
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1182

Session of
1985

INTRODUCED BY STEVENS, JAROLIN, WOGAN, PETRONE, SERAFINI,
KOSINSKI, TRELLO AND FOX, MAY 13, 1985

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 13, 1985

AN ACT

1 Providing for an ad hoc postretirement adjustment for certain
2 retired members of the Pennsylvania State Police and Capitol
3 Police and Liquor Control Board enforcement officers.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Special Ad
8 Hoc Pennsylvania State Police, Capitol Police and Liquor Control
9 Board Enforcement Officers Postretirement Adjustment Act.

10 Section 2. Definitions.

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

14 "Active employment." The situation of a person, other than
15 an independent contractor, who performs for compensation regular
16 services for the Commonwealth on active duty as a Pennsylvania
17 State Police officer, Capitol Police officer or liquor law
18 enforcement officer and who is regularly entered on the payroll

1 of the Commonwealth.

2 "Commission." The Public Employee Retirement Study
3 Commission created by the act of July 9, 1981 (P.L.208, No.66),
4 known as the Public Employee Retirement Study Commission Act.

5 "Commonwealth." The Commonwealth of Pennsylvania, or any of
6 its agencies or instrumentalities.

7 "Commonwealth pension plan." A relationship between the
8 Commonwealth and a Pennsylvania State Police officer, Capitol
9 Police officer or liquor law enforcement officer with respect to
10 the provision of benefits in the event of retirement from active
11 employment, established under the laws of this Commonwealth.

12 "Police officer." A sworn member of the Pennsylvania State
13 Police, a sworn member of the Capitol Police or a liquor law
14 enforcement officer whose primary responsibility is the
15 enforcement of the liquor laws of this Commonwealth and who has
16 retirement coverage provided by a pension plan to which an
17 allocation of the proceeds of the foreign casualty insurance
18 premium tax under the act of May 12, 1943 (P.L.259, No.120),
19 referred to as the Foreign Casualty Insurance Premium Tax
20 Allocation Law, is ultimately payable.

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

25 Section 3. Special ad hoc Pennsylvania State Police, Capitol
26 Police and Liquor Control Board enforcement
27 officers' postretirement adjustments.

28 (a) Entitlement.--A person may receive a special ad hoc
29 Pennsylvania State Police, Capitol Police and Liquor Control
30 Board enforcement officers' postretirement adjustment from the

1 Commonwealth pension plan calculated under this section if all
2 of the following apply:

3 (1) The person has terminated active employment with the
4 Commonwealth as a full-time State Police officer, Capitol
5 Police officer or Liquor Control Board enforcement officer.

6 (2) The person is receiving a retirement annuity,
7 retirement benefit, service pension or disability benefit
8 from the Commonwealth pension plan on the basis of that
9 active employment.

10 (3) The person began to receive the annuity, pension or
11 benefit on or prior to December 31, 1981.

12 (b) Amount.--The amount of the special ad hoc State Police,
13 Capitol Police and Liquor Control Board Enforcement officers'
14 postretirement adjustment shall be an amount equal to the number
15 of full years during which the person has received an annuity,
16 pension or benefit from the Commonwealth pension plan multiplied
17 by 3.125% and applied to the annuity, pension or benefit amount
18 initially payable upon retirement. If the person is receiving a
19 benefit other than a disability benefit and began to receive
20 that benefit at an age earlier than 55 years of age or had
21 credit for less than 25 years of active service at the time of
22 retirement, the number of full years for use in calculating the
23 amount of the postretirement adjustment shall be reduced by the
24 number of years by which the person was under 55 years of age at
25 the time of retirement or by the number of years by which the
26 active service to the credit of the person is less than 25
27 years, whichever is greater. However, if the Commonwealth
28 pension plan under which the State Police officer, Capitol
29 Police officer or Liquor Control Board enforcement officer is
30 receiving benefits had a superannuation age lower than 55 years,

1 then there shall be no reduction, provided that the officer had,
2 in fact, reached the superannuation age provided for in the
3 pension plan of the Commonwealth.

4 (c) Reduction of prior benefits.--Nothing in this section
5 shall be construed to reduce the amount of an annuity, benefit
6 or pension payable immediately prior to the effective date of
7 this act.

8 (d) Payment.--The special ad hoc postretirement adjustment
9 shall be effective as of the date of payment of the annuity,
10 benefit or pension next following the effective date of this act
11 and shall be payable as soon as practicable thereafter. The
12 initial payment of the special ad hoc postretirement adjustment
13 shall include omitted payments payable between the effective
14 date of the ad hoc postretirement adjustment and the date of
15 initial payment.

16 Section 4. Funding of special ad hoc postretirement adjustment.

17 (a) Commonwealth obligation.--Annually the Commonwealth
18 shall provide in its budget and shall pay to the applicable
19 Commonwealth pension plan an amount equal to the required
20 contribution to amortize the liability attributable to the
21 special ad hoc postretirement adjustment on a level dollar basis
22 over a ten-year period from the effective date of the adjustment
23 or the total amount of the special ad hoc postretirement
24 adjustment anticipated as payable to entitled recipients during
25 the following 12-month period, whichever is greater. The
26 Commonwealth obligation shall be payable on January 1, annually,
27 and shall be made from the revenues of the Commonwealth. Any
28 amount of the Commonwealth obligation which remains unpaid after
29 January 1 of the year in which the Commonwealth obligation is
30 due shall remain payable with interest from January 1 of the

1 year in which the Commonwealth obligation was first due until
2 the date the payment is paid at a rate:

3 (1) equal to the interest assumption used in connection
4 with the most recent actuarial valuation report of the
5 applicable pension plan or the discount rate applicable to
6 Treasury bills issued by the United States Treasury
7 Department with a six-month maturity in effect as of the last
8 business day in December of the year preceding the year in
9 which the obligation was due, whichever rate is greater; and

10 (2) expressed as a monthly rate and compounded monthly.

11 (b) Source of funds.--The special ad hoc State Police,
12 Capitol Police and Liquor Control Board Enforcement Officer
13 Postretirement Adjustment Reimbursement Program shall be funded
14 from the required portion of the proceeds of the tax on domestic
15 casualty insurance premiums and the proceeds of the tax on
16 domestic fire insurance premiums in proportion to the
17 relationship that the proceeds of each tax bear to the total
18 proceeds of both taxes. Annually, the Department of the Auditor
19 General shall certify to the General Assembly the applicable
20 Commonwealth share percentage.

21 Section 5. Failure to enact legislation.

22 (a) Action in mandamus.--Should the Commonwealth fail to
23 enact the required legislation, any police or liquor law
24 enforcement officer may, by suit in mandamus, compel the
25 Commonwealth authorities to enact the legislation.

26 (b) Duty to enact legislation.--Generally, in the event that
27 the Commonwealth fails to enact the required legislation, the
28 failure may be remedied by an action in mandamus. The
29 Commonwealth is, by this act, on notice as to its duty to enact
30 this required legislation. No remedy at law shall be deemed to

1 be sufficiently adequate and appropriate to bar the commencement
2 of this action. Any person or entity who institutes the action
3 shall be deemed to have been injured by the failure of the
4 Commonwealth to comply with its legal duty to enact the
5 legislation and that injury shall be deemed to be immediate. No
6 issuance of mandamus shall be deemed to threaten the creation of
7 confusion, disorder or excessive burden on the Commonwealth or
8 to threaten a result which is detrimental to the public
9 interest.

10 (c) Persons beneficially interested.--Any person who is
11 beneficially interested in the affairs of the Commonwealth
12 pension plan shall have standing to institute an action in
13 mandamus under this section. A beneficially interested person is
14 any person who:

15 (1) has any of the following relationships with the
16 Commonwealth pension plan:

17 (i) An active member, whether or not any minimum
18 service requirement for acquiring a vested right to a
19 retirement benefit has been met.

20 (ii) An inactive member with a vested right to
21 deferred receipt of a retirement benefit.

22 (iii) A retired member.

23 (iv) A recipient of retirement benefit other than a
24 retired member.

25 (v) A former member with member contributions to the
26 credit of the member with the Commonwealth pension plan.

27 (vi) A spouse, child or other potential beneficiary
28 under the terms of the plan document of the Commonwealth
29 pension plan of any person described in subparagraphs (i)
30 and (v).

1 (2) serves in the position of a fiduciary with respect
2 to the Commonwealth pension plan;

3 (3) represents active members of the Commonwealth
4 pension plan as collective bargaining agent; or

5 (4) serves as an elected or appointed official of the
6 Commonwealth.

7 (d) Others with standing to bring action.--The commission
8 shall have standing to institute an action in mandamus under
9 this section. The Attorney General, in addition to any other
10 powers and duties conferred on that office by law, shall also
11 proceed in the name of the Commonwealth, upon request of the
12 commission or upon the request of any beneficially interested
13 person, to institute an action in mandamus under this section.

14 (e) Scope of remedy.--Any writ of mandamus issued under this
15 section may compel the addition by the Commonwealth to the
16 current Commonwealth budget of any omitted amount of the minimum
17 obligation of the Commonwealth and the subsequent payment of any
18 budgeted amount or the immediate or scheduled periodic payment
19 of any omitted amount of minimum obligation of the Commonwealth
20 with interest at the applicable compound rate, whichever is
21 applicable.

22 (f) Reimbursement for certain costs.--In any action under
23 this section which is instituted or joined by any person who is
24 beneficially interested, unless the court otherwise directs,
25 costs, disbursements, reasonable attorney fees and witness fees
26 relating to the action shall be allowed to the prevailing party
27 upon a motion by the prevailing party if:

28 (1) the prevailing party is a person who is beneficially
29 interested and has given the opposing party or parties timely
30 notice of intent to claim an award, which notice shall have

1 been given prior to the issuance of the writ of mandamus; or

2 (2) the prevailing party is the Commonwealth and the
3 complaining party has brought an action which the complaining
4 party knew or ought to have known was groundless, frivolous,
5 without merit and without a basis in fact.

6 Section 6. Enforcement proceedings by commission.

7 Whenever the commission is of the opinion that the
8 Commonwealth has failed, omitted, neglected or refused to
9 perform any duty imposed upon it under this act, the commission
10 shall have the power and its duty shall be to order compliance
11 by the Commonwealth with that duty. If the Commonwealth fails,
12 omits, neglects or refuses to comply with any lawful order of
13 the commission, then the commission may institute legal
14 proceedings for injunction, mandamus or other appropriate remedy
15 at law or in equity to enforce compliance with, or restrain
16 violation of, the order of the commission.

17 Section 7. Effective date.

18 This act shall take effect in 60 days.