

PUBLIC EMPLOYEE RETIREMENT COMMISSION ACT

Act of Jul. 9, 1981, P.L. 208, No. 66

Cl. 43

AN ACT

Creating the Public Employee Retirement Commission to make a continuing study of all public employee retirement and pension systems; and making an appropriation. (Title amended Dec. 20, 1991, P.L.393, No.42)

Compiler's Note: Section 5(4) of Act 100 of 2016 provided that Act 66 is repealed insofar as it is inconsistent with Act 100.

TABLE OF CONTENTS

Section 1. Short title.
Section 2. Legislative findings and intent.
Section 3. Definitions.
Section 4. Public Employee Retirement Commission created.
Section 5. Commission membership.
Section 6. Powers and duties.
Section 7. Actuarial notes.
Section 8. Municipal Pension Advisory Committees.
Section 9. Reports to be public information.
Section 10. Appropriation.
Section 11. Review of commission activities.
Section 12. Effective date.

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

Section 1. Short title.

This act shall be known and may be cited as the "Public Employee Retirement Commission Act."

(1 amended Dec. 20, 1991, P.L.393, No.42)

Section 2. Legislative findings and intent.

(a) Findings.--The General Assembly finds and declares as follows:

(1) The State Employees' Retirement System costs taxpayers hundreds of millions of dollars annually.

(2) A Pennsylvania Economy League study found the Public School Employees' Retirement System has enormous unfunded liability and the same study indicated that the high cost of Commonwealth retirement systems results partially from the General Assembly's failure to develop and enforce a policy governing retirement of public employees and its failure to examine proposed pension changes for long-range costs.

(3) The Department of Community Affairs had investigated local government pension funds pursuant to the act of December 6, 1972 (P.L.1383, No.293), entitled "An act requiring municipal pension systems to have an actuarial investigation of the fund made by an actuary who shall report his findings to the Department of Community Affairs," and has found considerable serious and growing unfunded liabilities in local government pension funds.

(4) The General Assembly has passed legislation creating three independent Statewide pension systems pursuant to:

(i) Act of February 1, 1974 (P.L.34, No.15), known as the "Pennsylvania Municipal Retirement Law."

(ii) 71 Pa.C.S. Part XXV, known as the "State Employees' Retirement Code."

(iii) 24 Pa.C.S. Part IV, known as the "Public School Employees' Retirement Code."

All of which shall serve as the foundation for further study and implementation of actuarially sound public employee pension and retirement systems.

(5) Various states have established commissions to continuously monitor and recommend reforms for public employee retirement systems.

(6) Public employee retirement policy is of vital concern to both the executive and legislative branches of State government.

(b) Intent.--It is the intent of the General Assembly in establishing the Public Employee Retirement Commission to provide an ongoing mechanism to monitor public employee retirement plans and to assure their actuarial viability by review of proposed changes and reforms in the plans and to review relevant statutes. ((b) amended Dec. 20, 1991, P.L.393, No.42)

Compiler's Note. The Department of Community Affairs, referred to in subsec. (a), was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

Section 3. Definitions.

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

"Actuarially sound plan." A plan operated under supervision of an actuary and which is being funded annually at a level not lower than the normal cost of the plan plus amortization of the unfunded accrued liability within an established period of time after the effective date of the act creating the system.

"Commission." The Public Employee Retirement Commission created pursuant to this act.

"Public Employee Retirement Plan." Any of the following:

(1) State Employees' Retirement System created pursuant to 71 Pa.C.S. Part XXV.

(2) Public School Employees' Retirement System created pursuant to 24 Pa.C.S. Part IV.

(3) Municipal Retirement System created pursuant to the act of February 1, 1974 (P.L.34, No.15).

(4) Any other independent pension or retirement plan for public officers and employees in the Commonwealth.

(5) Pension or retirement plans created pursuant to the act of June 23, 1931 (P.L.932, No.317), known as "The Third Class City Code."

(6) Pension or retirement plans created pursuant to the act of May 29, 1956 (1955 P.L.1804, No.600), referred to as the Municipal Police Pension Law.

(3 amended Dec. 20, 1991, P.L.393, No.42)

Section 4. Public Employee Retirement Commission created.

There is hereby created the Public Employee Retirement Commission to review legislation affecting public employee pension and retirement plans and to study on a continuing basis public employee pension and retirement policy as implemented at both the State and local level, the interrelationships of the several systems and their actuarial soundness and cost.

(4 amended Dec. 20, 1991, P.L.393, No.42)

Section 5. Commission membership.

(a) Legislative members.--

(1) The President pro tempore of the Senate, after consultation with the Senate Minority Leader, shall appoint two members of the Senate, one from the majority and one from the minority, to serve on the commission.

(2) The Speaker of the House of Representatives, after consultation with the House Minority Leader, shall appoint two members of the House, one from the majority and one from the minority, to serve on the commission.

(3) The legislative members of the commission shall serve on the commission for the duration of the terms for which they were elected.

(b) Gubernatorial appointments.--

(1) The Governor shall appoint five additional members to the commission, no more than three of whom shall be of the same political party, with the advice and consent of a majority of the Senate pursuant to the procedure established in section 207.1, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(2) The members appointed by the Governor shall be representatives from the general public, one of whom shall be an active or retired member of a public employee pension or retirement plan. The members shall be skilled and knowledgeable in the area of pension or retirement system management.

(3) The members of the commission appointed by the Governor shall serve terms of six years, except those members initially selected, one of whom shall serve for two years, one of whom shall serve for three years, one for four years, one for five years and one for six years.

(c) Vacancies.--Vacancies in office shall be filled by the appointing authority for the balance of the unexpired term.

(d) Organization.--The commission shall meet within 60 days of its establishment for the purpose of organizing and selecting officers who shall be chosen from its membership. Thereafter, the commission shall meet as necessary at the call of the commission chairman, but in no case less than six times per year.

(e) Nonlegislative members shall be paid \$50 a day for each day spent in transacting commission business not to exceed \$3,000 per year. All members shall be reimbursed for necessary expenses in connection with their commission duties.

Section 6. Powers and duties.

(a) In general.--The commission shall have the following powers and duties:

(1) To study generally the subject of retirement, income after retirement, disability and death benefits and the retirement needs of public employees. The commission shall have responsibility to formulate principles and objectives applicable thereto and to recommend any new legislation it deems advisable.

(2) To analyze on its own or upon request from either the legislative or executive branch any bill relating to public employee retirement or pension policy and issue a report thereto in a timely fashion. Such a report shall be submitted to the General Assembly and the Governor and shall include an assessment of the actuarial soundness, feasibility and cost of such legislation.

(3) To establish and review plans for actuarial soundness for every public employee retirement plan.

(4) To issue subpoenas in order to compel testimony or receive any information reasonably necessary in the process of carrying out its mandated responsibilities.

(5) To cooperate with the several State and municipal retirement and pension boards on matters of mutual concern.

(6) To issue an annual public report to the General Assembly and the Governor, including but not limited to its findings, recommendations and a summary of its activities.

(7) To hire an executive director and other appropriate staff such as actuaries, legal counsel, research analysts, secretarial assistance and contract for consultant services as may be within the limits of the appropriations available.

(8) To adopt bylaws for the conduct of its official business.

(9) To monitor and evaluate from time to time all the laws and systems thereunder which relate to public employee pension and retirement policy in the Commonwealth.

(10) To study the relationship of retirement and pension policy to other aspects of public personnel policy and to the effective operation of government generally.

(11) To examine the interrelationships among public employee pension and retirement systems throughout the State.

(12) To recommend to the General Assembly a change in the process by which public employee pension and retirement legislation is analyzed and acted upon by the Legislature.

(13) To issue actuarial notes pursuant to section 7.

(14) To formulate and recommend passage of legislation, within one year of the initial meeting of the commission, to mandate actuarial funding standards and establish a recovery program for municipal pension systems determined to be financially distressed.

(15) To perform the functions and have all the powers and duties heretofore vested in the Department of Community Affairs pursuant to the act of December 6, 1972 (P.L.1383, No.293), entitled "An act requiring municipal pension systems to have an actuarial investigation of the fund made by an actuary who shall report his findings to the Department of Community Affairs."

(b) Priority.--The commission shall carry out all of its powers and duties imposed by this act by first addressing and completing its duties with regard to the municipal government retirement systems before exercising any of its powers and duties with regard to the other retirement plans enumerated in section 3.

Section 7. Actuarial notes.

(a) Note required for bills.--Except as otherwise provided in subsection (f)(1), no bill proposing any change relative to a public employee pension or retirement plan shall be given second consideration in either House of the General Assembly, until the commission has attached an actuarial note prepared by an enrolled pension actuary which shall include a reliable estimate of the cost and actuarial effect of the proposed change in any such pension or retirement system.

(b) Note required for amendments.--Except as otherwise provided in subsection (f)(2), no amendment to any bill concerning any public employee pension or retirement plan shall be considered by either House of the General Assembly until an actuarial note prepared by an enrolled pension actuary has been attached.

(c) Preparation of note.--The commission shall select an enrolled pension actuary to prepare an actuarial note which shall include a reliable estimate of the financial and actuarial effect of the proposed change in any such pension or retirement system.

(d) Contents of note.--The actuarial note shall be factual, and shall, if possible, provide a reliable estimate of both the immediate cost and effect of the bill and, if determinable or reasonably foreseeable, the long-range actuarial cost and effect of the measure.

(e) Notes for proposed constitutional amendments.--The commission shall issue an actuarial note, prepared by an enrolled pension actuary, for any joint resolution proposing an amendment to the Constitution of Pennsylvania which initially passes either House of the General Assembly. If said joint resolution is subsequently amended and passes either House of the General Assembly, a new actuarial note shall be prepared.

(f) Effect of failure of commission to attach note.--

(1) If the commission fails to attach an actuarial note within 20 legislative days after a bill proposing a change relative to a public employee pension or retirement plan has received first consideration in either House of the General Assembly, the bill may be further considered in the same manner as if the actuarial note had been attached to the bill.

(2) If the commission fails to attach an actuarial note within 20 legislative days after an amendment to a bill proposing a change relative to a public employee pension or retirement has submitted to the commission, the amendment may be considered in the same manner as if the actuarial note had been attached to the amendment.

((f) amended Dec. 20, 1991, P.L.393, No.42)

Section 8. Municipal Pension Advisory Committees.

(a) Municipal Pension Advisory Committee.--The commission shall appoint a Municipal Pension Advisory Committee composed of one municipal official or employee nominated by each of the following municipal associations: the Pennsylvania League of Cities; the Pennsylvania State Association of Boroughs; the Pennsylvania State Association of Township Supervisors; the Pennsylvania State Association of Township Commissioners; the Pennsylvania State Association of County Commissioners and the Pennsylvania Municipal Authorities Association.

(b) Municipal Employee Pension Advisory Committee.--The commission shall appoint an advisory committee representing municipal employees nominated by each of the following associations: the Pennsylvania Chiefs of Police Association; the Pennsylvania State Firefighters Association; the Pennsylvania State Education Association; the American Federation of State, County and Municipal Employees; and the Pennsylvania Fraternal Order of Police.

(c) Organization of committees.--Members of the advisory committees may not be members of the commission. The committees shall organize by electing their own officers and by establishing rules of procedure. The advisory committees shall meet with the commission at stated times fixed by the commission, but not less than once a year, at which time the activities of the commission will be discussed and the committees may present information and make recommendations. The advisory committees may meet at such other times as they may determine and may forward information and recommendations to the commission. Committee members shall be reimbursed only for actual expenses incurred in connection with their official duties.

(8 amended Dec. 1, 1982, P.L.769, No.221)

Section 9. Reports to be public information.

(a) Public inspection of certain reports.--All reports and analyses compiled by or filed with the commission shall be

public records and shall be available for public inspection at the offices of the commission during the usual business hours of the commission.

(b) Publications of commission.--Within the limits of its financial resources, the commission shall publish at least every two years a compilation of data derived from reports submitted to the commission under the provisions of the act of December 6, 1972 (P.L.1383, No.293), entitled "An act requiring municipal pension systems to have an actuarial investigation of the fund made by an actuary who shall report his findings to the Department of Community Affairs."

Section 10. Appropriation.

The sum of \$200,000 is hereby appropriated for the fiscal year 1981-1982 to the commission for the payment of its expenses. This appropriation shall be a continuing appropriation and shall lapse on June 30, 1983.

(10 amended Dec. 1, 1982, P.L.769, No.221)

Section 11. Review of commission activities.

(a) Joint review.--If no other statute requires agencies of the Commonwealth to undergo a periodic review of their activities, the Public Employee Retirement Commission shall, each six years after its establishment, undergo a joint review of its usefulness by a committee of the Senate designated by the President pro tempore and a committee of the House of Representatives appointed by the Speaker. The committees shall report their findings to the General Assembly.

(b) Review under other statutes.--If another statute requires the periodic review of agencies of the Commonwealth, the Public Employee Retirement Commission shall be subject to that statute.

(11 amended Dec. 20, 1991, P.L.393, No.42)

Section 12. Effective date.

This act shall take effect immediately.