the following amendment No. A3599:

Amend Bill, page 2, line 11, by inserting after "SYSTEMS":
for second class cities and for level III administration in cities of the second class

Amend Bill, page 16, line 1, by striking out "Increment" and inserting:

Except as provided under clause (C), increment

Amend Bill, page 16, line 3, by inserting after "plan":
for active members

Amend Bill, page 16, by inserting between lines 7 and 8:

(C) An increment of unfunded actuarial accrued liability attributable to a modification in the benefit plan applicable to retired members and other benefit recipients not mandated by new legislation, at the end of the plan year following the year in which the modification was effective.

Amend Bill, page 19, lines 1 and 2, by striking out "and the section is" in line 1 and "amended by adding a subsection" in line 2

Amend Bill, page 19, lines 22 through 24, by striking out all of said lines

Amend Bill, page 35, lines 21 and 22, by striking out all of said lines

Amend Bill, page 36, line 26, by striking out "Upon" and inserting:

Following

Amend Bill, page 38, line 21, by striking out "Upon" and inserting:

Following

Amend Bill, page 39, line 9, by striking out "100%" and inserting:
90%

Amend Bill, page 39, line 11, by striking out "90%" and inserting:
80%

Amend Bill, page 41, line 27, by striking out "Upon" and inserting:

Following

Amend Bill, page 47, line 8, by striking out "NO SPECIAL MUNICIPAL TAX INCREASE MAY" and inserting:

the special municipal tax authorized in subsection (f) may no longer

Amend Bill, page 56, line 4, by striking out "65" and inserting:

60

Amend Bill, page 56, line 18, by striking out "65" and inserting:

60

Amend Bill, page 56, line 26, by striking out "THE AMOUNT OF THE MEMBER'S FULL" and inserting:

50% of the member's

Amend Bill, page 57, by inserting between lines 2 and 3:

(6) As used in this subsection, the term "salary" means the fixed amount of compensation paid at regular, periodic intervals by a municipality to the member and from which pension contributions have been deducted. The term does not include overtime.

Amend Bill, page 57, line 11, by striking out "1.5% TIMES"

Amend Bill, page 60, line 25, by striking out "and"

Amend Bill, page 60, line 27, by inserting after "payroll":

; and

(iv) Annuitize benefits of retirement

Amend Bill, page 61, lines 1 through 4, by striking out all of said lines

Amend Bill, page 66, line 15, by inserting after "SYSTEM":

, except that the two-year restriction shall not apply to any contribution made prior to the effective date of this subsection

Amend Bill, page 69, by inserting between lines 18 and 19:

Section 15.1. The act is amended by adding sections to read:

Section 902. Second class cities.

(a) Taxing authority.--In taxable years beginning after December 31, 2008, the following apply to a city of the second class which is a home rule municipality:

(1) The city may impose on each parking transaction in the city a tax at a rate not to exceed 37.5% of the cost of the transaction.

(2) If the Department of Community and Economic Development determines that the city has leased or sold all of its parking authority facilities and that net proceeds from the lease or sale have been deposited into the Pennsylvania Municipal Retirement System and credited to the municipality's account and transmits notice of the determination to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin, the city may impose on each parking transaction in the city an additional tax at a rate not to exceed 2.5% of the cost of the transaction.

(b) Use of revenue.--Notwithstanding any other law to the contrary, 6.75% of the revenue received under subsection (a)(1) and 100% of the revenue received under subsection (a)(2) shall be used to pay the city's minimum municipal obligation required under section 302 and any interest accrued in any plan year.

Section 903. Level III administration in cities of the second class.

For a period not to exceed 12 months from the effective date of this section, the employees of the respective pension boards of a home rule municipality that is a city of the second class shall continue to provide member benefit administration for members from the home rule municipality on behalf of the Pennsylvania Municipal Retirement System. During the 12-month period, a pool comprised of the employees of the respective pension boards shall be granted priority and preference in hiring to fill positions with the system that the employee is qualified to fill. No new employee may be hired by the system until the position has been offered, in order of seniority, to all properly certified members of the pool.

Amend Bill, page 71, line 12, by striking out "June 30, 2010" and inserting:

September 10, 2009

Amend Bill, page 71, line 12, by striking out "adopt" and inserting:
submit

Amend Bill, page 71, line 17, by striking out "75%" and inserting:
80%

Amend Bill, page 71, lines 29 and 30, by striking out "three times the effective annual" in line 29 and "benefit accrual rate of" in line 30

Amend Bill, page 72, line 1, by striking out ", whichever is higher,"

Amend Bill, page 72, line 5, by striking out "mandatory"

Amend Bill, page 72, by inserting between lines 6 and 7:

(b.1) Modification prohibited.--No other statute, ordinance, contract, arbitration award or practice shall permit or authorize any deviation from or alteration of the terms of this section governing the freeze of benefits for existing employees and the terms of the revised benefit plan for newly hired employees.

Amend Bill, page 72, lines 8 and 9, by striking out "the freeze on existing benefits" in line 8 and "and the reduced benefit plan" in line 9 and inserting:

collective bargaining proposals to freeze existing benefits and to revise benefit plans

Amend Bill, page 72, lines 11 and 12, by striking out all of line 11 and "public employee retirement commission" in line 12 and inserting:

commission

Amend Bill, page 72, line 13, by striking out "information and plan" and inserting:

collective bargaining proposals and payment schedule

Amend Bill, page 72, line 14, by striking out "AUTHORITY" and inserting:

commission

Amend Bill, page 72, line 15, by striking out "the information and plan" and inserting:

collective bargaining proposals

Amend Bill, page 72, line 16, by inserting after "(b.)":

A written determination that the freeze and proposal meet the require-

ments of subsection (b) shall constitute compliance by the city with subsection (j)(1) and (2).

Amend Bill, page 74, line 13, by striking out "Pension reforms" and inserting:

Requirements

Amend Bill, page 74, line 14, by striking out "alternative funding mechanism" and inserting:

deferrals

Amend Bill, page 74, line 18, by striking out "ADOPT" and inserting:

Submit

Amend Bill, page 74, line 21, by striking out "APPEAL PROCEDURE" and inserting:

appellate procedures

Amend Bill, page 74, line 22, by inserting after "arbitration":

, adjudication

Amend Bill, page 74, line 22, by inserting after "THE":

freeze or

Amend Bill, page 74, lines 27 through 30; page 75, lines 1 through 5, by striking out all of said lines on said pages and inserting:

(k) Withholding.--If the city fails to meet any of the requirements of subsection (j)(4), the following apply:

(1) The commission shall notify the Secretary of the Budget and the State Treasurer of the city's failure to comply with subsection (j)(4) and send a copy of the notice to the chair and minority chair of the Appropriations Committee and the Finance Committee of the Senate and the Appropriations Committee and the Finance Committee of the House of Representatives.

(2) The secretary shall assist the State Treasurer in the identification of grants, loans, entitlements and payments made to the city by the Commonwealth.

(3) Except as set forth in paragraph (4) or (5), within 30 days of receipt of the notice, the State Treasurer shall withhold any grant, loan, entitlement, payment or combination of grants, loans, entitlements and payments to the city by the Commonwealth, or any of its agencies, in an amount equal to deferral amounts not repaid under subsections (g) and (h). The amount withheld shall be deposited into the city's pension fund.

(4) Paragraph (3) shall not apply if the failure is due to compliance following exhaustion of the judicial appellate procedures to challenge any arbitration, adjudication or other award, which is inconsistent with the requirements of subsection (b) as determined by the commission under section 1003(g).

(5) The State Treasurer shall not withhold the following:

(i) Funds for capital projects under contract.

(ii) Funds granted from the Federal Government or the Commonwealth relating to a declaration of disaster.

(iii) Pension fund payments.

(iv) Funds administered by the city's department of human services or department of health.

(v) Funds pledged to repay bonds or notes issued under the act of October 18, 1972 (P.L.955, No.234), known as The First Class City Revenue Bond Act.

Amend Bill, page 75, by inserting between lines 5 and 6:

(l) Verification in order to comply with section 1003(e).--The city shall submit evidence of the freeze of existing benefits and of collective bargaining proposals to reduce the benefit plan for newly hired employees to the commission by September 10, 2009. Within 14 days of the receipt of the information and proposals from the city, the commission shall issue a written determination that the bargaining proposals meet the requirements of subsection (b). A written determination from the commission that current benefits are frozen and the collective bargaining proposals meet the requirements of subsection (b) shall constitute compliance with section 1003(e)(1) and (2). The commission shall issue a written determination regarding any arbitration award or judicial decision as to consistency with the requirements of subsection (b). If the commission determines that the award or decision is inconsistent with the requirements of subsection (b), the city shall appeal the decision in order to comply with section 1003(e)(3). The city shall provide notice to the commission of all appeals.

Amend Bill, page 75, line 6, by striking out "(L)" and inserting:

(m)

Amend Bill, page 75, line 10, by striking out "(M)" and inserting:

(n)

Amend Bill, page 75, line 16, by striking out "(N)" and inserting:

(o)

Amend Bill, page 75, line 25, by striking out "(O)" and inserting:

(p)

Amend Bill, page 76, line 4, by striking out "(P)" and inserting:

(q)

Amend Bill, page 78, lines 11 and 12, by striking out "must submit proof of the following to" in line 11 and "the Pennsylvania Intergovernmental Cooperation Authority" in line 12 and inserting:

shall comply with the following

Amend Bill, page 78, line 13, by striking out "A freeze" and inserting:

Freeze

Amend Bill, page 78, line 15, by striking out "Adoption of" and inserting:

Submit and bargain for

Amend Bill, page 78, by inserting between lines 16 and 17:

(3) Exhaust the judicial appellate procedures to challenge any arbitration, adjudication or other award which is inconsistent with the freeze of the revised benefit plan.

Amend Bill, page 78, lines 21 through 26, by striking out all of said lines and inserting:

(g) (Reserved).

Amend Bill, page 79, lines 15 through 30; page 80, lines 1 through 6, by striking out all of said lines on said pages

Amend Bill, page 80, lines 13 and 14, by striking out all of said lines and inserting:

(a) Applicability.--This chapter shall apply to all of the following:

(1) A local government which does not have a deferred retirement option plan on the effective date of this section.

(2) Newly hired employees admitted to a deferred retirement option plan established by a local government prior to the effective date of this section.

(b) Elected officials.--

(1) A deferred retirement option plan established on or after the effective date of this paragraph shall not be available to an elected official.

(2) A deferred retirement option plan established prior to the effective date of this paragraph shall be available to an official elected prior to the effective date of this section who runs for reelection.

Amend Bill, page 81, lines 7 and 8, by striking out "HIRE AFTER THE EFFECTIVE DATE OF THIS SECTION"

Amend Bill, page 81, lines 12 and 13, by striking out "THE DROP MAY NOT APPLY TO ELECTED MUNICIPAL OFFICIALS ELECTED AFTER THE EFFECTIVE DATE OF THIS SUBSECTION."

Amend Bill, page 91, by inserting between lines 17 and 18:

SUBCHAPTER D
DESIGNATIONS

Section 1131. Spouse.

(a) Authorization.--Notwithstanding any ordinance or any rule, regulation, procedure or policy of a municipal pension system to the contrary, an active member of a municipal pension system may designate the member's spouse to be the beneficiary of the member's pension, regardless of the date of the marriage.

(b) Applicability.--The authorization under subsection (a) shall apply retroactively to designations made after December 31, 2006.

Section 19.1. The act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Commission Act, shall not apply to this act. The Pennsylvania Employee Retirement Commission shall prepare a letter supplementing the actuarial note, dated July 15, 2009, relating to House Bill No. 1828, Printer's No. 2384 (2009), and the actuarial note, dated July 28, 2009, relating to House Bill No. 1874, Printer's No. 2522 (2009), and transmit the letter to the Governor within five days of this act being signed in either chamber of the General Assembly.

Amend Bill, page 91, line 21, by striking out "1004" and inserting:

902

Amend Bill, page 91, line 25, by striking out "IMMEDI-

