
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2686 Session of
2004

INTRODUCED BY CAPPELLI, ALLEN, BARRAR, BEBKO-JONES, BELARDI,
FABRIZIO, GEORGE, GOOD, GOODMAN, GEIST, HORSEY, JAMES, WILT,
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THOMAS, TRAVAGLIO, WEBER, WOJNAROSKI, YOUNGBLOOD AND
YUDICHAK, JUNE 8, 2004

REFERRED TO COMMITTEE ON FINANCE, JUNE 8, 2004

AN ACT

1 Requiring municipal retirement systems to pay annual
2 postretirement adjustments to certain retired municipal
3 employees; and providing for the financing of these
4 adjustments and for the administration of the Commonwealth's
5 reimbursements for these adjustments.

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16 The General Assembly of the Commonwealth of Pennsylvania

17 hereby enacts as follows:

18 CHAPTER 1

19 GENERAL PROVISIONS

20 Section 101. Short title.

21 This act shall be known and may be cited as the Annual

22 Municipal Employee Postretirement Adjustment Act.

23 Section 102. Definitions.

24 The following words and phrases when used in this act shall

25 have the meanings given to them in this section unless the

26 context clearly indicates otherwise:

27 "Active employment." The situation of an individual, other

28 than an independent contractor, who performs for compensation

29 regular services for a municipality and who is regularly entered

30 on the payroll of the municipality.

1 "Annual municipal employer postretirement adjustment,"
2 "annual adjustment" or "annual postretirement adjustment." An
3 increase in the amount of a retirement benefit as provided for
4 under this act.

5 "Chief administrative officer." The person who has the
6 primary responsibility for the execution of the administrative
7 or management affairs of a municipal retirement system or the
8 designee of that person.

9 "Firefighter." A municipal employee who holds a full-time
10 position in the firefighting service of a municipality and has
11 retirement coverage provided by a retirement system.

12 "Municipal employee." A firefighter, police officer or
13 nonuniformed employee.

14 "Municipality." A borough, city, incorporated town or
15 township, however constituted, whether operating under a
16 legislative charter, municipal code, optional charter adopted
17 under the act of July 15, 1957 (P.L.901, No.399), known as the
18 Optional Third Class City Charter Law, a home rule charter or an
19 optional plan adopted under the former act of April 13, 1972
20 (P.L.184, No.62), known as the Home Rule Charter and Optional
21 Plans Law, or 53 Pa.C.S. Part III Subpt. E (relating to home
22 rule and optional plan government), or other arrangement or an
23 association of these municipalities cooperating under the former
24 act of July 12, 1972 (P.L.762, No.180), referred to as the
25 Intergovernmental Cooperation Law, or 53 Pa.C.S. Ch. 23 Subch. A
26 (relating to intergovernmental cooperation).

27 "Nonuniformed municipal employee." A municipal employee
28 other than a police officer or firefighter.

29 "Police officer." A municipal employee who holds a full-time
30 position in the police service of a municipality and has

1 retirement coverage provided by a retirement system.

2 "Postretirement adjustment." An increase in or change in the
3 amount of a retirement annuity, retirement benefit, service
4 pension or disability pension benefit granted or effective after
5 active employment ceases.

6 "Public employee retirement system." An entity, whether a
7 separate entity or part of a governmental entity, that collects
8 retirement and other employee benefit contributions from
9 government employees and employers, holds and manages the
10 resulting assets as reserves for present and future retirement
11 annuity, retirement benefit, service pension or disability
12 pension benefit payments and makes provision for these payments
13 to qualified retirees and beneficiaries.

14 "Retirement benefit." The amount paid on a regular basis to
15 a retired or disabled police officer or firefighter by a
16 municipal retirement system established for police officers or
17 firefighters.

18 "Retirement system." A public employee retirement system.

19 "Special account." The Annual Municipal Employee
20 Postretirement Adjustment Account established under section 701.

21 CHAPTER 3

22 ANNUAL MUNICIPAL EMPLOYEE POSTRETIREMENT ADJUSTMENT

23 Section 301. Entitlement to annual municipal employee
24 postretirement adjustment.

25 A municipal retirement system shall pay a retired municipal
26 employee an annual municipal employee postretirement adjustment
27 under this chapter if all of the following apply:

28 (1) The retiree has terminated active employment with
29 the municipality as a municipal employee.

30 (2) The retiree is receiving a retirement annuity,

1 retirement benefit, service pension or disability pension
2 benefit from a municipal retirement system on the basis of
3 active employment with a municipality as a municipal
4 employee.

5 (3) The retiree began receiving the retirement annuity,
6 retirement benefit, service pension or disability pension
7 benefit before April 1 of the prior year.

8 Section 302. Amount of annual adjustment.

9 A municipal retirement system shall pay a retired municipal
10 employee an annual adjustment equal to the increase in the
11 Consumer Price Index for the prior year minus 0.5%, provided
12 that the annual adjustment may not exceed 5%.

13 Section 303. Payment of annual adjustment.

14 The annual adjustment is effective on the date of the first
15 payment of the retiree's retirement annuity, retirement benefit,
16 service pension or disability pension benefit due after April 1
17 of each year. The municipal retirement system shall pay the
18 annual adjustment as soon as practicable after that date and
19 shall include in the first payment any omitted amount payable
20 between the effective date of the adjustment and the date of the
21 first payment.

22 CHAPTER 5

23 FINANCING OF ANNUAL MUNICIPAL EMPLOYEE POSTRETIREMENT

24 ADJUSTMENT

25 Section 501. Actuarial funding by municipality.

26 A municipality shall fund the actuarial liability
27 attributable to an annual municipal employee postretirement
28 adjustment under the provisions of the act of December 18, 1984
29 (P.L.1005, No.205), known as the Municipal Pension Plan Funding
30 Standard and Recovery Act, and shall include that actuarial

1 liability in the actuarial valuation report under that act.

2 Section 502. Reimbursement by Commonwealth for annual
3 adjustment.

4 (a) General rule.--

5 (1) Except as provided in subsection (b), beginning in
6 the year following the year in which the amortization
7 contribution requirement attributable to an annual adjustment
8 under Chapter 3 is first reflected in the financial
9 requirements of the retirement system determined under
10 Chapter 3 of the act of December 18, 1984 (P.L.1005, No.205),
11 known as the Municipal Pension Plan Funding Standard and
12 Recovery Act, the Auditor General shall determine the
13 Commonwealth reimbursement payable to the municipality
14 representing the amortization contribution requirement
15 attributable to the annual postretirement adjustment under
16 Chapter 3 that was paid with revenues of the municipality
17 other than general municipal pension system State aid
18 provided under the Municipal Pension Plan Funding Standard
19 and Recovery Act.

20 (2) The determination of the reimbursable amount of the
21 amortization contribution requirement attributable to the
22 annual postretirement adjustment under Chapter 3 in any year
23 shall be calculated as the amortization contribution
24 requirement attributable to the annual postretirement
25 adjustments under Chapter 3 and reflected in the
26 determination of the financial requirements of the pension
27 plan under Chapter 3 of the Municipal Pension Plan Funding
28 Standard and Recovery Act for the immediate prior year less
29 the product of that amortization contribution requirement
30 multiplied by the ratio of the amount of general municipal

1 pension system State aid allocated to the retirement system
2 in the immediate prior year to the total amount of municipal
3 contributions made to the retirement system from all sources
4 other than employee contributions in the immediate prior
5 year. Where a municipality has issued bonds or notes to fund
6 an unfunded actuarial accrued liability under 53 Pa.C.S. Pt.
7 VII Subpt. B (relating to indebtedness and borrowing) or
8 under other laws applicable to the municipality, the general
9 municipal pension system State aid and municipal
10 contributions used by the municipality to make debt service
11 payments on the bonds or notes, or both, issued to fund an
12 unfunded actuarial accrued liability shall be included in the
13 calculation of the ratio applied to the amortization
14 contribution requirement.

15 (3) The Commonwealth shall reimburse a municipality,
16 from the special account established under section 701, for
17 the reimbursable amount determined for each year under this
18 paragraph.

19 (b) Limitation of eligibility.--

20 (1) The Commonwealth shall not reimburse any
21 municipality for an annual adjustment paid under Chapter 3 if
22 the information required under section 901(a) either was not
23 certified to the Auditor General or was certified after April
24 1 of the year the certification was due.

25 (2) The Commonwealth shall not reimburse a municipality
26 for the reimbursable amount of the amortization contribution
27 requirement attributable to the annual postretirement
28 adjustment under Chapter 3 if the municipality fails to
29 submit a complete certification of the reimbursable amount of
30 the amortization contribution requirement determined under

subsection (a) to the Auditor General before April 1 of the year in which the reimbursement is payable.

(c) Variable definition of "amortization contribution requirement."--For purposes of this section, the term "amortization contribution requirement" shall have the meaning specified in this subsection as follows:

(1) In a municipal pension plan with defined benefits for which the municipality determines the financial requirements of the pension plan under section 302 of the Municipal Pension Plan Funding Standard and Recovery Act, the term "amortization contribution requirement" shall mean the amortization contribution requirement attributable to the annual postretirement adjustments under Chapter 3 that was reflected in the financial requirements of the pension plan determined for the immediate prior year.

(2) In a municipal pension plan without defined benefits for which the municipality determines the financial requirements of the pension plan under section 303 of the Municipal Pension Plan Funding Standard and Recovery Act, the term "amortization contribution requirement" shall mean the sum of the payments made to the retirement system in the immediate prior year in order to provide the annual postretirement adjustments under Chapter 3 in that year.

CHAPTER 7

SPECIAL ACCOUNT

Section 701. Establishment.

The Annual Municipal Employee Postretirement Adjustment Account is established in the Municipal Pension Aid Fund. The special account shall be established as soon as practicable following the effective date of this section.

1 Section 702. Deposits into special account.

2 Notwithstanding any applicable provision of the act of May
3 12, 1943 (P.L.259, No.120), referred to as the Foreign Casualty
4 Insurance Premium Tax Allocation Law, or any applicable
5 provision of the act of March 4, 1971 (P.L.6, No.2), known as
6 the Tax Reform Code of 1971, or the provisions of sections
7 402(b) and 803(c) of the act of December 18, 1984 (P.L.1005,
8 No.205), known as the Municipal Pension Plan Funding Standard
9 and Recovery Act, prior to the deposit of the proceeds of the
10 insurance premium tax on foreign casualty insurance premiums
11 into the General Municipal Pension System State Aid Program
12 revenue account, an amount sufficient to provide for the
13 Commonwealth's reimbursement payments and reimbursable amounts
14 to municipalities for annual adjustments under this act shall be
15 deposited in the separate account created under section 701.

16 CHAPTER 9

17 ADMINISTRATIVE PROVISIONS

18 Section 901. Municipal retirement system certification of
19 adjustments paid and of reimbursable amounts.

20 (a) Certification.--On January 1 of each year the chief
21 administrative officer of a municipal retirement system that
22 pays an annual adjustment under Chapter 3 in that year shall
23 certify the reimbursable amount under section 502(a) to the
24 Auditor General not later than April 1 of the following year.

25 (b) Certification form.--Not later than February 1 of each
26 year, the Auditor General shall send each municipality
27 maintaining a retirement system for municipal employees a notice
28 of the filing requirement for the certification of the
29 reimbursable amount under section 502(a), which shall include a
30 detailed description of the formula for determining the

1 reimbursable amount and the proper form on which to make the
2 certifications under subsection (a).

3 Section 902. Commonwealth disbursement of reimbursement
4 payment.

5 (a) Payment to account.--Not later than June 1 of the year
6 in which the form is due, the Auditor General shall certify to
7 the State Treasurer the amount to be deposited into the special
8 account and shall draw a warrant, payable to the treasurer of
9 the municipality, on the State Treasurer from the special
10 account created for the amount certified under section 901(a).

11 (b) Disbursements.--Not later than the first business day of
12 October of the year in which the certification form is due, the
13 State Treasurer shall disburse the reimbursement payment for the
14 postretirement adjustments under Chapter 3 out of the special
15 account.

16 Section 903. Municipal receipt of reimbursement payment.

17 Upon receipt of the reimbursement payment from the
18 Commonwealth for the annual postretirement adjustments under
19 Chapter 3, the treasurer of the municipality shall deposit the
20 reimbursement payment into the municipality's general fund.

21 Section 904. Administration by Auditor General.

22 The Auditor General shall administer the annual municipal
23 employee postretirement adjustment reimbursement payments. Under
24 the act of July 31, 1968 (P.L.769, No.240), referred to as the
25 Commonwealth Documents Law, and 2 Pa.C.S. (relating to
26 administrative law and procedure), the Auditor General shall
27 promulgate regulations necessary for the efficient
28 administration of these reimbursement payments and shall specify
29 the form and content of any forms applicable to the
30 reimbursement payments. The Auditor General shall make an audit,

1 as deemed necessary, in accordance with generally accepted
2 governmental auditing standards of every municipality that
3 receives a reimbursement payment under this act and of every
4 municipal retirement system that pays an annual adjustment under
5 this act.

6 CHAPTER 11

7 MISCELLANEOUS PROVISIONS

8 Section 1101. Limitation of prior act.

9 To the extent that an annual municipal employee
10 postretirement adjustment granted by the Commonwealth causes the
11 calculation of total benefits to be paid to a member of a police
12 force receiving retirement benefit to exceed the limitations
13 contained in the act of May 29, 1956 (1955 P.L.1804, No.600),
14 referred to as the Municipal Police Pension Law, the police
15 pension fund may exceed the limitations therein provided to pay
16 the adjustment to the retired or disabled member.

17 Section 1102. Repeals.

18 All acts and parts of acts are repealed insofar as they are
19 inconsistent with this act.

20 Section 1103. Effective date.

21 This act shall take effect in 60 days.