

PENNSYLVANIA MUNICIPAL RETIREMENT LAW - IMPLEMENTATION PROVISIONS
FOR DEFERRED RETIREMENT OPTION PLANS, TAX QUALIFIED STATUS OF
PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM AND SOLICITATION OF
POLITICAL CONTRIBUTIONS

Act of Jul. 9, 2010, P.L. 434, No. 56

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HB 2493

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 implementation provisions for Deferred Retirement Option Plans, for corrective measures for maintaining tax qualified status of the Pennsylvania Municipal Retirement System and for solicitation of political contributions; and making a related repeal.

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

Section 1. The definitions of "annuitant," "member" and "regular interest" in section 102 of the act of February 1, 1974 (P.L.34, No.15), known as the Pennsylvania Municipal Retirement Law, are amended and the section is amended by adding definitions to read:

Section 102. Definitions.--As used in this act:

* * *

"Alternate payee" means a spouse, former spouse, child or dependent of a member, who is recognized by an approved domestic relations order as having a right to receive all or a portion of the money payable to the member under this act.

"Annuitant" means a [former contributor in receipt of a superannuation retirement allowance or other benefit provided by this act] member during the time period:

(1) beginning with the effective date of the member's retirement; and

(2) ending on the date of termination of the member's annuity.

"Approved domestic relations order" means a domestic relations order which has been approved under this act.

* * *

"Compensation" means remuneration actually received for services rendered as a municipal employee, municipal fire fighter or municipal police officer, excluding reimbursement for expenses incidental to employment. The following apply:

(1) Compensation shall be adjusted as appropriate to comply with the terms of any contract entered into between the board and the applicable municipality under Article IV.

(2) For members who are enrolled in a plan that has adopted the provisions of section 414(h) of the Internal Revenue Code (26 U.S.C. § 414(h)), the term includes a contribution designated as a pickup contribution.

(3) Notwithstanding any provision of this act to the contrary, a member's compensation shall not exceed the limitations under section 401(a)(17) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)), as adjusted in accordance with section 401(a)(17)(B) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)(B)).

(i) The adjustment in effect for a calendar year applies to a period:

(A) which begins in the calendar year;

(B) which does not exceed twelve months; and

(C) over which compensation is determined.

(ii) If a determination period consists of fewer than twelve months, the compensation limit shall be multiplied by a fraction:

(A) the numerator of which is the number of months in the determination period; and

(B) the denominator of which is twelve.

* * *

"Date of termination of service" means:

(1) for an active member, the last day of employment in a status covered by the eligibility requirements of the pension plan; and

(2) for an inactive member on leave without pay, the date of resignation or the date employment is formally discontinued by the municipality.

"Domestic relations order" means any judgment, decree or order, including approval of a property settlement agreement, entered on or after the effective date of this definition by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a member, including the right to receive all or a portion of the money payable to that member under this act, in furtherance of the equitable distribution of marital assets. The term includes an "order of support" under 23 Pa.C.S. § 4302 (relating to definitions) and an order for the enforcement of arrearages under 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

"DROP" means the Deferred Retirement Option Plan established by the board under this act and by a municipality under Chapter 11 of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act .

"DROP interest" means the actual rate earned and credited by the board on the subsidiary DROP participant accounts, which shall not be less than zero percent nor more than four and one-half percent, annually.

"DROP participant" means an annuitant who has elected to participate in the DROP.

"Effective date of retirement" means one of the following:

(1) For a member who files an application for an annuity within ninety days after the date of termination of service, the first day following the date of termination of service.

(2) For a member who does not file an application for an annuity within ninety days after the date of termination of service, the later of:

(i) the date the application is filed; or

(ii) the date specified on the application.

(3) For a member who applies for a disability retirement, the date certified by the board as the effective date of disability.

(4) For a DROP participant, the day before the effective date of DROP participation as determined in accordance with the provisions of this act and Chapter 11 of the Municipal Pension Funding Standard and Recovery Act.

* * *

"Internal Revenue Code" means the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

* * *

"Member" means an individual that is:

(1) a municipal officer, employe, fireman or policeman [,]
; or

(2) an employe of a municipal government association who [has become a member of the Pennsylvania Municipal Retirement System created by this act] **is an active member, inactive member, annuitant, disability annuitant or vested member.**

* * *

"Municipal Pension Funding Standard and Recovery Act" means the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

* * *

"Regular interest" means the rate fixed by the board, from time to time, on the basis of earnings on investments **to be applied to the member's accounts, to the municipal accounts and to the retired member's reserve account.**

* * *

"Subsidiary DROP participant account" has the meaning given in section 1102 of the Municipal Pension Funding Standard and Recovery Act.

"Subsidiary DROP participant reserve account" means the account maintained for each subsidiary DROP participant account.

* * *

Section 2. Section 104(10), (12.1), (12.2) and (13) of the act, amended May 17, 1980 (P.L.135, No.50), are amended and the section is amended by adding clauses to read:

Section 104. General Powers of the Board.--The board shall:

* * *

(10) From time to time, with the advice of the Attorney General and the actuary, **to** adopt and promulgate such rules and regulations as may be required for the proper administration of the fund created by this act and the several accounts thereof[,]; **to establish procedures which would permit an eligible retired public safety officer to pay qualified accident, health or long-term care insurance premiums as permitted under section 402(1) of the Internal Revenue Code;** and **to provide** for the transaction of the business of the board;

* * *

(12.1) [From time to time, at the direction of municipalities electing to] **In accordance with the plan contract,** provide cost-of-living increases from [their] **a plan's** share of excess investment earnings[, the board shall allocate excess investment earnings to provide additional "cost-of-living" pension benefits] to those members of such municipalities who have already retired. Such allocations shall be made, with the advice of the actuary, on a fully funded basis employing actuarial assumptions which reflect the nature of the liability. **An award of excess interest shall not be made under this paragraph if the plan is less than 95% funded as of the plan's most recent filing of the actuarial report required under the Municipal Pension Funding Standard and Recovery Act.**

(12.2) [From time to time, at the direction of municipalities electing to apply their excess investment earnings to member contributions] **In accordance with the plan contract** , the board shall allocate excess investment earnings for active members of such municipalities by applying such allocation to member contributions. To the extent that additional liabilities may accrue as a result of such allocation, the actuary shall employ actuarial assumptions, on a fully funded basis, to accurately reflect the nature of the liability generated therefrom. **An award of excess interest shall not be made under this paragraph if the plan is less than 95% funded as of the plan's most recent filing of the actuarial report required under the Municipal Pension Funding Standard and Recovery Act.**

(12.3) **Promulgate regulations required for the proper administration of the DROP.**

(12.4) **Establish a subsidiary DROP participant account for each DROP participant, provide for the separate investment and funding of each account and establish a monthly rate of interest to credit the money deposited in each account.**

(13) **Perform such other functions as are required for the execution of the provisions of this act and of other Federal and State law and administer and interpret this act to ensure that the system is maintained as tax qualified under the Internal Revenue Code.**

Section 3. Section 108 of the act is amended to read:

Section 108. Retirement Funds and Accounts.--The Pennsylvania Municipal Retirement Fund shall consist of the money received from municipalities arising from contributions by municipalities, [and] from payroll deductions from salary or compensation of members, and other contributions made by members through the municipality to the system, **from DROP participants and** from transfers made from municipal retirement or pension systems and credited as provided in this act, and investment earnings thereon.

The fund shall be a trust and the assets of the system shall be held in trust. No part of the assets of the system shall be used for or diverted to purposes other than for the exclusive benefit of the members, their spouses or the members' beneficiaries prior to the satisfaction of all liabilities of the system with respect to them. The assets of the fund shall only be used to pay:

(1) **Benefits to members in accordance with this act.**

(2) **Necessary expenses of the system as established in this act.**

Contributions made by municipalities toward superannuation retirement and death benefits of members shall be credited to the municipal account of said fund, contributions made by municipalities toward disability retirement of members shall be credited to the total disability reserve account of said fund, **retirement benefits paid to DROP participants shall be credited to the subsidiary DROP reserve account** and payroll deductions and other contributions of members shall be credited to the member's account of said fund. Transfers made from existing municipal retirement or pension systems shall be credited as provided in this act.

The board shall keep separate accounts of each municipality and for each separate class of employes enrolled by that municipality under the several articles of this act, except the total disability reserve account and the retired member's reserve account which shall be maintained as pooled accounts. Each municipality and the members thereof shall be liable to the board for the amount of contributions required to cover the cost of the retirement allowance and other benefits payable to such members.

Upon the granting of a superannuation or voluntary or involuntary withdrawal retirement allowance to any contributor, the amount of

such contributor's accumulated deductions in the member's account shall lose their status as accumulated deductions and shall be transferred to the retired member's reserve account and the actuarial equivalent of the municipal annuity shall be similarly transferred from the municipal account to the retired member's reserve account.

Upon the granting of a superannuation retirement allowance to any DROP participant, the full amount of the DROP participant's monthly retirement benefit shall be deposited monthly to a subsidiary DROP participant account in the subsidiary DROP participant reserve account until the DROP participant terminates employment.

Upon the granting of a disability retirement allowance to any contributor, there shall be transferred to the retired member's reserve account the amount of the contributor's accumulated deductions in the member's account, the amount of the equivalent actuarial value to the municipal annuity, and such additional amount from the total disability reserve account as is needed in addition thereto to provide the actuarial equivalent of the total disability allowance to which the contributor is entitled.

Section 4. Section 110 of the act, amended May 17, 1980 (P.L.135, No.50), is amended to read:

Section 110. Management and Investment of Fund; Interest Credits.-- **(a)** The members of the board shall be trustees of the fund, and shall have the exclusive management of said fund, with full power to invest the moneys therein, subject to the terms, conditions, limitations and restrictions imposed by law upon fiduciaries. The said trustees shall have power to hold, purchase, sell, assign, transfer and dispose of any securities and investments in said fund, as well as the proceeds of such investments, and of the money belonging to such fund.

(b) The board shall annually allow regular interest to the credit on each contributor's account, municipal account, the retired members reserve account and the total disability reserve account. [In addition, the board shall, after paying expenses, annually allow such excess interest as each municipality deems appropriate to the credit of the municipal accounts, member's accounts, the member's excess investment accounts, retired members reserve accounts and total disability reserve accounts.] **The board shall monthly credit DROP interest to the subsidiary DROP participant accounts in accordance with established procedures.**

(c) The board shall, after deducting money to pay for the appropriate expenses, allow excess interest as each contract provides to the credit of the municipal accounts, member's accounts, the member's excess investment accounts and retired members reserve accounts. Except as provided in a contract, the board shall credit the excess interest to the plan's municipal account.

Section 4.1. The act is amended by adding a section to read:

Section 110.1. Solicitation of Political Contributions.--(a) This section applies to a person or an affiliated entity that does any of the following:

(1) Enters into a professional services contract with the system or any municipal pension system in this Commonwealth.

(2) Submits an offer for or bids on a professional services contract with the system or any municipal pension system in this Commonwealth.

(3) Responds to a request for proposal on a professional services contract with the system or any municipal pension system in this Commonwealth.

(4) Otherwise solicits a professional services contract with the system or any municipal pension system in this Commonwealth.

(b) A person or an affiliated entity subject to subsection (a) may not solicit a contribution to a municipal official or candidate

for municipal office where the municipal pension system is organized or to the political committee of that official or candidate. The prohibition under this subsection applies to any agent, officer, director or employee of the person or affiliated entity.

(c) Definitions.--As used in this section:

"Affiliated entity" has the meaning given in section 701-A of the Municipal Pension Funding Standard and Recovery Act.

"Professional services contract" has the meaning given in section 701-A of the Municipal Pension Funding Standard and Recovery Act.

Section 5. Section 111 of the act is amended to read:

Section 111. Municipal Guarantee.--The regular interest charges payable, **the DROP interest charges payable** and the creation and maintenance of the necessary reserves for the payment of the municipal and member's annuities, as to any municipality in accordance with this act, are hereby made the obligation of that municipality.

In the case of the failure of a municipality to make payments as required by this act, the Commonwealth shall withhold payment to the municipality of any funds to which the municipality may be entitled for pension purposes. The board may recover any sums due to the fund by suit at law, or other appropriate remedy.

Section 6. Section 112 of the act, amended July 5, 2005 (P.L.50, No.16), is amended to read:

Section 112. Annual Estimates to Municipalities; Administrative Expenses.--The board shall prepare and submit to each municipality, on or before the first day of the third month preceding the commencing of each municipality's fiscal year, an itemized estimate of the amounts necessary to be appropriated by the municipality to complete the payments of the obligations of the municipality to the fund during its next fiscal year.

The board shall annually prepare and approve a budget covering the administrative expenses of this act. Such expenses as approved by the board shall be paid from receipts from assessments made against each municipality for administrative expenses. This assessment shall be based on the number of members in each municipality and shall not exceed the sum of twenty dollars (\$20) per member per year. If, in [the calendar years 1995 through 2005] **any calendar year**, the amount received from such assessments, when imposed at the maximum rate, is not sufficient to cover the administrative expenses, then the balance of such expenses shall be paid from interest earnings on the fund in excess of the regular interest credited to the municipal, members' and retired members' reserve accounts **and DROP interest credited to the subsidiary DROP participant reserve account** and shall not, in any year, exceed six-tenths of one per cent of the total asset value of the fund as of the beginning of the calendar year. The administration of the Pennsylvania Municipal Retirement System shall be audited annually and a report of this audit shall be made annually to the General Assembly.

The secretary of the board shall submit a proposed budget for the following fiscal year to the Senate and House Local Government Committees no later than November 1 of the year preceding that for which the budget is being prepared. The respective committees shall meet and review such budget document. If the committees take no action within sixty days of said November 1, the budget for the following calendar year shall be deemed approved.

Section 7. Section 114 of the act is amended to read:

Section 114. Monthly Payments.-- [Any] **(a) (1) Except as provided under clause (2), any** retirement allowance created under the provisions of this act shall be paid in equal monthly installments and shall not be increased, decreased, revoked or repealed, except where specifically otherwise provided by this act.

(2) Notwithstanding clause (1), if the annuitant is a DROP participant, the equal monthly installment shall be deposited to the subsidiary DROP participant account and paid out in accordance with the DROP program.

(b) The annual retirement benefit payable to a member shall not exceed the annual dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code as may be adjusted under section 415(d) of the Internal Revenue Code. If an adjustment is required due to the Internal Revenue Code, regulations or other publications issued by the Internal Revenue Service, the adjustment shall only apply to the dollar limitation specified in this section.

Section 8. Section 115 of the act, repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 115. Exemption of Retirement Allowance.-- (a) The retirement allowance and the contributions of members to the fund, all contributions returned to contributors under the provisions of this act and the moneys in the fund created by this act, shall be exempt from any State or municipal tax and shall be unassignable except to a beneficiary.

(b) Rights under this act shall be subject to all of the following:

(1) Attachment in favor of an alternate payee as set forth in an approved domestic relations order.

(2) Forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the "Public Employee Pension Forfeiture Act." Forfeitures under this clause or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this act.

(c) Notwithstanding any other provision of this section, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan utilizing a direct rollover.

(d) For purposes of this section, the following words shall have the following meanings:

"Distributee." A member, a member's surviving spouse or a member's former spouse who is an alternate payee under an approved domestic relations order.

"Eligible retirement plan." (1) Except as provided under clause (2), the term shall have the meaning given to it in section 402(c)(8)(B) of the Internal Revenue Code.

(2) The term shall include a qualified trust in section 402(c)(8)(B)(iii) of the Internal Revenue Code only if the qualified trust accepts the distributee's eligible rollover distribution. If the eligible rollover distribution is made to a nonspousal beneficiary, an eligible retirement plan shall be deemed an "individual retirement account" or an "individual retirement annuity" as defined in section 408(a) and (b) of the Internal Revenue Code.

"Eligible rollover distribution." The term shall have the meaning given to it in section 402(f)(2)(A) of the Internal Revenue Code.

Section 9. The act is amended by adding sections to read:

Section 118. Approval of Domestic Relations Orders.--(a) A domestic relations order shall be certified as an approved domestic relations order by the secretary of the board or the secretary's designated representative only if the order meets all of the following:

(1) Requires the system to provide a type or form of benefit or an option already provided under this act.

(2) Requires the system to provide no more than the total amount of benefits that the member would otherwise receive, determined on the basis of actuarial value, unless increased benefits are paid

to the member or, if the order provides, to the alternate payee based upon cost-of-living increases or increases based on other than actuarial value.

(3) Specifies the amount or percentage of the member's benefits to be paid by the system to each alternate payee or the manner in which the amount or percentage is to be determined.

(4) Specifies the retirement option to be selected by the member upon retirement or states that the member may select any retirement option offered by this act upon retirement.

(5) Specifies the name and last known mailing address of the member and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the system.

(6) Does not grant an alternate payee any of the rights, options or privileges of a member under this act.

(7) Requires the member to execute an authorization allowing each alternate payee to monitor the member's compliance with the terms of the domestic relations order through access to information concerning the member maintained by the system.

(b) The following apply:

(1) Upon receipt of a proposed domestic relations order, the secretary of the board or the secretary's designated representative shall determine whether the proposed order shall be deemed an approved domestic relations order and shall notify the member and each alternate payee of this determination.

(2) Notwithstanding any other provision of law, the exclusive remedy of any member or alternate payee aggrieved by a decision of the secretary of the board or the secretary's designated representative shall be the right to an adjudication by the board under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) with appeal to the Commonwealth Court under 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action) and 42 Pa.C.S. § 763(a)(1) (relating to direct appeals from government agencies).

(c) The following apply:

(1) The requirements for approval under subsection (a) shall not apply to any domestic relations order which is an "order of support" under 23 Pa.C.S. § 4302 (relating to definitions) or an order for the enforcement of arrearages under 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

(2) Orders under clause (1) shall be approved to the extent that they do not attach money in excess of the limits on attachments as established by the Federal or State law.

(d) Only the requirements of this section and regulations promulgated under this act shall be used to govern the approval or disapproval of a domestic relations order. If the secretary of the board or the secretary's designated representative acts in accordance with this act and regulations promulgated under this act in approving or disapproving a domestic relations order, the obligations of the system with respect to the approval or disapproval shall be discharged.

Section 119. Amendment of Approved Domestic Relations Orders.--(a) If an alternate payee of an approved domestic relations order predeceases the member and there are benefits payable to the alternate payee, the court may amend the approved domestic relations order to substitute a person for the deceased alternate payee to receive benefits payable to the deceased alternate payee.

(b) If a court amends an approved domestic relations order, the amended order must be submitted for recertification as an approved domestic relations order as provided in this act.

Section 120. Irrevocable Beneficiary.--Notwithstanding any other provision of this act, a domestic relations order may provide for an irrevocable beneficiary. A domestic relations order requiring the nomination of an irrevocable beneficiary shall be deemed to be one that requires a member to nominate an alternate payee as a beneficiary and that prohibits the removal or change of that beneficiary without approval of a court of competent jurisdiction, except by operation of law. A domestic relations order subject to this section may be certified as an approved domestic relations order by the secretary of the board or the secretary's designated representative after the member makes the nomination, in which case the irrevocable beneficiary ordered by the court may not be changed by the member without approval of the court.

Section 121. Irrevocable Survivor Annuitant.--Notwithstanding any other provision of this act, a domestic relations order may provide for an irrevocable survivor annuitant. A domestic relations order requiring the designation of an irrevocable survivor annuitant shall be deemed to be one that requires a member to designate an alternate payee as a survivor annuitant and that prohibits the removal or change of that survivor annuitant without approval of a court of competent jurisdiction, except by operation of law. A domestic relations order subject to this section may be certified as an approved domestic relations order by the secretary of the board or the secretary's designated representative, in which case the irrevocable survivor annuitant ordered by the court may not be changed by the member without approval of the court. A person ineligible to be designated as a survivor annuitant may not be designated an irrevocable survivor annuitant.

Section 10. Section 207(c) of the act, amended November 29, 2004 (P.L.1331, No.169), is amended and the section is amended by adding a subsection to read:

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

(c) **(1)** Should a person who has been retired on a retirement 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.

(2) For the purposes of this section if a person is reemployed [on a temporary, 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.] **following commencement of his retirement allowance, he shall not be entitled to receive his retirement allowance for that month or any subsequent month in which he continues in service.**

(3) Notwithstanding clause (2), if the person is otherwise eligible to receive an in-service distribution of his retirement benefit by attainment of normal retirement age as defined in section 411(a)(8) of the Internal Revenue Code, operation of section 401(a)(36) of the Internal Revenue Code or operation of any other provision as may be adopted by the board and consistent with the

tax-qualification provisions of the Internal Revenue Code, the person's retirement allowance shall continue to be paid through the period of reemployment.

(4) 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.

* * *

(e) If a member dies while performing qualified military service, as defined in section 414(u) (5) of the Internal Revenue Code, the survivors of the member shall be entitled to receive any additional benefits, other than benefit accruals relating to the period of qualified military service, as though the member had returned to service and then terminated employment on account of death.

Section 11. Section 211 of the act, amended June 10, 1982 (P.L.446, No.131), is amended to read:

Section 211. Options on Superannuation or Early Retirement.--(a)

At the time of his superannuation or early retirement, a contributor may elect to receive his benefits in a retirement allowance payable throughout his life, which shall be known as a single life annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he has received in annuity payments the full amount of the total accumulated deductions standing to his credit on the effective date of retirement, the balance shall be paid to his designated beneficiary, or instead, he may elect to receive the equivalent actuarial value at that time of his retirement allowance in a lesser allowance, payable throughout life with provisions that:

(1) Option 1. If he shall die before receiving in payments the present value of his retirement allowance as it was at the time of his retirement, the balance, if less than five thousand dollars (\$5,000), shall be paid in a lump sum to his legal representative, or to or in trust for his beneficiary. If the balance is five thousand dollars (\$5,000) or more, the beneficiary may elect by application duly acknowledged and filed with the board to receive payment of such balance according to any one of the following provisions: (i) a lump sum payment; (ii) an annuity having a present value equal to the balance payable; (iii) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount of the lump sum payment specified by the beneficiary.

(2) Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(3) Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(b) A member or beneficiary shall not be entitled to a form of benefit which commences or is payable over a period which fails to satisfy the required distributions of section 401(a) (9) of the Internal Revenue Code.

Section 12. Section 213 of the act is amended by adding a subsection to read:

Section 213. Vesting.--* * *

(e) Upon the termination of the retirement plan, all members, regardless of credited service, shall be deemed fully vested in their accrued benefit to the extent the benefits provided under the plan are funded as of the date of termination.

Section 13. Section 308 of the act, amended May 17, 1980 (P.L.135, No.50) and June 10, 1982 (P.L.446, No.131), is amended to read:

Section 308. Withdrawal; Return to Service; Death in Service.--(a) Should a contributor, before reaching superannuation retirement age, for any reason cease to be a municipal fireman or a municipal policeman, he shall be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account, unless he is entitled to vesting rights or to a retirement allowance for retirement not voluntarily, and elects to exercise such vesting rights or take such retirement allowance. Should such former contributor thereafter return to the service of the same municipality and restore to the fund, in such manner as may be agreed upon by such person and the board, his withdrawn accumulated deductions as they were at the time of his separation from service, his annuity rights as they existed at the time of separation from service shall be restored and his obligations as a member shall begin again.

(b) Should a contributor, having attained or passed superannuation age, elect, upon leaving the service of the municipality, not to claim the retirement allowance to which he is entitled, he shall, upon written application, be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account, and the balance in the member's excess investment account.

(c) (1) 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.

(2) For the purposes of this section if a person is reemployed [on a temporary or seasonal 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.] **following commencement of his retirement allowance in a capacity other than as a DROP participant, the person shall not be entitled to receive his retirement allowance for that month or any subsequent month in which he continues in service.**

(3) **Notwithstanding clause (2), if the person is otherwise eligible to receive an in-service distribution of his retirement benefit by attainment of normal retirement age as defined in section 411(a)(8) of the Internal Revenue Code , operation of section 401(a)(36) of the Internal Revenue Code or operation of any other provision as may be adopted by the board and consistent with the tax-qualification provisions of the Internal Revenue Code, the person's retirement allowance shall continue to be paid through the period of reemployment.** 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.

(d) Should a contributor die while in service, prior to becoming eligible for a retirement allowance, his accumulated deductions shall be paid to his estate, or to such person, if living, as he

shall have designated, in writing, filed with the board as his beneficiary. In case any contributor has failed to designate a beneficiary, or if the named beneficiary has predeceased the member and no successor beneficiary has been named, and upon the death in service shall have less than one hundred dollars (\$100) in accumulated deductions standing to his credit, the board may, if letters testamentary or of administration have not been taken out on his estate within six months after his death, pay such accumulated deductions on the claim of the undertaker, or to such person or municipality which shall have paid the claim of the undertaker.

(e) If a member dies while performing qualified military service, as defined in section 414(u) (5) of the Internal Revenue Code, the survivors of the member shall be entitled to receive any additional benefits, other than benefit accruals relating to the period of qualified military service, as though the member had returned to service and then terminated employment on account of death.

Section 14. Section 312 of the act, amended June 10, 1982 (P.L.446, No.131), is amended to read:

Section 312. Options on Superannuation or Early Retirement.--**(a)**

At the time of his superannuation or early retirement, a contributor may elect to receive his benefits in a retirement allowance payable throughout his life, which shall be known as a single life annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he has received in annuity payments the full amount of the total accumulated deductions standing to his credit on the effective date of retirement, the balance shall be paid to his designated beneficiary, or instead, he may elect, to receive the actuarial equivalent value at that time of his retirement allowance in a lesser allowance, payable throughout life with provisions that:

(1) Option 1. If he shall die before receiving in payments the present value of his retirement allowance as it was at the time of his retirement, the balance, if less than five thousand dollars (\$5,000) shall be paid in a lump sum to his legal representative, or to or in trust for his beneficiary. If the balance is five thousand dollars (\$5,000) or more, the beneficiary may elect by application duly acknowledged and filed with the board to receive payment of such balance according to any of the following provisions: (i) a lump sum payment, (ii) an annuity having a present value equal to the balance payable, (iii) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount of the lump sum payment specified by the beneficiary.

(2) Option 2. Upon his death his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(3) Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(b) A member or beneficiary shall not be entitled to a form of benefit which commences or is payable over a period which fails to satisfy the required distributions of section 401(a) (9) of the Internal Revenue Code.

Section 15. Section 314 of the act is amended by adding a subsection to read:

Section 314. Vesting.--* * *

(e) Upon the termination of the retirement plan, all members, regardless of credited service, shall be deemed fully vested in their accrued benefit to the extent the benefits provided under the plan are funded as of the date of termination.

Section 16. Section 403(8) and (14) of the act, amended May 17, 1980 (P.L.135, No.50), are amended to read:

Section 403. Contract Provisions.--Any contract for an optional retirement plan entered into between a municipality and the board shall not provide for any benefits in excess of or minimum member's contribution rates less than those available to that municipality for that class of employes under any existing law pertaining to the establishment of a retirement or pension system, except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law.

The contract shall specifically state the following terms and conditions:

* * *

(8) A description of any optional methods of payment of retirement allowances available to a member, **including the availability of the DROP.**

* * *

(14) Any other information which might have a bearing on the costs or benefits of the retirement plan which might be required by the board in the administration of the plan, **including whether the municipality will permit an eligible retired public safety officer to direct that a portion of his annuity be used to pay qualified accident, health or long-term care insurance premiums as remitted under section 402(1) of the Internal Revenue Code.**

Section 17. Section 406(c) of the act, amended November 29, 2004 (P.L.1331, No.169), is amended and the section is amended by adding a subsection to read:

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

(c) **(1)** Should a person who has been retired on a retirement allowance under this act **and who is not a DROP participant**, 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.

(2) For the purposes of this section if a person [is reemployed on a temporary, 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.], **other than a DROP participant, is reemployed following commencement of his retirement allowance, the person shall not be entitled to receive the person's retirement allowance for that month or any subsequent month in which he continues in service.**

(3) Notwithstanding clause (2), if the person is otherwise eligible to receive an in-service distribution of his retirement benefit by attainment of normal retirement age as defined in section 411(a)(8) of the Internal Revenue Code , operation of section 401(a)(36) of the Internal Revenue Code or operation of any other provision as may be adopted by the board and consistent with the

tax-qualification provisions of the Internal Revenue Code, the person's retirement allowance shall continue to be paid through the period of reemployment. 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.

* * *

(f) If a member dies while performing qualified military service as defined in section 414(u) (5) of the Internal Revenue Code, the survivors of the member shall be entitled to receive any additional benefits, other than benefit accruals relating to the period of qualified military service, as though the member had returned to service and then terminated employment on account of death.

Section 18. Section 409 of the act, amended June 10, 1982 (P.L.446, No.131), is amended to read:

Section 409. Options on Superannuation or Early Retirement.--

(a) At the time of his superannuation or early retirement, a contributor may elect to receive his benefits in a retirement allowance payable throughout his life, which shall be known as a single life annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he has received in annuity payments the full amount of the total accumulated deductions standing to his credit on the effective date of retirement, the balance shall be paid to his designated beneficiary, or instead, he may elect to receive the actuarial equivalent at that time of his retirement allowance in a lesser allowance, payable throughout life with provisions that:

(1) Option 1. If he shall die before receiving in payments the present value of his retirement allowance as it was at the time of his retirement, the balance, if less than five thousand dollars (\$5,000), shall be paid in a lump sum to his legal representative, or to or in trust for his beneficiary. If the balance is five thousand dollars (\$5,000) or more, the beneficiary may elect by application duly acknowledged and filed with the board to receive payment of such balance according to any one of the following provisions: (i) a lump sum payment, (ii) an annuity having a present value equal to the balance payable, (iii) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount of the lump sum payment specified by the beneficiary.

(2) Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(3) Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(4) Option 4. Any other optional form of payment contained in the contract.

(b) A member or beneficiary shall not be entitled to a form of benefit which commences or is payable over a period which fails to satisfy the required distribution provisions of section 401(a) (9) of the Internal Revenue Code, including the incidental benefit distribution requirements.

Section 19. Section 410 of the act, amended January 4, 1978 (P.L.1, No.1), is amended to read:

Section 410. Vesting.--**(a)** Provisions for vesting may be included in the contract between the municipality and the board. When such provision is made it shall mean that a contributor who terminates his employment with the municipality after a stipulated age or length of service, or both, may, if he so elects in writing, leave his contributions, plus interest, as credited to his account, in the fund, and, upon reaching superannuation retirement age, receive a superannuation retirement allowance and accumulated

deductions would include interest from date of termination until the earlier of the date of commencement of the annuity or the date of payment of member contributions.

(b) Upon the termination of the retirement plan, all members, regardless of credited service, shall be deemed fully vested in their accrued benefit to the extent the benefits provided under the plan are funded as of the date of termination.

Section 20. Section 412 of the act, amended May 17, 1980 (P.L.135, No.50), is amended to read:

Section 412. Withdrawal Provisions.--A municipality which has joined the retirement system created or continued under this Article IV may, for good and stated cause, file an application with the board for permission to withdraw from the system if it meets all of the following requirements:

(1) The municipality has been enrolled in the system for a period of at least five years.

(2) The municipality has met all of its financial obligations to the system.

(3) The legislative body of the municipality has passed an ordinance or resolution signifying its intention to withdraw from the system.

(4) The municipality has certified to the board that an affirmative vote approving withdrawal from the system had been obtained from at least seventy-five per cent of all of the municipal employes affected by the ordinance or resolution.

The board shall within ninety days of its receipt, take action on an application filed by a municipality for permission to withdraw from the system. If the application is approved the withdrawing municipality shall be entitled to receive a net refund of the amounts then standing to the credit of the municipality in the member's account, the member's excess investment account, the municipal account, **the subsidiary DROP participant reserve account** and the retired member's reserve accounts of the system. In no event shall the total amount of the net refund to the municipality exceed the pro rata interest of the withdrawing municipality in the net assets of the entire fund based on the market value of the investments of the fund as of the date of receipt of the application for permission to withdraw. The liability for the continuation of retirement or disability allowances being paid from the fund shall attach against the withdrawing municipality and be paid from funds transferred to a retirement system established subsequent to its withdrawal from the system or from moneys appropriated annually from tax revenues sufficient to pay the same. If the board disapproves the application of the municipality for permission to withdraw from the system the board shall promptly notify the municipality of its decision and advise the municipality of the board's reason or reasons for disapproval. The board shall establish rules and regulations, in accordance with the provisions of clause (10) of section 104 of this act, governing the details of the procedures to be followed in the withdrawal of municipalities from the system.

Section 21. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of section 110.1 of the act.

(2) Section 703-A(b) of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, is repealed.

Section 22. This act shall take effect immediately.

EDWARD G. RENDELL