

CITIES OF THIRD CLASS - AMEND LIMITED VESTED BENEFITS

Act of Jun. 11, 1992, P.L. 297, No. 49

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Session of 1992

No. 1992-49

HB 994

AN ACT

Amending the act of May 23, 1945 (P.L.903, No.362), entitled "An act authorizing cities of the third class to establish an optional retirement system for officers and employes independently of any pension system or systems existing in such cities," further providing for membership on retirement boards and for certain employees of city-created water authorities; providing for a limited vested benefit; and authorizing cost-of-living increases.

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

Section 1. Section 3 of the act of May 23, 1945 (P.L.903, No.362), entitled "An act authorizing cities of the third class to establish an optional retirement system for officers and employes independently of any pension system or systems existing in such cities," amended July 18, 1986 (P.L.1413, No.128), is amended to read:

Section 3. In any such city which creates such retirement system there shall be created a board to be known as the "Officers and Employes Retirement Board," consisting of the mayor, the city controller, the director of finance, two employes to be chosen by the employes contributing to the retirement fund , **a retired city employe**, and, if members of council participate in the retirement fund and are members of the fund, a member of council, chosen by council. **A retired city employe receiving a city pension shall be a member of the board appointed using the following procedure:**

(1) **if the city is a strong-mayor form of government, the appointment shall be made by the mayor subject to confirmation by council;**

(2) **if the city is a council-manager form of government, the appointment shall be made by the manager subject to confirmation by council; or**

(3) **in all other cases, council shall, by majority vote, appoint.**

Where a retired city employe association exists, nominations for appointment shall be accepted by the appointing authority. It shall be the duty of said board to register all persons employed by the said city, and to administer the collections and distribution of the fund, herein provided for, and make such reasonable rules in the premises as such board may deem necessary to carry into effect the provisions of this act.

Section 2. Section 4(b) of the act, amended June 14, 1957 (P.L.323, No.172), is amended to read:

Section 4. * * *

(b) [Where] (1) **Except as otherwise provided under clause (3), where** an officer or employe shall have served for twelve (12) years, or more, and shall have attained the age of sixty (60) years and his tenure of office or employment shall be terminated without his voluntary action before the expiration of twenty (20) years of service, he shall, in such event, during the remainder of his life,

be entitled to receive such portion of the full compensation as the period of his service up to date of its termination bears to the full twenty-year period of service where an officer or employee shall have served for twelve (12) years, or more, and shall not have attained the age of sixty (60) years, and his tenure of office or employment shall be terminated without his voluntary action before the expiration of twenty (20) years of service, he shall, in such event, during the remainder of his life, after attaining the age of sixty (60) years, be entitled to receive such portion of the full compensation as the period of his service up to date of its termination bears to the full twenty-year period of service; where an officer or employee who has served for twenty (20) years, or more, and his tenure of office or employment shall be terminated without his voluntary action, then he shall be entitled to full compensation for the remainder of his life, after attaining age fifty-five, and conditioned upon his continuing his contributions into the fund at the same rate as when he was dismissed until he attains age fifty-five.

(2) Should an officer or employee, however, become so permanently disabled as to render him unable to perform the duties of his position or office after fifteen (15) years of service, and before attaining the age of fifty-five (55) years, he shall be entitled to full compensation during such disability. Proof of such disability shall consist of the sworn statement of three (3) practicing physicians, designated by the board, that the employee is in a condition of health which would permanently disable him from performing the duties of his position or office. Such person shall thereafter be subject to physical examination at any reasonable time or times, upon order of the board, and upon his refusal to submit to any such examination, his compensation shall cease.

(3) (i) Any pension ordinance may provide for a limited vested benefit if it would conform to section 305 of the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act." Under the provisions of the benefit, a member who has completed twelve (12) years or more of full-time continuous service but shall not have attained the minimum age and minimum period of continuous service may be entitled to vest his retirement benefits subject to all of the following conditions:

(A) the member must file with the management board of the fund a written notice of his intention to vest;

(B) the member must include in the notice the date the member intends to terminate his service;

(C) the termination date shall be at least thirty (30) days later than the date of notice to vest;

(D) the member must be in good standing with the city on the date of notice to vest; and

(E) the board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any five (5) years of service preceding that date, whichever is higher.

(ii) Upon reaching the date which would have been the member's retirement date had the member continued employment with the city, the member shall notify the board in writing that the member desires to collect his pension. The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:

(A) the initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest; and

(B) the portion of the base retirement due the member shall be determined by applying to the base amounts the percentage that his years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the city until his minimum retirement date. As used in this section, the term "salary" means the fixed amount of compensation paid at regular, periodic intervals by the city to the member and from which pension contributions have been deducted.

* * *

Section 3. The act is amended by adding sections to read:

Section 4.1. (a) The board may, subject to the approval required under subsection (b), increase the compensation of any member of the fund by reason of and after the termination of the services of such member of the fund. Such increases shall be in conformity with a uniform scale, which shall be based on the Consumer Price Index for all urban consumers calculated by the Bureau of Labor Statistics of the United States Department of Labor, but the total of any such allowance shall not at any time exceed one-half of the current salary being paid to nonuniformed employees of the highest pay grade.

(b) The board may recommend the increase described in subsection (a) to the city council at any time. Provided that the provisions of section 305 of the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," have been satisfied, the council, by ordinance, may approve this increase subject, however, to the approval of the mayor.

Section 4.2. (a) (1) An employee of a water authority created by a city that commenced operations after September 30, 1991, who satisfies the requirements of clause (2), may file a written election with the board and the water authority to remain a member of the retirement system established pursuant to this act. The qualified employee shall file the written election within one (1) year after the effective date of this section or within one (1) year after becoming an employee of the water authority, whichever is later.

(2) In order to qualify for the option under clause (1), an employee must satisfy both of the following requirements when becoming an employee of the water authority:

(i) be an employee of the city that established the water authority; and

(ii) be an active member of the city's retirement system established pursuant to this act.

(3) For any employee who files an election under clause (1), the affected water authority shall:

(i) deduct from the employee's salary an amount equal to the employee contribution that would have been deducted had the employee continued to be a city employee and shall pay the deducted amount to the fund; and

(ii) pay to the fund an employer contribution equal to the employer normal cost plus anticipated administrative expenses and amortization payments less general municipal pension system State aid expressed as a percentage of the system's total payroll as calculated by the city pursuant to the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," and applied to the payroll of the employee.

(b) All employees who elect to remain in the retirement system shall be treated as city employees in determining the city's annual allocation of general municipal pension system State aid pursuant to section 402(e) of the "Municipal Pension Plan Funding Standard and Recovery Act."

Section 4. This act shall take effect in 60 days.

APPROVED--The 11th day of June, A. D. 1992.

ROBERT P. CASEY