

PENNSYLVANIA MUNICIPAL RETIREMENT LAW - PART-TIME EMPLOYEES,
EXISTING LOCAL RETIREMENT SYSTEMS AND COMPULSORY AND OPTIONAL
MEMBERSHIP AND RETURN TO SERVICE RELATING TO CERTAIN MUNICIPAL
EMPLOYEES AND OPTIONAL RETIREMENT PLANS

Act of Nov. 29, 2004, P.L. 1331, No. 169

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No. 2004-169

HB 2748

AN ACT

Amending the act of February 1, 1974 (P.L.34, No.15), entitled "An act creating a Pennsylvania Municipal Retirement System for the payment of retirement allowances to officers, employes, firemen and police of political subdivisions and municipal authorities and of institutions supported and maintained by political subdivisions and municipal government associations and providing for the administration of the same by a board composed of the State Treasurer and others appointed by the Governor; imposing certain duties on the Pennsylvania Municipal Retirement Board and the actuary thereof; providing the procedure whereby political subdivisions and municipal authorities may join such system, and imposing certain liabilities and obligations on such political subdivisions and municipal authorities in connection therewith, and as to certain existing retirement and pension systems, and upon officers, employes, firemen and police of such political subdivisions, institutions supported and maintained by political subdivisions, and upon municipal authorities; providing for the continuation of certain municipal retirement systems now administered by the Commonwealth; providing certain exemptions from taxation, execution, attachment, levy and sale and providing for the repeal of certain related acts," providing for part-time employes; and further providing for existing local retirement systems and compulsory and optional membership and for return to service relating to certain municipal employes and optional retirement plans.

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

Section 1. The act of February 1, 1974 (P.L.34, No.15), known as the Pennsylvania Municipal Retirement Law, is amended by adding a section to read:

Section 117. Part-Time Employes.--(a) (1) All existing part-time employes not enrolled in the pension plan shall have the right to elect to participate in the pension plan. A member's election to participate in the pension plan under this subsection must be made in writing and received by the municipality before July 1, 2005, and shall be irrevocable.

(2) Existing part-time employes not enrolled in the pension plan who elect to participate in the pension plan under this subsection must pay into the system all member contributions plus the regular interest that would have been credited to those contributions had they participated in the system from their date of hire. Failure of the part-time employe to make such contributions and regular interest payments as determined by the administrator of the system shall be considered the same as if the part-time employe had chosen not to participate in the system. All other amounts required to be contributed to the

pension plan as a result of their election to participate shall be paid by the municipality.

(b) Where a municipality determines to change the membership requirements to prohibit part-time employes from participating in the system established by this act, all existing part-time employes enrolled in the pension plan shall remain members of the pension plan unless they elect to withdraw from the pension plan. A member election to withdraw from the pension plan under this subsection must be made in writing and received by the municipality before July 1, 2005, and shall be irrevocable.

Section 2. Section 203 of the act, amended May 17, 1980 (P.L.135, No.50), is amended to read:

Section 203. Existing Local Retirement Systems and Compulsory and Optional Membership.--Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to join the system under the provisions of this Article II, then each officer other than elected officers, and each **municipal** employe [thereof other than a municipal fireman and a municipal policeman,] employed on a [permanent] **full-time** basis, except one who is not eligible for Federal Social Security coverage and except one who is covered by an existing retirement

or pension system and is exempted as outlined above, shall be required to become a member of the system. Each municipality shall determine whether membership in said system for elected officials and employes hired on a temporary [or seasonal], **seasonal or part-time** basis shall be compulsory, optional or prohibited. Where membership may be optional with an elected officer or an employe hired on a temporary [or seasonal], **seasonal or part-time** basis, an election to join the system must be made within one year after the municipality elected to join the system or within one year after the officer or temporary [or seasonal], **seasonal or part-time** employe first entered the service of the municipality. Officers and employes paid only on a fee basis shall not be eligible to join the system.

When a municipality has established a policy of placing new employes on a probationary status it may elect to refrain from enrolling such employes into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment.

Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.

Section 3. Section 207(c) of the act, amended June 10, 1982 (P.L.446, No.131), is amended to read:

Section 207. Withdrawal; Return to Service; Death in Service.--
* * *

(c) Should a person who has been retired on a retirement allowance under this act, return to employment on a regular full-time basis in the same municipality, his retirement allowance shall cease, and in the case of an annuity, other than a disability annuity, the present value of such annuity shall be frozen as of the date such annuity ceases. Upon subsequent discontinuance of service, such member, other than a former disability annuitant, shall be entitled to an annuity which is actuarially equivalent to the sum of the present value of the annuity previously being paid and the present value of the annuity earned by further service and further deductions added upon reemployment. For the purposes of this section if a person is reemployed on a temporary [or seasonal], **seasonal or part-time** basis and his gross post-retirement earnings from such reemployment during the calendar year are less than five thousand dollars (\$5,000) or such other maximum as the board may establish, he shall not be deemed reemployed, but if and when his gross post-retirement earnings exceed five thousand dollars (\$5,000) or such other maximum as the board may establish in any calendar year he shall not be entitled to receive his retirement allowance for that month or any subsequent month in the calendar year in which he continues in service. The municipality is required to notify the board immediately of the reemployment status of any retired former employe and file separate monthly reports of his gross earnings as prescribed by the board.

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Section 4. Section 402 of the act, amended May 17, 1980 (P.L.135, No.50), is amended to read:

Section 402. Existing Local Retirement Systems and Compulsory and Optional Membership.--Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to join the system under the provisions of this Article IV, it shall first negotiate a contract with the board, acceptable to both the municipality and the board, which shall set forth all the specific details of municipal and member contribution rates and benefits. The municipality shall then pass an ordinance or resolution electing to join the system, and confirming the terms of the contract by reference thereto. Separate contracts and separate resolutions shall be executed for each class of employes, namely municipal employes, municipal firemen and municipal police in those cases where the municipality elects to bring more than one class of its employes into the system.

When a municipality elects to enroll its municipal employes into the system, then each officer other than elected officers, and each municipal employe thereof, employed on a [permanent] **full-time** basis, shall be required to become a member of the system. Each municipality shall determine whether membership in said system for elected officials and employes hired on a temporary [or seasonal], **seasonal or part-time** basis shall be compulsory, optional or

prohibited. Where membership may be optional with an elected officer or an employe hired on a temporary [or seasonal], **seasonal or part-time** basis, an election to join the system must be made within one year after the municipality elected to join the system or within one year after the officer or temporary [or seasonal], **seasonal or part-time** employe first entered the service of the municipality. Officers and employes paid only on a fee basis shall not be eligible to join the system.

When a municipality elects to enroll its municipal firemen or its municipal police into the system, then each municipal fireman or each municipal policeman, as defined in section 102 of this act, shall be required to become a member of the system.

When a municipality has established a policy of placing new employes on a probationary status it may elect to refrain from enrolling such employes into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment. Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.

Section 5. Section 406(c) of the act, amended June 10, 1982 (P.L.446, No.131), is amended to read:

Section 406. Withdrawal; Return to Service; Death in Service.--
* * *

(c) Should a person who has been retired on a retirement allowance under this act, return to employment on a regular full-time basis in the same municipality, his retirement allowance shall cease, and in the case of an annuity, other than a disability annuity, the present value of such annuity shall be frozen as of the date such annuity ceases. Upon subsequent discontinuance of service, such member, other than a former disability annuitant, shall be entitled to an annuity which is actuarially equivalent to the sum of the present value of the annuity previously being paid and the present value of the annuity earned by further service and further deductions added upon reemployment. For the purposes of this section if a person is reemployed on a temporary [or seasonal], **seasonal or part-time** basis and his gross post-retirement earnings from such reemployment during the calendar year are less than five thousand dollars (\$5,000) or such other maximum as the board may establish, he shall not be deemed reemployed, but if and when his gross post-retirement earnings exceed five thousand dollars (\$5,000) or such other maximum as the board may establish in any calendar year he shall not be entitled to receive his retirement allowance for that month or any subsequent month in the calendar year in which he continues in service. The municipality is required to notify the board immediately of the reemployment status of any retired former employe and file separate monthly reports of his gross earnings as prescribed by the board.

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Section 6. This act shall be applicable only to active employees of a municipality and shall not be construed to grant rights or privileges to individuals no longer employed by the municipality participating in the system.

Section 7. This act shall take effect immediately.

APPROVED--The 29th day of November, A. D. 2004.

EDWARD G. RENDELL