

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 633 Session of
1995

INTRODUCED BY MOWERY, HECKLER, SALVATORE, STAPLETON, HELFRICK,
WENGER, AFFLERBACH, SHUMAKER, SCHWARTZ, LEMMOND, RHOADES,
PETERSON AND HART, FEBRUARY 28, 1995

REFERRED TO FINANCE, FEBRUARY 28, 1995

AN ACT

1 Amending the act of May 29, 1956 (1955 P.L.1804, No.600),
2 entitled "An act providing for the establishment of police
3 pension funds or pension annuities in certain boroughs, towns
4 and townships, and the regulation and maintenance thereof;
5 providing for an actuary; continuance of existing funds or
6 transfer thereof to funds herein established; prescribing
7 rights of beneficiaries; contributions by members; providing
8 for expenses of administration; continuation of existing
9 authority to provide annuity contracts; credit for military
10 service; refunds; exempting allowances from judicial process;
11 and repealing certain acts," providing for the establishment
12 of police pension funds or pension annuities by regional
13 police departments; further providing for employment of an
14 actuary and for payments by the State Treasurer; and making
15 editorial changes.

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

18 Section 1. The title of the act of May 29, 1956 (1955
19 P.L.1804, No.600), referred to as the Municipal Police Pension
20 Law, is amended to read:

AN ACT

22 Providing for the establishment of police pension funds or
23 pension annuities in certain boroughs, towns and townships[,
24 and the regulation and maintenance thereof]; authorizing the

1 establishment of police pension funds or pension annuities by
2 regional police departments; providing for the regulation and
3 maintenance of police pension funds or pension annuities;
4 providing for an actuary; continuance of existing funds or
5 transfer thereof to funds herein established; prescribing
6 rights of beneficiaries; contributions by members; providing
7 for expenses of administration; continuation of existing
8 authority to provide annuity contracts; credit for military
9 service; refunds; exempting allowances from judicial process;
10 and repealing certain acts.

11 Section 2. Section 1 of the act, amended June 23, 1970
12 (P.L.417, No.139), is amended to read:

13 Section 1. Each borough, town and township of this
14 Commonwealth maintaining a police force of three or more full-
15 time members and each regional police department organized and
16 operated by two or more boroughs, cities, towns or townships
17 through an intermunicipal agreement under the act of July 12,
18 1972 (P.L.762, No.180), referred to as the Intergovernmental
19 Cooperation Law, shall, and all other boroughs, towns or
20 townships may, establish, by ordinance or resolution, a police
21 pension fund or pension annuity to be maintained by a charge
22 against each member of the police force, by annual
23 appropriations made by the borough, town [or], township or
24 regional police department, by payments made by the State
25 Treasurer to the municipal treasurer from the moneys received
26 from taxes paid upon premiums by foreign casualty insurance
27 companies for purposes of pension retirement for policemen, and
28 by gifts, grants, devises or bequests granted to the pension
29 fund pursuant to section two of this act. Such fund shall be
30 under the direction of the governing body of the borough, town

1 [or], township or regional police department, and applied under
2 such regulations as such governing body, by ordinance or
3 resolution, may prescribe for the benefit of such members of the
4 police force as shall receive honorable discharge therefrom by
5 reason of age and service, or disability, and may prescribe for
6 the benefit (i) of widows, and if no widow survives or if she
7 survives and subsequently dies or remarries, then (ii) of child
8 or children under the age of eighteen years, of members of the
9 police force or of members retired on pension. All such pensions
10 as shall be allowed to those who are retired by reason of
11 disabilities shall be in conformity with a uniform scale. The
12 widow of a member of the police force or a member who retires on
13 pension who dies or if no widow survives or if she survives and
14 subsequently dies or remarries, then the child or children under
15 the age of eighteen years of a member of the police force or a
16 member who retires on pension who dies on or after the effective
17 date of this amendment, may, during her lifetime or so long as
18 she does not remarry in the case of a widow or until reaching
19 the age of eighteen years in the case of a child or children, be
20 entitled to receive a pension calculated at the rate of fifty
21 per centum of the pension the member was receiving or would have
22 been receiving had he been retired at the time of his death.

23 Section 3. Section 2 of the act is amended to read:

24 Section 2. Any borough, town [or], township or regional
25 police pension fund shall be authorized to take by gift, grant,
26 devise or bequest, any money or property, real, personal or
27 mixed, in trust, for the benefit of such fund and the care,
28 management, investment and disposal of such trust funds or
29 property shall be vested in the person or persons having the
30 management of such police pension fund, and the said trust funds

1 shall be governed thereby subject to such directions not
2 inconsistent therewith as the donors of such funds and property
3 may prescribe.

4 Section 4. Section 3 of the act, amended October 21, 1965
5 (P.L.643, No.317), is amended to read:

6 Section 3. Each ordinance or resolution establishing a
7 police pension fund shall prescribe a minimum period of total
8 service in the aggregate of twenty-five years in the same
9 borough, town [or], township or regional police department and
10 shall fix the age of the members of the force at fifty-five
11 years, or, if an actuarial study of the cost shows that such
12 reduction in age is feasible, may fix the age of the members of
13 the force at fifty years, after which they may retire from
14 active duty, and such members as are retired shall be subject to
15 service, from time to time, as a police reserve, in cases of
16 riot, tumult or preservation of the public peace until unfitted
17 for such service, when they may be finally discharged by reason
18 of age or disability.

19 Section 5. Section 4 of the act, amended December 19, 1990
20 (P.L.1238, No.205), is amended to read:

21 Section 4. (a) Any member of the police force employed by a
22 borough, town [or], township or regional police department, who
23 has been a regularly appointed employe of any such political
24 subdivision or regional police department for a period of at
25 least six months and who thereafter shall enter into the
26 military service of the United States, shall have credited to
27 his employment record for pension or retirement benefits all of
28 the time spent by him in such military service, if such person
29 returns or has heretofore returned to his employment within six
30 months after his separation from the service.

1 (b) The ordinance or resolution establishing the police
2 pension fund may provide full service credit for each year of
3 military service or fraction thereof, not to exceed five years,
4 to any member of the police force who was not employed by the
5 political subdivision or regional police department prior to
6 such military service. The amount due for the purchase of credit
7 for military service other than intervening military service
8 shall be computed by applying the average normal cost rate for
9 borough [and], town, township and regional police pension plans
10 as certified by the Public Employee Retirement [Study]
11 Commission, but not to exceed ten per centum, to the member's
12 average annual rate of compensation over the first three years
13 of municipal service and multiplying the result by the number of
14 years and fractional part of a year of creditable nonintervening
15 military service being purchased together with interest at the
16 rate of four and three-quarters per centum compounded annually
17 from the date of initial entry into municipal service to the
18 date of payment.

19 (c) Any member of the police force shall be eligible to
20 receive service credit for intervening or nonintervening
21 military service as provided in subsections (a) and (b) provided
22 that he is not entitled to receive, eligible to receive now or
23 in the future or is receiving retirement benefits for such
24 service under a retirement system administered and wholly or
25 partially paid for by any other governmental agency with the
26 exception of a member eligible to receive or receiving military
27 retirement pay earned by a combination of active duty and
28 nonactive duty with a reserve or national guard component of the
29 armed forces which retirement pay is payable only upon the
30 attainment of a specified age and period of service under 10

1 U.S.C. Ch. 67 (relating to retired pay for non-regular service).

2 (d) Whenever two or more boroughs, cities, towns or
3 townships establish a regional police department through an
4 intermunicipal agreement under the act of July 12, 1972
5 (P.L.762, No.180), referred to as the Intergovernmental
6 Cooperation Law, any member of the police force of any of the
7 boroughs, cities, towns or townships establishing the regional
8 police department who is appointed as a member of the regional
9 police force within six months of its establishment shall have
10 credited to his employment record for pension or retirement
11 benefit purposes all of the time spent by him as a full-time
12 member of the police pension fund of the municipality. Prior to
13 the adoption of the pension plan for the regional police
14 department, the municipalities shall obtain an actuarial
15 valuation report on the proposed pension plan. The actuarial
16 valuation report shall be prepared under chapter 2 of the act of
17 December 18, 1984 (P.L.1005, No.205), known as the "Municipal
18 Pension Plan Funding Standard and Recovery Act."

19 Section 6. Section 5 of the act, amended December 7, 1979
20 (P.L.475, No.99), is amended to read:

21 Section 5. (a) Payments made under the provisions of this
22 act shall not be a charge on any other fund in the treasury of
23 any borough, town [or], township or regional police department,
24 or under its control, save the police pension fund herein
25 provided for.

26 (b) The basis for determining any pension payable under this
27 act, following retirement of any member of the force meeting the
28 service and age qualifications of the ordinance or resolution
29 establishing a police pension fund, shall be as [follows:]
30 provided in subsections (c) and (d).

1 (c) Monthly pension or retirement benefits other than length
2 of service increments shall be computed at one-half the monthly
3 average salary of such member during not more than the last
4 sixty nor less than the last thirty-six months of employment.
5 Such pension or retirement benefits for any month shall be
6 computed as the sum of [(i)] (1) any pension benefits from
7 pension plans heretofore established by a private organization
8 or association for the members of the police force but only to
9 the extent that this Commonwealth or any of its municipalities
10 shall have contributed to such pension plan moneys raised by
11 taxation[, (ii)]; (2) if positions covered by the fund are
12 included in an agreement under the Federal Social Security Act,
13 up to seventy-five per centum of his full social security old-
14 age insurance benefit calculated in accordance with the
15 provisions of the Federal Social Security Act in effect on the
16 date of his termination of employment, except that such amount
17 shall be included only upon attainment of the age at which the
18 officer would be eligible to receive full social security old-
19 age insurance benefits and in determining such eligibility and
20 such amount only compensation for services actually rendered by
21 the officer and covered by the police pension fund shall be
22 included[,]; and [(iii)] (3) benefits from the police pension
23 fund established pursuant to this act to the extent necessary to
24 bring the total benefits in any month up to one-half the
25 aforesaid monthly average salary[: Provided, however, That]
26 except that any officer who receives pension or retirement
27 benefits from any plan established at any time pursuant to this
28 act and who is also entitled to receive social security old-age
29 insurance benefits shall not regardless of when the officer
30 retired from active service have his pension or retirement

1 benefits offset or reduced by more than seventy-five per centum
2 of the social security old-age insurance benefits which he
3 receives.

4 (d) If this Commonwealth or one of its municipalities shall
5 have contributed moneys raised by taxation to a pension plan
6 established by a private organization or association for the
7 members of the police force, the pension benefits to be taken
8 into account under clause [(i)] (1) of [this paragraph]
9 subsection (c) shall be that proportion of the total pension
10 benefits payable under clause [(i)] (1) as the assets
11 attributable to contributions of moneys raised by taxation bear
12 to the total assets of the pension plan.

13 (e) In the case of the payment of pensions for permanent
14 injuries incurred in service and to families of members killed
15 in service, the amount and commencement of the payments shall be
16 fixed by regulations of the governing body of the borough, town
17 [or], township or regional police department.

18 (f) Any borough, town [or], township or regional police
19 department may establish and pay length of service increments
20 for years of service beyond twenty-five years for each completed
21 year of service in excess of twenty-five years, not to exceed
22 one hundred dollars (\$100). Such length of service increments
23 may be paid in addition to other monthly pension or retirement
24 allowances.

25 (g) The ordinance or resolution establishing the police
26 pension fund may provide for a cost of living increase for
27 members of the police force receiving retirement benefits[:
28 Provided, however, That such]. The cost of living increase shall
29 not exceed the percentage increase in the Consumer Price Index
30 from the year in which the police member last worked[: Provided

1 further, That in no case], shall not cause the total police
2 pension benefits to exceed seventy-five per centum of the salary
3 for computing retirement benefits[: And provided further, That]
4 and shall not cause the total cost of living increase [shall
5 not] to exceed thirty per centum. No cost of living increase
6 shall be granted which would impair the actuarial soundness of
7 the pension fund.

8 (h) The ordinance or resolution establishing the police
9 pension fund may provide for a vested benefit provided that such
10 would not impair the actuarial soundness of the pension fund.
11 Under the provisions of such benefit, should a police officer,
12 before completing superannuation retirement age and service
13 requirements but after having completed twelve years of total
14 service, for any reason cease to be employed as a full-time
15 police officer by the municipality or regional police department
16 in whose pension fund he has been a member, he shall be entitled
17 to vest his retirement benefits by filing with the governing
18 body within ninety days of the date he ceases to be a full-time
19 police officer a written notice of his intention to vest. Upon
20 reaching the date which would have been his superannuation
21 retirement date if he had continued to be employed as a full-
22 time police officer he shall be paid a partial superannuation
23 retirement allowance determined by applying the percentage his
24 years of service bears to the years of service which he would
25 have rendered had he continued to work until his superannuation
26 retirement date to the gross pension, using however the monthly
27 average salary during the appropriate period prior to his
28 termination of employment. Such pension or retirement benefits
29 for any month shall be the sum of clauses [(i), (ii) and (iii)]
30 (1), (2) and (3) of subsection (c) of such benefits from the

1 police pension fund established pursuant to this act to the
2 extent necessary to bring the total benefits in any month up to
3 his partial superannuation retirement allowance outlined above.

4 Section 7. Section 6 of the act, amended June 15, 1972
5 (P.L.396, No.108), is amended to read:

6 Section 6. [When a police pension fund is established under
7 the provisions of this act, the governing body of the borough,
8 town or township, may employ an actuary, and may fix his
9 compensation. The actuary shall determine the present value of
10 the liability on account of pensions payable under section five
11 of this act to original members for service prior to the date of
12 the establishment of the fund, and shall offset the value of any
13 assets transferred to the fund from a previous pension fund to
14 determine the unfunded liability. The unfunded liability shall
15 be paid entirely by the borough, town or township: Provided,
16 That it may be funded over a period not to exceed twenty-five
17 years. The actuary shall also determine the amount which shall
18 be contributed annually into the fund for the service of members
19 subsequent to the establishment of the fund (to be known as
20 "future service cost").]

21 (a) Members shall pay into the fund, monthly, an amount
22 equal to not less than five per centum nor more than eight per
23 centum of monthly compensation. Where positions covered by the
24 fund are included in an agreement under the Federal Social
25 Security Act, members shall pay into the fund, monthly, an
26 amount determined as follows: (1) if the pension plan
27 established under the provisions of this act provides for no
28 offset under [subclause (ii) of the second paragraph] clause (2)
29 of subsection (c) of section 5, five per centum of total
30 compensation; or (2) if such pension plan provides for an offset

1 under [subclause (ii) of the second paragraph] clause (2) of
2 subsection (c) of section 5: (i) on compensation on which social
3 security taxes are payable, at a rate calculated by subtracting
4 from five per centum the product obtained by multiplying three
5 per centum by such offset percentage; and (ii) on compensation
6 in excess of that on which social security taxes are payable, if
7 any, five per centum.

8 (b) The remainder of the needed annual contributions, as
9 determined by the actuary, shall become the obligation of the
10 borough, town [or], township or regional police department, and
11 shall be paid by it to the pension fund by annual
12 appropriations.

13 (c) If an actuarial study shows that the condition of the
14 police pension fund of any borough, town [or], township or
15 regional police department is such that payments into the fund
16 by members may be reduced below the minimum percentages
17 hereinbefore prescribed, or eliminated, and that if such
18 payments are reduced or eliminated contributions by the borough,
19 town [or], township or regional police department will not be
20 required to keep the fund actuarially sound, the governing body
21 of the borough, town [or], township or regional police
22 department may, on an annual basis, by ordinance or resolution,
23 reduce or eliminate payments into the fund by members.

24 [The payments made by the State Treasurer to the municipal
25 treasurer from the moneys received from taxes paid upon premiums
26 by foreign casualty insurance companies for purposes of pension
27 retirement or disability benefits for policemen shall be used,
28 as follows: (1) to reduce the unfunded liability or, after such
29 liability has been funded, (2) to apply against the annual
30 obligation of the borough, town or township for future service

1 cost to or to the extent that the payment may be in excess of
2 such obligation, (3) to reduce member contribution. Unless
3 otherwise specifically provided, any other moneys paid into the
4 police pension fund shall be applied equally against the member
5 and the municipal portions of the future service cost.

6 It shall be the duty of the governing body to apply such
7 payments in accordance with the provisions of this act.]

8 Section 8. Section 9 of the act, amended September 9, 1971
9 (P.L.435, No.104), is amended to read:

10 Section 9. Any member of a police force of a borough, town
11 [or], township or regional police department, who for any reason
12 whatsoever, shall be ineligible to receive a pension after
13 having contributed any charges to a police pension fund
14 established pursuant to the provisions of this act, or to a
15 police pension fund existing on the effective date of this act
16 supplanted by a police pension fund established pursuant to the
17 provisions of this act, shall be entitled to a refund of all
18 such moneys paid by him into such funds plus all interest earned
19 by such moneys while in the police pension fund as determined by
20 regulations of the governing body immediately upon
21 discontinuance of his employment with the police force. If such
22 discontinuance is due to death, such moneys shall be paid to his
23 designated beneficiary or, in the absence thereof, to his
24 estate.

25 Section 9. Section 11 of the act is amended to read:

26 Section 11. The expense of the administration of this act,
27 including the compensation of an actuary and the custodian of
28 the fund, exclusive of the payments of retirement allowances,
29 shall be paid by the borough, town [or], township or regional
30 police department by appropriations made by the governing bodies

1 thereof.

2 Section 10. The act is amended by adding a section to read:

3 Section 11.1. Notwithstanding any provision of this act, a
4 regional police department retirement system established prior
5 to the effective date of this amendatory act may retain the
6 eligibility and benefit provisions specified in the retirement
7 system's pension plan on the effective date of this amendatory
8 act. Any subsequent modification of the eligibility or benefit
9 provisions of the regional police department retirement system's
10 pension plan shall be made under the provisions of this
11 amendatory act.

12 Section 11. This act shall take effect immediately.