

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1432 Session of
2003

INTRODUCED BY NICKOL, HERMAN, BAKER, BALDWIN, BARD, BEBKO-JONES, BENNINGHOFF, BUNT, BUXTON, CALTAGIRONE, CAPPELLI, CAUSER, CLYMER, CRAHALLA, CURRY, DALLY, DeWEESE, FEESE, FREEMAN, GABIG, GEIST, GERGELY, GOODMAN, HARHAI, HUTCHINSON, JAMES, KIRKLAND, LAUGHLIN, LEACH, LEH, LEWIS, MANN, MARSICO, McILHATTAN, MICOZZIE, R. MILLER, S. MILLER, NAILOR, PAYNE, PETRI, PHILLIPS, PICKETT, ROBERTS, RUBLEY, SAINATO, SATHER, SHANER, B. SMITH, SOLOBAY, STEIL, STERN, STETLER, TANGRETTI, E. Z. TAYLOR, THOMAS, TRAVAGLIO, VANCE, WANSACZ, WILT, YOUNGBLOOD AND J. TAYLOR, MAY 12, 2003

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 12, 2003

AN ACT

1 Amending the act of December 18, 1984 (P.L.1005, No.205),
2 entitled "An act mandating actuarial funding standards for
3 all municipal pension systems; establishing a recovery
4 program for municipal pension systems determined to be
5 financially distressed; providing for the distribution of the
6 tax on the premiums of foreign fire insurance companies; and
7 making repeals," further providing for the certification of
8 municipal pension costs, for the administration of the
9 General Municipal Pension System State Aid Program and for
10 the continuation of the financially distressed municipal
11 pension system recovery program; adding provisions for the
12 establishment and administration of in-service retirement
13 option plans in local governments; and repealing the
14 financially distressed municipal pension plan determination
15 procedure.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. The title of the act of December 18, 1984
19 (P.L.1005, No.205), known as the Municipal Pension Plan Funding
20 Standard and Recovery Act, is amended to read:

AN ACT

Mandating actuarial funding standards for all municipal pension systems; establishing a recovery program for municipal pension systems determined to be financially distressed; providing for the distribution of the tax on the premiums of foreign fire insurance companies; providing for the establishment and administration of in-service retirement option plans in local governments; and making repeals.

Section 2. The definition of "municipal employee" in section 102 of the act is amended and the section is amended by adding definitions to read:

Section 102. Definitions.

Except as provided in Chapter 7, the following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"IROP." An in-service retirement option plan created and operated by a local government or the Pennsylvania Municipal Retirement System under Chapter 11 or any deferred retirement option plan or similar program established by a local government that provides for the commencement and accumulation of retirement benefit payments for active employees with disbursement of the accumulated payments and interest earnings as a lump sum upon termination of employment.

"IROP participant." A retired member of a local government-defined benefit pension plan who is eligible to participate in an IROP under section 1112 and who has elected to participate in an IROP under section 1113.

"IROP participant account." A pension trust fund ledger

1 account established under section 1121(a).

2 "Local government." A municipality or any county.

3 * * *

4 "Municipal employee." Any person [other than an independent
5 contractor] who provides regular services for a municipality in
6 return for compensation from the municipality. The term does not
7 include an independent contractor or an IROP participant.

8 * * *

9 Section 3. Section 202(b) of the act, amended December 19,
10 1997 (P.L.611, No. 61), is amended to read:

11 Section 202. Contents of actuarial valuation report.

12 * * *

13 (b) Contents of actuarial exhibits; defined benefit plans
14 self-insured in whole or in part.--For any pension plan which is
15 a defined benefit plan and which is self-insured in whole or in
16 part, all applicable actuarial exhibits shall be prepared in
17 accordance with the entry age normal actuarial cost method with
18 entry age established as the actual entry age for all plan
19 members unless the municipality applies for and is granted
20 authorization by the commission to use an alternative actuarial
21 cost method. Authorization shall be granted if the municipality
22 demonstrates on an individual pension plan basis that there are
23 compelling reasons of an actuarial nature for the use of an
24 alternative actuarial cost method. The commission shall issue
25 rules and regulations specifying the criteria which the
26 commission will use to determine the question of the existence
27 of compelling reasons for the use of an alternative actuarial
28 cost method, the documentation which a municipality seeking the
29 authorization will be required to supply and the acceptable
30 alternative actuarial cost methods which the commission may

1 authorize. The actuarial cost method shall be used to value all
2 aspects of the benefit plan or plans of the pension plan unless
3 the municipality applies for and is granted authorization by the
4 commission to use approximation techniques other than the
5 actuarial cost method for aspects of the benefit plan or plans
6 of the pension plan other than the retirement benefit.
7 Authorization shall be granted if the municipality demonstrates
8 on an individual pension plan basis that there are compelling
9 reasons of an actuarial nature for the use of these
10 approximation techniques. The commission shall issue rules and
11 regulations specifying the criteria which the commission will
12 use to determine the question of the existence of compelling
13 reasons for the use of approximation techniques, the
14 documentation which a municipality seeking the authorization
15 will be required to supply and the acceptable approximation
16 technique which the commission may authorize. The actuarial
17 exhibits shall use actuarial assumptions which are, in the
18 judgment of the actuary and the governing body of the plan, the
19 best available estimate of future occurrences in the case of
20 each assumption. With respect to economic actuarial assumptions,
21 the assumptions shall either be within the range specified in
22 rules and regulations issued by the commission or documentation
23 explaining and justifying the choice of assumptions outside the
24 range shall accompany the report. The actuarial exhibits shall
25 measure all aspects of the benefit plan or plans of the pension
26 plan in accordance with modifications in the benefit plan or
27 plans, if any, and salaries which as of the valuation date are
28 known or can reasonably be expected to be in force during the
29 ensuing plan year. In preparing the actuarial exhibits or any
30 actuarial valuation report, the municipality shall exclude the

compensation of all IROP participants from the active member payroll, all IROP participants from active member data and the balance in the IROP participant account from the assets of the pension trust fund. The actuarial valuation report shall contain the following actuarial exhibits:

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

(2) An exhibit of the actuarial accrued liability of the benefit plan as of the date of the actuarial valuation in total which shall be the actuarial present value of all projected benefits provided by the benefit plan reduced by the actuarial present value of future normal costs, and in particular, which shall include the following required actuarial present values for pension plan benefits of related items:

(i) Required actuarial present values on account of active members:

(A) Retirement benefits.

(B) Disability benefits.

(C) Survivor benefits.

(D) Refund liability due to withdrawal from active service or death.

(E) Other benefits, specifying the nature of each type.

This item shall include a footnote indicating the amount of accumulated member contributions without accrued interest.

1 (ii) Required actuarial present values on account of
2 former members with a deferred, vested or otherwise
3 nonforfeitable right to a retirement benefit.

4 (iii) Required actuarial present values on account
5 of former members who do not have a deferred, vested or
6 otherwise nonforfeitable right to the retirement benefit
7 and who have not withdrawn any accumulated member
8 contributions.

9 (iv) Required actuarial present values on account of
10 benefit recipients:

11 (A) Retirement benefits.

12 (B) Disability benefits.

13 (C) Surviving spouse benefits.

14 (D) Surviving child benefits.

15 (E) Other benefits, specifying the nature of
16 each type.

17 (v) Required actuarial present values for other
18 benefits provided by the benefit plan, specifying the
19 nature of each type.

20 (vi) Actuarial present value of future normal cost.

21 (3) An exhibit of the unfunded actuarial accrued
22 liability of the pension plan in total, which shall be the
23 actuarial accrued liability of the pension plan calculated
24 pursuant to paragraph (2) less the actuarial value of assets
25 of the pension plan calculated pursuant to subsection (e)(1),
26 and which, in particular, shall include the following:

27 (i) The remaining balance of the unfunded actuarial
28 accrued liability in existence as of the first actuarial
29 valuation report required by this section occurring next
30 following the date of enactment of this section.

1 (ii) The remaining balance of each increment of
2 unfunded actuarial accrued liability attributable to
3 modifications in the benefit plan governing the pension
4 plan which were applicable to active members, separately
5 indicating each and designating each by the plan year in
6 which the benefit plan modification was made effective.

7 (iii) The remaining balance of each increment of
8 unfunded actuarial accrued liability attributable to
9 modifications in the benefit plan governing the pension
10 plan which were applicable to retired members and other
11 benefit recipients, separately indicating each and
12 designating each by the plan year in which the benefit
13 plan modification was made effective.

14 (iv) The remaining balance of each increment of net
15 unfunded actuarial accrued liability attributable to
16 modifications in the actuarial assumptions used to
17 calculate the actuarial accrued liability of the pension
18 plan separately indicating each and designating each by
19 the plan year in which the actuarial assumption
20 modification was made effective.

21 (v) The remaining balance of each increment or
22 decrement of net unfunded actuarial accrued liability
23 attributable to net actuarial experience losses or gains,
24 separately indicating each and designating each by the
25 plan year in which the actuarial experience loss or gain
26 was recognized.

27 The initial determination of the unfunded actuarial accrued
28 liability attributable to a modification in the benefit plan
29 governing the pension plan or to a modification in the
30 actuarial assumptions used to calculate the actuarial accrued

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

17 (4) An exhibit of any additional funding costs
18 associated with the amortization of any unfunded actuarial
19 accrued liability of the pension plan, indicating for each
20 increment of unfunded actuarial accrued liability specified
21 in paragraph (3), the level annual dollar contribution
22 required to pay an amount equal to the actuarial assumption
23 as to investment earnings applied to the principal amount of
24 the remaining balance of the increment of unfunded actuarial
25 accrued liability and to retire by the applicable
26 amortization target date specified in this paragraph the
27 principal amount of the remaining balance of the increment of
28 unfunded actuarial accrued liability. The amortization target
29 date applicable for each type of increment of unfunded
30 actuarial accrued liability shall be as follows:

1 (i) (A) In the case of a pension plan established
2 on or prior to January 1, 1985 for the unfunded
3 actuarial accrued liability in existence as of the
4 beginning of the plan year occurring in calendar year
5 1985, at the end of the plan year occurring in
6 calendar year 2015; or

7 (B) In the case of a pension plan established
8 after January 1, 1985, for the unfunded actuarial
9 accrued liability then or subsequently determined to
10 be or to have been in existence as of the date of the
11 establishment of the plan, at the end of the plan
12 year occurring 30 years after the calendar year in
13 which the pension plan was established.

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

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

24 (iv) Increment of unfunded actuarial accrued
25 liability attributable to a modification in the benefit
26 plan applicable to retired members and other benefit
27 recipients, at the end of the plan year occurring 10
28 years after the calendar year in which the benefit plan
29 modification was effective.

30 (v) Increment or decrement of net unfunded actuarial

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

5 With respect to any applicable pension plan other than a plan
6 which comprises all or part of a moderately distressed or a
7 severely distressed municipal pension system, if the
8 remaining average period between the current average attained
9 age of active members as of the valuation date and the later
10 of their earliest average normal retirement age or their
11 average assumed retirement age is less than the applicable
12 period or periods ending with the amortization target date or
13 dates specified in subparagraph (i), (ii), (iii) or (v), the
14 appropriate amortization target date for the applicable
15 subparagraph determined with reference to the longest
16 applicable remaining average period rounded to the next
17 largest whole number shall be used. With respect to any plan
18 year beginning after December 31, 1997, if, as of the
19 beginning of the plan year, the ratio of the actuarial value
20 of assets to the actuarial accrued liability exceeds 0.70 and
21 the governing body of the municipality has passed a
22 resolution to irrevocably commit the municipality to apply
23 the limit on the additional funding costs, as provided
24 herein, in the preparation of the current and all future
25 exhibits under this paragraph, then the sum of the additional
26 funding costs for subparagraphs (i), (ii), (iii), (iv) and
27 (v) above shall not exceed the amount required to amortize
28 the remaining unfunded actuarial accrued liability as of the
29 beginning of the plan year over 10 years in level annual
30 dollar contributions. The exhibit shall indicate the total

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

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

26 (6) An exhibit containing an analysis of the increase or
27 decrease in the unfunded actuarial accrued liability of the
28 pension plan since the most recent prior actuarial valuation
29 report, including specifically an indication of increases or
30 decreases due to the following:

(i) Modifications in the benefit plan or plans of the pension plan.

(ii) Changes in actuarial assumptions.

(iii) Deviations in the actual experience of the pension plan from the experience expected by virtue of the actuarial assumptions.

(iv) Presence or absence of payments to amortize the unfunded accrued liability of the pension plan.

(v) Other reasons.

The analysis shall be based on the best professional judgment of the approved actuary reached after preparing the various applicable actuarial exhibits of the actuarial valuation report. If, in the opinion of the approved actuary, the inclusion of any portion of this information is not appropriate, that portion of the analysis may be omitted with the provision of adequate explanation or justification of the appropriateness of the omission.

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

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

* * *

Section 4. The act is amended by adding a section to read:

Section 209. Certification of municipal pension costs.

The commission shall determine annually the actual financial requirement for each municipal pension plan based on the data contained in the most recent complete report required to be filed by the municipality pursuant to this chapter and shall

certify annually to the Auditor General the actual financial requirements for each municipal pension plan based on the data contained in the most recent actuarial valuation report required to be filed by the municipality pursuant to this chapter. The Auditor General shall use the data certified by the commission to implement the provisions of section 402(f)(2).

Section 5. Section 302(b)(2) of the act, amended December 18, 1990 (P.L.753, No.189), is amended to read:

Section 302. Minimum funding standard; defined benefit plans self-insured in whole or in part.

* * *

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

* * *

(2) The normal cost and administrative expense requirements for the following plan year shall be expressed as a dollar amount and shall be determined by applying the normal cost of the benefit plan and the administrative expense payable from the assets attributable to the benefit plan, as reported in the actuarial valuation report of the pension plan and expressed as a percentage of payroll, to the payroll of the active membership of the pension plan as of the date the financial requirements of the pension plan are determined. In expressing the normal cost and administrative expense requirements as a dollar amount, the municipality shall exclude the compensation of all IROP participants from the payroll of the active membership of the pension plan.

* * *

Section 6. Section 402(e)(2) of the act is amended to read:
Section 402. Revision of financing from State revenue sources;
General Municipal Pension System State Aid

1 Program.

2 * * *

3 (e) Allocation of general municipal pension system State
4 aid.--

5 * * *

6 (2) The applicable number of units shall be attributable
7 to each active employee who was employed on a full-time basis
8 for a minimum of six consecutive months prior to December 31
9 preceding the date of certification and who was participating
10 in a pension plan maintained by that municipality, provided
11 that the municipality maintains a generally applicable
12 pension plan for that type of employee which was either
13 established on or prior to December 31, 1984, or, if
14 established after December 31, 1984, has been maintained by
15 that municipality for at least three plan years. For the
16 purpose of computing and reporting the applicable number of
17 units, an IROP participant shall not be reported to the
18 Auditor General as an active employee. The applicable number
19 of units per employee attributable to each eligible recipient
20 county of the second class shall be two units for each police
21 officer. The applicable number of units attributable to each
22 eligible recipient city, borough, incorporated town and
23 township shall be as follows:

24 (i) Police officer - two units.

25 (ii) Firefighter - two units.

26 (iii) Employee other than police officer or
27 firefighter - one unit.

28 * * *

29 Section 7. Chapter 5 of the act is repealed.

30 Section 8. Sections 602, 603, 604, 605 and 606 of the act

1 are repealed.

2 Section 9. Section 607(a) of the act is amended to read:

3 Section 607. Remedies applicable to various recovery program
4 levels.

5 (a) Generally.--Notwithstanding any provision of law,
6 municipal charter, municipal ordinance, municipal resolution, or
7 pension plan agreement, document or instrument to the contrary,
8 the remedies specified in this section shall be available to the
9 applicable municipalities. After December 31, 2003, a
10 municipality may continue to utilize any of the remedies
11 specified in this section that it elected, implemented and used
12 on December 31, 2003.

13 * * *

14 Section 10. Section 608 of the act is repealed.

15 Section 11. The act is amended by adding a chapter to read:

16 CHAPTER 11

17 IN-SERVICE RETIREMENT OPTION PLANS LAW

18 SUBCHAPTER A

19 PRELIMINARY PROVISIONS

20 Section 1101. Short title.

21 This chapter shall be known and may be cited as the In-
22 Service Retirement Option Plans Law.

23 Section 1102. Declaration of purpose.

24 It is the purpose of this chapter to provide for an in-
25 service retirement option plan under which an eligible member of
26 the local government's retirement system may elect to
27 participate in an IROP, defer receipt of retirement system
28 benefits and continue employment with the local government.

29 Section 1103. Definitions.

30 The following words and phrases when used in this chapter

shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Normal retirement benefit." The retirement benefit payable to a member of a defined benefit pension plan on or after the date on which the member first satisfies the age and service requirements for full, unreduced retirement benefits, including supplemental amounts provided to the member after retirement as cost-of-living increases.

"Subsidiary IROP participant account." The separate, interest-bearing, subsidiary IROP participant account established for an IROP participant under section 1121. Section 1104. Employment status.

Participation in an IROP does not guarantee the IROP participant's employment by the local government during the specified period of the IROP.

SUBCHAPTER B

GENERAL PROVISIONS

Section 1111. Establishment of IROP.

(a) Local governments.--A local government that has established or maintains a defined benefit pension plan for a group of its employees which is self-insured in whole or in part under section 202(b), except for a local government that has joined the Pennsylvania Municipal Retirement System, may establish by ordinance an IROP for those employees as part of the pension plan. The ordinance establishing the IROP shall specify a uniform participation period for the IROP that is not more than five years in duration.

(b) PMRS participants.--A local government that has established or maintains a defined benefit plan for a group of its employees which is self-insured in whole or in part under

section 202(b) and has joined the Pennsylvania Municipal Retirement System may establish an IROP for those employees as a part of the pension plan only through participation in the IROP established and administered by the Pennsylvania Municipal Retirement System.

(c) PMRS standards.--The Pennsylvania Municipal Retirement Board shall establish an IROP for local government-defined benefit pension plans that have joined the Pennsylvania Municipal Retirement System. The IROP so established shall be uniform, in compliance with the provisions of this chapter, open to any local government and applicable to any of the defined benefit pension plans administered by the Pennsylvania Municipal Retirement System.

Section 1112. Eligibility of member to participate in IROP.

An active member of a local government retirement system that has an IROP as a part of its defined benefit pension plan who is eligible for a normal retirement benefit under the pension plan or will be eligible for a normal retirement benefit under the pension plan prior to participation in the IROP is eligible to participate in the IROP by filing a written application with the retirement system at least 30 days before the member's effective date of retirement.

Section 1113. Participation in IROP.

(a) Election by an active member.--An eligible active member may elect to participate in an IROP for the period specified in the ordinance establishing the IROP.

(b) IROP participation election.--Upon deciding to participate in an IROP, a member shall submit on forms provided and required by the retirement system:

(1) A binding and irrevocable letter of resignation from

1 regular employment with the local government that discloses
2 the member's intent to retire and specifies the member's
3 retirement date.

4 (2) An irrevocable written election to participate in
5 the IROP that:

6 (i) Details an IROP participant's rights and
7 obligations under the IROP.

8 (ii) Includes an agreement to forgo:

9 (A) Active membership in the retirement system.

10 (B) Any growth in the salary base used for
11 calculating the regular retirement benefit.

12 (C) Any additional benefit accrual for
13 retirement purposes.

14 (iii) Specifies the effective date of IROP
15 participation that shall be the day after the specified
16 retirement date.

17 (iv) Specifies the IROP termination date that
18 satisfies the limitation in subsection (a).

19 (3) Any other information required by the retirement
20 system.

21 (c) IROP termination.--

22 (1) An IROP participant may change the IROP termination
23 date to an earlier date within the limitations of subsection
24 (a). No penalty shall be imposed for early termination of
25 IROP participation.

26 (2) Upon either early or regular termination of IROP
27 participation:

28 (i) The IROP participant shall be separated from
29 employment by the local government.

30 (ii) The retirement system shall pay the balance in

1 the IROP participant's subsidiary IROP participant
2 account to the terminating IROP participant as provided
3 in section 1114(d).

4 (iii) The IROP participant shall be ineligible to
5 reenroll in the IROP thereafter even if the former IROP
6 participant is reemployed by the local government with
7 renewed active membership in the retirement system.

8 Section 1114. Benefits payable under IROP.

9 (a) Fixing retirement benefit, retirement date, retirement
10 benefits and IROP dates.-- Effective with the date of
11 retirement, which shall be the day before the effective date of
12 IROP participation, the member's monthly, normal retirement
13 benefit under the pension plan, the member's effective date of
14 retirement and the member's effective dates of beginning and
15 terminating employment as an IROP participant shall be fixed.

16 (b) Effective dates of IROP participation.--

17 (1) A retired member's effective date of participation
18 in an IROP shall begin the day following the effective date
19 of the member's regular retirement.

20 (2) A retired member's participation in an IROP shall
21 end on the last day of the participation period specified in
22 the ordinance establishing the IROP that is in effect on the
23 effective date of the retired member's participation in the
24 IROP.

25 (c) Treatment of normal retirement benefit payments and
26 accruals.--All of the retired member's monthly, normal
27 retirement benefit and interest thereon at the assigned rate
28 shall be credited to the IROP participant's subsidiary IROP
29 participant account in the pension trust fund and a separate
30 accounting of the IROP participant's accrued benefit

1 accumulation under the IROP shall be calculated annually and
2 provided to the IROP participant.

3 (d) Payment of IROP benefits.--On the effective date of an
4 IROP participant's termination of employment with the local
5 government as an IROP participant, participation in the IROP
6 shall cease and the retirement system shall calculate and pay to
7 the participant the participant's total accumulated IROP
8 benefits in the IROP participant's subsidiary IROP participant
9 account subject to the following provisions:

10 (1) Except as provided in paragraph (2), the terminating
11 IROP participant or, if deceased, the participant's named
12 beneficiary shall elect on a form provided by the retirement
13 system to receive payment of the IROP benefits in accordance
14 with one of the following options:

15 (i) The balance in the IROP participant's subsidiary
16 IROP participant account less withholding taxes, if any,
17 remitted to the Internal Revenue Service shall be paid
18 within 45 days by the retirement system from the account
19 to the IROP participant or surviving beneficiary.

20 (ii) The balance in the IROP participant's
21 subsidiary IROP participant account shall be paid within
22 45 days by the retirement system from the account
23 directly to the custodian of an eligible retirement plan
24 as defined in section 402(c)(8)(b) of the Internal
25 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et
26 seq.), or, in the case of an eligible rollover
27 distribution to the surviving spouse of a deceased IROP
28 participant, an eligible retirement plan that is an
29 individual retirement account or an individual retirement
30 annuity as described in section 402(c)(9) of the Internal

1 Revenue Code.

2 (2) If the IROP participant or beneficiary fails to
3 elect a method of payment within 60 days after the
4 participant's termination date, the retirement system shall
5 pay the balance as a lump sum as provided in paragraph (1).

6 (3) The form of payment selected by the IROP participant
7 or surviving beneficiary shall comply with the minimum
8 distribution requirements of the Internal Revenue Code.

9 (e) Taxation, attachment and assignment of IROP
10 participant's account.--

11 (1) Except as provided in paragraphs (2), (3) and (4),
12 the right of an IROP participant to any benefit or right
13 accrued or accruing under the provisions of this chapter and
14 the moneys in the IROP participant's subsidiary IROP
15 participant account are exempt from any State or municipal
16 tax, levy and sale, garnishment, attachment, spouse's
17 election or any other process whatsoever.

18 (2) Rights under this chapter shall be subject to
19 forfeiture as provided by the act of July 8, 1978 (P.L.752,
20 No.140), known as the Public Employee Pension Forfeiture Act.
21 Forfeitures under this subsection or under any other
22 provision of law may not be applied to increase the benefits
23 that any IROP participant otherwise would receive under this
24 chapter.

25 (3) Rights under this chapter shall be subject to
26 attachment in favor of an alternate payee as set forth in a
27 qualified domestic relations order.

28 (4) Under subsection (d)(1)(ii), a distributee may elect
29 to have an eligible rollover distribution paid directly to an
30 eligible retirement plan by way of a direct rollover. For

1 purposes of this paragraph, a "distributee" includes an IROP
2 participant, an IROP participant's designated beneficiary and
3 an IROP participant's former spouse who is an alternate payee
4 under a qualified domestic relations order. For purposes of
5 this paragraph, "eligible rollover distribution" has the
6 meaning given the term by section 402(f)(2)(A) of the
7 Internal Revenue Code, except that a qualified trust shall be
8 considered an eligible retirement plan only if it accepts the
9 distributee's eligible rollover distribution and, in the case
10 of an eligible rollover distribution to a surviving spouse,
11 an eligible retirement plan is an "individual retirement
12 account" or an "individual retirement annuity" as those terms
13 are defined in section 408(a) and (b) of the Internal Revenue
14 Code.

15 (f) Effect of disability pension benefits.--If an IROP
16 participant becomes eligible for a disability pension benefit
17 and terminates employment, the monthly normal retirement benefit
18 of the IROP participant shall terminate.

19 (g) Eligibility for active member benefits.--Except for
20 those benefits specified under section 1113(b)(2)(ii) as forgone
21 by the member, an IROP participant shall be eligible for any
22 employee benefits provided to active employees before retirement
23 as set forth in the ordinance instituting the IROP.

24 (h) Eligibility for benefits otherwise provided by law.--An
25 IROP participant shall be eligible for all preretirement
26 benefits for employees otherwise provided by law, including, but
27 not limited to, benefits under the act of June 2, 1915 (P.L.736,
28 No.338), known as the Workers' Compensation Act; the act of June
29 28, 1935 (P.L.477, No.193), referred to as the Enforcement
30 Officer Disability Benefits Law; the act of December 5, 1936

(2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law; the act of June 24, 1976 (P.L.424, No.101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act; and the Public Safety Officers' Benefit Act of 1976 (Public Law 94-430, 42 U.S.C. § 90 stat. 1347).
Section 1115. Death benefits under IROP.

(a) IROP benefits for named beneficiary.--If an IROP participant dies, the IROP participant's named beneficiary shall be entitled to apply for and receive the benefits accrued in the IROP participant's subsidiary IROP participant account as provided in section 1114(d).

(b) Final credited monthly retirement benefit.--The monthly retirement system benefit accrued in the IROP participant's subsidiary IROP participant account during the month of an IROP participant's death shall be the final monthly retirement system benefit credited for IROP participation.

(c) IROP eligibility terminates upon participant's death.--An IROP participant's eligibility to participate in the IROP terminates upon the death of the IROP participant. If an IROP participant dies on or after the effective date of participation in the IROP but before the monthly retirement system benefit of the participant accruable for the month has accrued in the IROP participant's subsidiary IROP participant account, the local government shall pay the monthly retirement system benefits as though the participant had not elected IROP participation and had died after the member's effective date of retirement but before receipt of the retired member's first regular retirement benefit.

(d) Survivors ineligible for active member's death benefit.--Except as provided in subsection (e), the survivors of

1 an IROP participant who dies shall not be eligible to receive
2 retirement system death benefits payable in the event of the
3 death of an active member.

4 (e) IROP participant killed in service.--If otherwise
5 qualified as a family member under the act of May 29, 1956 (1955
6 P.L.1804, No.600), referred to as the Municipal Police Pension
7 Law, the named beneficiary of an IROP participant who is killed
8 in service shall be entitled to apply for and receive a
9 recalculation for payment of survivor benefits at 100% of the
10 IROP participant's salary as fixed at the participant's date of
11 retirement.

12 Section 1116. Subsequent employment and renewal of active
13 membership.

14 After both the termination of the IROP participant's
15 employment as an IROP participant by the local government and
16 the expiration of the IROP participation period, a former IROP
17 participant shall be subject to such reemployment limitations as
18 other retired members and shall be eligible for renewed
19 membership as an active member in the local government
20 employees' retirement system.

21 SUBCHAPTER C

22 ADMINISTRATIVE PROVISIONS

23 Section 1121. IROP participant account.

24 (a) General rule.--If a local government creates an IROP, it
25 shall establish an IROP participant account as an interest-
26 bearing ledger account in its pension trust fund. The account
27 balance shall be accounted for separately but need not be
28 physically segregated from other pension trust fund assets.

29 (b) Subsidiary IROP participant accounts.--A separate
30 interest-bearing subsidiary IROP participant account shall be

1 established for each IROP participant. While a retired member is
2 employed as an IROP participant, the member's monthly, normal
3 retirement benefit and interest thereon shall be credited to the
4 IROP participant's subsidiary IROP participant account under
5 section 1114(c). The interest shall be compounded and credited
6 monthly at an annual rate specified in the ordinance
7 establishing the IROP that shall be not less than 1% nor more
8 than 4 1/2%.

9 (c) Termination of employment.--When an IROP participant
10 terminates employment with the local government as an IROP
11 participant, the IROP participant's total accumulated benefits
12 shall be calculated, charged to the IROP participant account and
13 paid out of the pension trust fund under section 1114(d). Under
14 section 202(b), the balance in the IROP participant account
15 shall be excluded from actuarial valuation reports of the
16 retirement system prepared and filed under this act.

17 (d) Account held in trust.--The IROP participant account
18 shall be held in trust for the exclusive benefit of IROP retired
19 members who are or were IROP participants and for the
20 beneficiaries of the members.

21 Section 1122. Audit of Pennsylvania Municipal Retirement
22 System.

23 The IROP established by the Pennsylvania Municipal Retirement
24 Board shall be subject to financial and compliance audits
25 conducted by the Auditor General with the initial audit
26 conducted within one year of its establishment.

27 Section 1123. Existing IROPs.

28 A local government with an IROP in existence on the effective
29 date of this chapter that does not conform to the provisions of
30 this chapter shall amend its plan within 180 days of the

effective date of this chapter or when the current labor-
management contract creating the plan expires, whichever is
later, to conform with the provisions of this chapter with
respect to future IROP participants.

Section 1124. Noncompliance.

If a local government that established an IROP under section
1111(a) or the Pennsylvania Municipal Retirement Board that
established an IROP under section 1111(c) fails to comply within
90 days with a finding by the Auditor General of noncompliance
with this chapter or if the finding is appealed within 90 days
of conclusion of the appeal process, the failure to comply shall
be deemed sufficient refusal by the local government or the
Pennsylvania Municipal Retirement Board to comply with its duty
antecedent to the commencement of a mandamus action and the
Auditor General shall refer the finding to the Attorney General.
Upon receipt of the finding from the Auditor General, the
Attorney General, following an administrative proceeding in
accordance with 2 Pa.C.S. (relating to administrative law and
procedure), shall proceed in the name of the Commonwealth to
institute a legal proceeding for mandamus and no other remedy at
law shall be deemed to be sufficiently adequate and appropriate
to bar the commencement of this action.

Section 12. This act shall take effect as follows:

(1) The repeal of sections 602, 603, 604, 605, 606 and
608 of the act shall take effect January 1, 2004.

(2) The remainder of this act shall take effect in 60
days.