



COMMONWEALTH OF PENNSYLVANIA
PUBLIC EMPLOYEE RETIREMENT COMMISSION
HARRISBURG
17120

November 18, 2011

The Honorable Samuel H. Smith
Speaker of the House
House of Representatives
139 Main Capitol
Harrisburg, PA 17120

Re: House Bill Number 90, Printer's Number 46

Dear Representative Smith:

On November 17, 2011, the Public Employee Retirement Commission reviewed House Bill Number 90, Printer's Number 46.

The Commission voted to recommend that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

The Commission trusts that the enclosed actuarial note will be of assistance in further consideration of the proposed legislation.

Sincerely,

Anthony W. Salomone
Chairman

Enclosure

cc: The Honorable Mike Turzai
The Honorable Frank Dermody
The Honorable Stan Saylor
The Honorable Michael K. Hanna
The Honorable Sandra Major
The Honorable Dan Frankel
The Honorable William F. Adolph, Jr.
The Honorable Joseph Markosek
The Honorable Kerry A. Benninghoff
The Honorable Phyllis Mundy

The Honorable R. Ted Harhai
The Honorable Garth D. Everett
The Honorable Kevin Murphy
The Honorable Chris Ross
The Honorable W. Curtis Thomas
Mr. Anthony Aliano
Mr. Clancy Myer
Mr. Anthony F. Barbush
Ms. Debbie Reeves

PUBLIC EMPLOYEE RETIREMENT COMMISSION**ACTUARIAL NOTE TRANSMITTAL**

Bill ID: House Bill Number 90, Printer's Number 46

System: Cities of the Second Class A (Scranton) Employees'
Retirement System (Nonuniformed Employees)

Subject: Eligibility for Purchase of Nonintervening Military Service

SYNOPSIS

House Bill Number 90, Printer's Number 46, would amend the Second Class A City Employee Pension Law by removing the statutory three-year time limit within which a member must commence employment with the City of Scranton following military service in order to be eligible to purchase credit for nonintervening military service, and by mandating that affected members be entitled to purchase the nonintervening military service credit. House Bill Number 90, Printer's Number 46, is a companion bill to House Bill Number 89, Printer's Number 45, which would similarly amend the pension statute affecting uniformed (police and fire) employees.

DISCUSSION

The Second Class A City Employee Pension Law (Act of September 23, 1959, P. L. 970, No. 400) establishes the pension plan for nonuniformed employees in the City of Scranton. The City of Scranton Nonuniformed Pension Plan is a contributory, defined benefit pension plan. Normal retirement age is age 55 with at least 15 years of service. As of January 1, 2009, there were 180 active members of the plan.

One of the most common service purchase authorizations provided by public employee retirement systems is for periods of military service which interrupt or delay the commencement of a career with the public employer. Permitting a member to receive retirement service credit for military service is of benefit to the member because the member's retirement benefit can be enhanced through the acquisition of additional service credit, and, in some cases, retirement eligibility can be accelerated.

DISCUSSION (CONT'D)

In 1994, the United States Congress passed the Uniformed Services Employment and Re-employment Rights Act (USERRA), which replaced the former Veterans' Reemployment Rights Law (VRRL). To ensure that they are not held at a disadvantage in their employment rights, USERRA requires that all employees rendering intervening military service (service that interrupts employment) be considered as having been on leave of absence during that time, a policy that is also reflected in the Commonwealth of Pennsylvania's Military Code and in most state pension plan statutes (USERRA does not address the issue of *nonintervening* military service.). Specifically, 38 U. S. C. § 4318(a)(2)(A) provides that the employee "shall be treated as not having incurred a break in service . . . by reason of such person's period or periods of service." Further, § 4318(b)(1) provides that "[a]n employer . . . shall . . . be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) . . .," and that "[n]o such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer" (§ 4318(b)(2)).

In addition to service credit for intervening military service (covered by USERRA), the Second Class A City Employee Pension Law permits an active member of the pension plan to purchase up to five years of nonintervening military service (military service performed prior to commencement of employment) if the member entered employment with the City of Scranton within three years of the date of the member's release from active military service. The bill would amend the Second Class A City Employee Pension Law by removing the statutory three-year time limit within which a member must commence employment with the City following military service in order to be eligible to purchase credit for nonintervening military service, and by mandating that affected members be entitled to purchase the nonintervening military service credit.

Permitting a member to receive retirement service credit for nonintervening military service has been a longstanding policy among the major public employee retirement systems of the Commonwealth. The currently mandated three-year time limit appears arbitrary, and is a condition not imposed by any other state or municipal pension statute. There is no reasonable public pension policy rationale for making eligibility for the purchase of nonintervening military service contingent upon the expanse of time between when an individual left the military and became a public employee of the City. If the purchase of nonintervening military service is to be permitted, all such service should be treated equally. The bill, therefore, seeks to remove an inequity in the crediting of nonintervening military service that currently exists in the Second Class A City Employee Pension Law.

SUMMARY OF ACTUARIAL COST IMPACT

The Commission's consulting actuary reviewed the bill and determined that because an eligible member would be required to purchase nonintervening military service by making a payment to the pension fund that is equal to the amount the member would have contributed had the member been a member of the pension fund during the period of nonintervening military service, plus the equivalent of the City's contributions on account of such service, there should be no actuarial cost to the City resulting from enactment of the bill.

POLICY CONSIDERATIONS

In reviewing the bill, the Commission identified the following policy consideration:

Equity in the Crediting of Military Service. (+) Permitting a member to receive retirement service credit for military service has been a longstanding policy among the major public employee retirement systems of the Commonwealth. The bill removes language in the Second Class A City Employee Pension Law that currently treats nonintervening military service inequitably for retirement credit purposes.

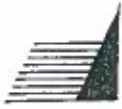
COMMISSION RECOMMENDATION

The Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issue identified above.

ATTACHMENTS

Actuarial note prepared by David H. Killick of Conrad Siegel Actuaries for House Bill Number 2325, Printer's Number 3350, from the 2009-2010 Legislative Session.

House Bill Number 90, Printer's Number 46.



Conrad Siegel
ACTUARIES

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May 4, 2010

Mr. James L. McAneny
Executive Director
Public Employee Retirement Commission
P.O.Box 1429
Harrisburg, PA 17105-1429

Re: House Bill No. 2325, Printer's No. 3350
Second Class A City Employee Pension Law (City of Scranton) -
Nonintervening Military Service

Dear Jim:

Pursuant to engagement, I have reviewed House Bill No. 2325 and am hereby providing an actuarial note on such bill. The bill would amend the Second Class A City Employee Pension Law (City of Scranton) to permit a member of the City Employees' Retirement Fund to purchase up to five years of nonintervening military service even if such member commenced employment with the City more than three years after the member's date of release from active military service. The bill also mandates that such eligible members shall be entitled to purchase nonintervening military service.

In order to purchase such nonintervening military service, the member must pay to the pension fund an amount equal to that which he would have paid had he been a member during the period for which he desires credit, computed with reference to the compensation he received when first employed by the City and his current member contribution percentage. In addition, such member must contribute to the pension fund an amount equal to the equivalent of the contributions to be made by the City on account of such military service. The contribution may be paid in a lump sum or by installments based upon the approval of the City Retirement Board.

I believe this bill is useful to members who have nonintervening military service since all nonintervening military service is treated equally regardless of the time in which it was served prior to the member's commencement of employment with the City. If this bill is passed, a member's nonintervening military service will not be rendered useless for this purpose simply because such member did not elect to become employed by the City within three years from such member's date of release from active military service.

Since the member is required to purchase such nonintervening military service by making a payment to the pension fund equal to the amount he would have contributed during the period of service that he is purchasing plus the equivalent of



Mr. James L. McAneny
May 4, 2010
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the City's contributions on account of such military service, there should be no actuarial cost to the City associated with the passage of House Bill No. 2325.

With best regards,

Yours sincerely,

A handwritten signature in cursive script that reads "Dave".

David H. Killick, F.S.A.
Consulting Actuary

DHK:smf

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 90

Session of
2011

INTRODUCED BY MURPHY, CALTAGIRONE, FABRIZIO, GEORGE, HORNAMAN,
KORTZ, M. O'BRIEN, PASHINSKI, READSHAW, K. SMITH, STABACK,
VULAKOVICH, MILLARD, MULLERY AND PYLE, JANUARY 19, 2011

REFERRED TO COMMITTEE ON URBAN AFFAIRS, JANUARY 19, 2011

AN ACT

1 Amending the act of September 23, 1959 (P.L.970, No.400),
2 entitled "An act providing for the creation, maintenance and
3 operation of an employes' retirement system in cities of the
4 second class A, and imposing certain charges on cities of the
5 second class A and school districts in cities of the second
6 class A," further providing for credit for military service.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 12 of the act of September 23, 1959
10 (P.L.970, No.400), referred to as the Second Class A City
11 Employe Pension Law, amended July 15, 1968 (P.L.342, No.167), is
12 amended to read:

13 Section 12. Credit for Military Service; Payment into Fund;
14 Reimbursement.--Any city employe who, on or after September 16,
15 1940, has been employed by the city for a period of six months
16 and who, on or subsequent to such date, shall have enlisted or
17 been inducted into the military service of the United States in
18 time of war, armed conflict or national emergency so proclaimed
19 by the President or the Congress of the United States, shall

1 have credited to his employment record, for retirement benefits,
2 all of the time spent by him in such military service during the
3 continuance of such war, armed conflict, or national emergency,
4 and such payments as were heretofore or shall hereafter be
5 required to be made during such period by such city employe into
6 the city employes' retirement fund shall be paid into such fund
7 by the city. Any employes who have made payments into the city
8 employes' retirement fund, for which payments the city is liable
9 under the provisions of this act, shall be reimbursed by the
10 city to the full extent of such payments or be given credit
11 towards future payments under this act.

12 Any member of the pension fund who is a contributor and who
13 served in the armed forces of the United States subsequent to
14 September 1, 1940, and who was not a member of the pension fund
15 prior to such military service, and who commenced employment in
16 city service [within three years from] after the date of release
17 from active duty, [may, as the city or school district shall
18 determine,] shall be entitled to have full credit for each year
19 or fraction thereof, not to exceed five years of such service
20 upon his payment to the pension fund an amount equal to that
21 which he would have paid had he been a member during the period
22 for which he desires credit, computed with reference to the
23 compensation he received upon entry into city service and his
24 current percentage of salary deductions, and an additional
25 amount as the equivalent of the contributions of the city and
26 school district on account of such military service, which
27 amount may be paid in a lump sum or by installments as may be
28 approved by the board.

29 Section 2. This act shall take effect immediately.