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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1252 Session of  
2008

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INTRODUCED BY KASUNIC, LAVALLE, LOGAN, COSTA, STOUT AND  
TARTAGLIONE, JANUARY 22, 2008

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REFERRED TO FINANCE, JANUARY 22, 2008

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

17 CHAPTER 1  
18 GENERAL PROVISIONS

19 Section 101. Short title.

20 This act shall be known and may be cited as the Annual  
21 Municipal Employee Postretirement Adjustment Act.

22 Section 102. Definitions.

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

26 "Active employment." The situation of an individual, other  
27 than an independent contractor, who performs for compensation  
28 regular services for a municipality and who is regularly entered  
29 on the payroll of the municipality.

30 "Annual municipal employer postretirement adjustment,"

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

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

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

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

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

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

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

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

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

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

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

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

### 20 CHAPTER 3

#### 21 ANNUAL MUNICIPAL EMPLOYEE POSTRETIREMENT ADJUSTMENT

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

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

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

29 (2) The retiree is receiving a retirement annuity,  
30 retirement benefit, service pension or disability pension

benefit from a municipal retirement system on the basis of active employment with a municipality as a municipal employee.

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

#### Section 302. Amount of annual adjustment.

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

#### Section 303. Payment of annual adjustment.

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

### CHAPTER 5

#### FINANCING OF ANNUAL MUNICIPAL EMPLOYEE POSTRETIREMENT

#### ADJUSTMENT

#### Section 501. Actuarial funding by municipality.

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

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

3 (a) General rule.--

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

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

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

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

18 (b) Limitation of eligibility.--

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

24 (2) The Commonwealth shall not reimburse a municipality  
25 for the reimbursable amount of the amortization contribution  
26 requirement attributable to the annual postretirement  
27 adjustment under Chapter 3 if the municipality fails to  
28 submit a complete certification of the reimbursable amount of  
29 the amortization contribution requirement determined under  
30 subsection (a) to the Auditor General before April 1 of the

1 year in which the reimbursement is payable.

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

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

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

## 23 CHAPTER 7

### 24 SPECIAL ACCOUNT

25 Section 701. Establishment.

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

30 Section 702. Deposits into special account.



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

15                               CHAPTER 9

16                               ADMINISTRATIVE PROVISIONS

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

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

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

1 certifications under subsection (a).

2 Section 902. Commonwealth disbursement of reimbursement  
3 payment.

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

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

15 Section 903. Municipal receipt of reimbursement payment.

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

20 Section 904. Administration by Auditor General.

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

1 governmental auditing standards of every municipality that  
2 receives a reimbursement payment under this act and of every  
3 municipal retirement system that pays an annual adjustment under  
4 this act.

5 CHAPTER 11

6 MISCELLANEOUS PROVISIONS

7 Section 1101. Limitation of prior act.

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

16 Section 1102. Repeals.

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

19 Section 1103. Effective date.

20 This act shall take effect in 60 days.