

**SPECIAL AD HOC MUNICIPAL POLICE AND FIREFIGHTER POSTRETIREMENT
ADJUSTMENT ACT**

Act of Dec. 14, 1988, P.L. 1192, No. 147

Cl. 53

AN ACT

Requiring municipal retirement systems to pay special ad hoc postretirement adjustments to certain retired police officers and firefighters; providing for the financing of these adjustments; providing for the administration of the Commonwealth's reimbursements for these adjustments; and making repeals.

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

CHAPTER 1
GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act.

Section 102. Definitions.

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:

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

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

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

"Municipality." A borough, city, county of the second class, incorporated town or township, however constituted, whether operating under a legislative charter; a municipal code; an optional charter adopted under the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law; a home rule charter or an optional plan adopted under the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law; or other arrangement; or an association of these municipalities cooperating under the act of July 12, 1972 (P.L.762, No.180), referred to as the Intergovernmental Cooperation Law.

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

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

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

"Retirement benefit." The amount paid on a regular basis to a retired or disabled police officer or firefighter by a municipal retirement system established for police officers or firefighters. (Def. added June 19, 2002, P.L.434, No.64)

"Retirement system." A public employee retirement system.

"Special ad hoc adjustment." (Def. deleted by amendment June 19, 2002, P.L.434, No.64)

"Special ad hoc municipal police and firefighter postretirement adjustment," "special ad hoc adjustment" or "special ad hoc postretirement adjustment." An increase in the

amount of a retirement benefit as provided for under this act.
(Def. amended June 19, 2002, P.L.434, No.64)

"Years of service." The number of whole years of active, full-time employment as a police officer or firefighter credited under the retirement system. (Def. added June 19, 2002, P.L.434, No.64)

"Years on retirement." The number of whole years that a police officer or firefighter has been retired as of January 1, 2001. (Def. added June 19, 2002, P.L.434, No.64)

CHAPTER 3

1989 SPECIAL AD HOC MUNICIPAL POLICE AND FIREFIGHTER POSTRETIREMENT ADJUSTMENT (Hdg. amended June 19, 2002, P.L.434, No.64)

Section 301. Entitlement to 1989 special ad hoc adjustment.

A municipal retirement system shall pay a retired police officer or firefighter a special ad hoc municipal police and firefighter postretirement adjustment under this chapter if all of the following apply:

(1) The retiree has terminated active employment with the municipality as a police officer or firefighter.

(2) The retiree is receiving a retirement annuity, retirement benefit, service pension or disability pension benefit from a municipal retirement system on the basis of active employment with a municipality as a police officer or firefighter.

(3) The retiree began receiving the retirement annuity, retirement benefit, service pension or disability pension benefit before January 1, 1985.

(301 amended June 19, 2002, P.L.434, No.64)

Section 302. Amount of 1989 special ad hoc adjustment.

(a) General rule.--Except as provided in subsection (b), a municipal retirement system shall pay a retired police officer or firefighter a special ad hoc municipal police and firefighter postretirement adjustment under section 301, as follows:

(1) The sum of \$25 a month, if on January 1, 1989, the retiree has been retired at least five years but less than ten years.

(2) The sum of \$50 a month, if on January 1, 1989, the retiree is totally disabled and has been retired less than ten years.

(3) The sum of \$75 a month, if on January 1, 1989, the retiree has been retired at least ten years but less than 20 years.

(4) The sum of \$150 a month, if on January 1, 1989, the retiree has been retired at least 20 years.

(b) Limitation.--If, under section 301, a retiree is entitled to be paid a special ad hoc municipal police and firefighter postretirement adjustment by more than one municipal retirement system, the amount of the special ad hoc adjustment under subsection (a) shall be reduced so that the total of all these adjustments paid to the retiree does not exceed the amount specified in subsection (a).

(c) ((c) deleted by amendment)

(d) Construction.-- Subsection (b) shall not be construed to reduce the amount of any retirement benefit payable to a retiree immediately prior to February 12, 1989.

(302 amended June 19, 2002, P.L.434, No.64)

Section 303. Payment of 1989 special ad hoc adjustment.

The special ad hoc 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 December 31, 1988. The municipal retirement system shall pay this as soon as practicable after that 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.

(303 amended June 19, 2002, P.L.434, No.64)

CHAPTER 4

2002 SPECIAL AD HOC MUNICIPAL POLICE AND
FIREFIGHTER POSTRETIREMENT ADJUSTMENT
(Hdg. added June 19, 2002, P.L.434, No.64)

Section 401. Entitlement to 2002 special ad hoc postretirement adjustment.

A municipal retirement system shall pay a retired police officer or firefighter a special ad hoc postretirement adjustment under this chapter if all of the following apply:

(1) The retiree has terminated active employment with the municipality as a police officer or firefighter.

(2) The retiree is receiving a retirement benefit from a municipal retirement system on the basis of active employment with the municipality as a police officer or firefighter.

(3) The retiree began receiving the retirement benefit before January 1, 1996.

(401 added June 19, 2002, P.L.434, No.64)

Compiler's Note: Section 10 of Act 64 of 2002, which added section 401, provided that the special ad hoc postretirement adjustment under section 401 is effective on the date of the first retirement benefit made after June 30, 2002. If the special ad hoc postretirement adjustment under section 401 is not included in the initial retirement benefit payment occurring after June 30, 2002, the special ad hoc postretirement adjustment shall be included as soon as practicable in the retirement benefit payment of the retiree, and the initial retirement benefit payment that includes the special ad hoc postretirement adjustment also shall include the total amount of the special ad hoc postretirement adjustments previously omitted from the retirement benefit payments made after June 30, 2002.

Section 402. Amount of 2002 special ad hoc postretirement adjustment.

(a) General rule.--Except as provided in subsections (b) and (c), a municipal retirement system shall pay a retired police officer or firefighter a monthly special ad hoc postretirement adjustment under section 401 that shall be calculated as follows:

(1) The base adjustment shall be determined by multiplying 15¢ by the years of service and then multiplying that product by the years on retirement.

(2) The longevity factor shall be determined as the sum of the products calculated by multiplying 0.025 by the years on retirement and 0.05 by the years on retirement in excess of 25, if any.

(3) The longevity adjustment shall be determined by multiplying the base adjustment calculated under paragraph (1) by the longevity factor calculated under paragraph (2).

(4) The special ad hoc postretirement adjustment payable under section 401 shall be the sum of the base adjustment calculated under paragraph (1) and the longevity adjustment calculated under paragraph (3).

(b) Limitation.--If, under section 401, a retiree is entitled to be paid a special ad hoc postretirement adjustment by more than one municipal retirement system, the amount of the special ad hoc postretirement adjustment under subsection (a) shall be reduced so that the total of all these adjustments paid to the retiree does not exceed the amount specified in subsection (a).

(c) Modification in amount of 2002 special ad hoc postretirement adjustment.--The amount of the special ad hoc postretirement adjustment calculated under subsection (a) shall be reduced annually by 65% of the total amount of any postretirement adjustments provided to the retiree under the municipal retirement plan after December 31, 1988, and before January 1, 2002, and paid in the immediately preceding year.

(402 added June 19, 2002, P.L.434, No.64)

CHAPTER 5 FINANCING OF SPECIAL AD HOC ADJUSTMENT

Section 501. Actuarial funding by municipality.

A municipality shall fund the actuarial liability attributable to a special ad hoc 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 or under 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."

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

Section 502. Reimbursement by Commonwealth for special 1989 ad hoc adjustment.

(a) General rule.--Except as provided in subsection (b), beginning January 1, 1990, the Commonwealth shall reimburse a municipality, from the special account established under section 701, for the actual special ad hoc adjustment under Chapter 3 paid during the previous calendar year.

(b) Limitation of eligibility.--

(1) The Commonwealth shall not reimburse any municipality if the information required under section 901(a)(1) either was not certified to the Auditor General or was certified after April 1 of the year the certification was due.

(2) Beginning January 1, 2002, the Commonwealth shall not make any payment under subsection (a) to a municipality that in the immediately preceding year received an allocation of general municipal pension system State aid that was limited to the pension cost of the municipality under section 402(f)(2) of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

(502 amended June 19, 2002, P.L.434, No.64)

Section 502.1. Reimbursement by Commonwealth for 2002 special ad hoc adjustment.

(a) General rule.--

(1) Except as provided in subsection (b), beginning in the year following the year in which the amortization

contribution requirement attributable to a special ad hoc postretirement adjustment under Chapter 4 is first reflected in the financial requirements of the retirement system determined under Chapter 3 of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, the Auditor General shall determine the Commonwealth reimbursement payable to the municipality representing the amortization contribution requirement attributable to the special ad hoc postretirement adjustment under Chapter 4 that was paid with revenues of the municipality other than general municipal pension system State aid provided under the Municipal Pension Plan Funding Standard and Recovery Act.

(2) The determination of the reimbursable amount of the amortization contribution requirement attributable to the special ad hoc postretirement adjustment under Chapter 4 in any year shall be calculated as the amortization contribution requirement attributable to the special ad hoc postretirement adjustments under Chapter 4 and reflected in the determination of the financial requirements of the pension plan under Chapter 3 of the Municipal Pension Plan Funding Standard and Recovery Act for the immediate prior year less the product of that amortization contribution requirement multiplied by the ratio of the amount of general municipal pension system State aid allocated to the retirement system in the immediate prior year to the total amount of municipal contributions made to the retirement system from all sources other than employee contributions in the immediate prior year. Where a municipality has issued bonds or notes to fund an unfunded actuarial accrued liability under 53 Pa.C.S. Pt. V Subpt. B (relating to indebtedness and borrowing) or under other laws applicable to the municipality, the general municipal pension system State aid and municipal contributions used by the municipality to make debt service payments on the bonds or notes, or both, issued to fund an unfunded actuarial accrued liability shall be included in the calculation of the ratio applied to the amortization contribution requirement.

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

(b) Limitation of eligibility.--

(1) The Commonwealth shall not reimburse any municipality for a special ad hoc adjustment paid under Chapter 4 if the information required under section 901(a)(2) either was not certified to the Auditor General or was certified after April 1 of the year the certification was due.

(2) The Commonwealth shall not reimburse a municipality for the reimbursable amount of the amortization contribution requirement attributable to the special ad hoc postretirement adjustment under Chapter 4 if the municipality fails to submit a complete certification of the reimbursable amount of 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 special ad hoc postretirement adjustments under Chapter 4 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 special ad hoc postretirement adjustments under Chapter 4 in that year. (502.1 added June 19, 2002, P.L.434, No.64)

CHAPTER 7 SPECIAL ACCOUNT

Section 701. Special account created.

There is hereby created in the Municipal Pension Aid Fund a Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Account. This account shall be established as soon as practicable following the effective date of this act.

Section 702. Deposits into special account.

Notwithstanding any applicable provision of the act of May 12, 1943 (P.L.259, No.120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, or any applicable provisions of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, or the provisions of sections 402(b) and 803(c) of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, beginning on January 1, 1990, prior to the deposit of the proceeds of the insurance premium tax on foreign casualty insurance premiums into the General Municipal Pension System State Aid Program revenue account, an amount sufficient to provide for the Commonwealth's reimbursement payments and reimbursable amounts to municipalities for special ad hoc adjustments under this act shall be deposited in the separate account created under section 701.

(702 amended June 19, 2002, P.L.434, No.64)

CHAPTER 9 ADMINISTRATIVE PROVISIONS

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

(a) Certification.--

(1) Beginning January 1, 1989, the chief administrative officer of a municipal retirement system that pays a special ad hoc adjustment under Chapter 3 in that year shall certify the total of all adjustments under Chapter 3 paid during that year to the Auditor General not later than April 1 of the following year.

(2) Beginning in the year 2002, a municipality with a retirement system that pays a special ad hoc postretirement adjustment under Chapter 4 in a year shall certify its reimbursable amount under section 502.1(a) to the Auditor General not later than April 1 of the following year.

(b) Certification form.--

(1) Not later than February 1 of the year in which the form is due, the Auditor General shall send the retirement system the proper form on which to make the certification under subsection (a)(1).

(2) Not later than February 1 of each year, the Auditor General shall send each municipality maintaining a retirement system for police officers or firefighters a notice of the filing requirement for the certification of the reimbursable amount under section 502.1(a), which shall include a detailed description of the formula for determining the reimbursable amount and the proper form on which to make the certifications under subsection (a)(2).

(901 amended June 19, 2002, P.L.434, No.64)

Section 902. Commonwealth disbursement of reimbursement payment.

(a) Payment to account.--Not later than June 1 of the year in which the form is due, the Auditor General shall certify to the State Treasurer the amount to be deposited into the special account created in section 701 and shall draw a warrant, payable to the treasurer of the municipality, on the State Treasurer from the special account created in section 701 for the amount certified under section 901(a).

(b) Disbursements.--

(1) Not later than September 1 of the year in which the form is due, the State Treasurer shall disburse the reimbursement payment for the special ad hoc postretirement adjustments under Chapter 3 out of the special account created in section 701.

(2) Not later than the first business day of October of the year in which the certification form is due, the State Treasurer shall disburse the reimbursement payment for the postretirement adjustments under Chapter 4 out of the special account created in section 701.

(902 amended June 19, 2002, P.L.434, No.64)

Section 903. Municipal receipt of reimbursement payment.

(a) 1989 postretirement adjustment reimbursement.--Upon receipt of the reimbursement payment from the Commonwealth for the postretirement adjustments under Chapter 3, the treasurer of the municipality shall deposit the reimbursement payment into the municipality's general fund.

(b) 2002 postretirement adjustment reimbursement.--Upon receipt of the reimbursement payment from the Commonwealth for the postretirement adjustments under Chapter 4, the treasurer of the municipality shall deposit the reimbursement payment into the municipality's general fund.

(903 amended June 19, 2002, P.L.434, No.64)

Section 904. Administration by Auditor General.

The Auditor General shall administer the special ad hoc municipal police and firefighter postretirement adjustment reimbursement payments. Under the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and 2 Pa.C.S. (relating to administrative law and procedure), the Auditor General shall promulgate regulations necessary for the efficient administration of these reimbursement payments and shall specify the form and content of any forms applicable to the reimbursement payments. The Auditor General, as deemed necessary, shall make an audit in accordance with generally accepted governmental auditing standards of every municipality that receives a reimbursement payment under this act and of every municipal retirement system that pays a special ad hoc adjustment under this act.

CHAPTER 11
MISCELLANEOUS PROVISIONS

Section 1101. Limitation of prior act.

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

(1101 amended June 19, 2002, P.L.434, No.64)

Section 1102. Repeals.

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

Section 1103. Effective date.

This act shall take effect in 60 days.