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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 2686** Session of  
2004

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INTRODUCED BY CAPPELLI, ALLEN, BARRAR, BEBKO-JONES, BELARDI,  
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THOMAS, TRAVAGLIO, WEBER, WOJNAROSKI, YOUNGBLOOD AND  
YUDICHAK, JUNE 8, 2004

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REFERRED TO COMMITTEE ON FINANCE, JUNE 8, 2004

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AN ACT

1 Requiring municipal retirement systems to pay annual  
2 postretirement adjustments to certain retired municipal  
3 employees; and providing for the financing of these  
4 adjustments and for the administration of the Commonwealth's  
5 reimbursements for these adjustments.

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

18 CHAPTER 1

19 GENERAL PROVISIONS

20 Section 101. Short title.

21 This act shall be known and may be cited as the Annual  
22 Municipal Employee Postretirement Adjustment Act.

23 Section 102. Definitions.

24 The following words and phrases when used in this act shall  
25 have the meanings given to them in this section unless the  
26 context clearly indicates otherwise:

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

1 "Annual municipal employer postretirement adjustment,"  
2 "annual adjustment" or "annual postretirement adjustment." An  
3 increase in the amount of a retirement benefit as provided for  
4 under this act.

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

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

12 "Municipal employee." A firefighter, police officer or  
13 nonuniformed employee.

14 "Municipality." A borough, city, incorporated town or  
15 township, however constituted, whether operating under a  
16 legislative charter, municipal code, optional charter adopted  
17 under the act of July 15, 1957 (P.L.901, No.399), known as the  
18 Optional Third Class City Charter Law, a home rule charter or an  
19 optional plan adopted under the former act of April 13, 1972  
20 (P.L.184, No.62), known as the Home Rule Charter and Optional  
21 Plans Law, or 53 Pa.C.S. Part III Subpt. E (relating to home  
22 rule and optional plan government), or other arrangement or an  
23 association of these municipalities cooperating under the former  
24 act of July 12, 1972 (P.L.762, No.180), referred to as the  
25 Intergovernmental Cooperation Law, or 53 Pa.C.S. Ch. 23 Subch. A  
26 (relating to intergovernmental cooperation).

27 "Nonuniformed municipal employee." A municipal employee  
28 other than a police officer or firefighter.

29 "Police officer." A municipal employee who holds a full-time  
30 position in the police service of a municipality and has

1 retirement coverage provided by a retirement system.

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

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

14 "Retirement benefit." The amount paid on a regular basis to  
15 a retired or disabled police officer or firefighter by a  
16 municipal retirement system established for police officers or  
17 firefighters.

18 "Retirement system." A public employee retirement system.

19 "Special account." The Annual Municipal Employee  
20 Postretirement Adjustment Account established under section 701.

### 21 CHAPTER 3

#### 22 ANNUAL MUNICIPAL EMPLOYEE POSTRETIREMENT ADJUSTMENT

23 Section 301. Entitlement to annual municipal employee  
24 postretirement adjustment.

25 A municipal retirement system shall pay a retired municipal  
26 employee an annual municipal employee postretirement adjustment  
27 under this chapter if all of the following apply:

28 (1) The retiree has terminated active employment with  
29 the municipality as a municipal employee.

30 (2) The retiree is receiving a retirement annuity,

1 retirement benefit, service pension or disability pension  
2 benefit from a municipal retirement system on the basis of  
3 active employment with a municipality as a municipal  
4 employee.

5 (3) The retiree began receiving the retirement annuity,  
6 retirement benefit, service pension or disability pension  
7 benefit before April 1 of the prior year.

8 Section 302. Amount of annual adjustment.

9 A municipal retirement system shall pay a retired municipal  
10 employee an annual adjustment equal to the increase in the  
11 Consumer Price Index for the prior year minus 0.5%, provided  
12 that the annual adjustment may not exceed 5%.

13 Section 303. Payment of annual adjustment.

14 The annual adjustment is effective on the date of the first  
15 payment of the retiree's retirement annuity, retirement benefit,  
16 service pension or disability pension benefit due after April 1  
17 of each year. The municipal retirement system shall pay the  
18 annual adjustment as soon as practicable after that date and  
19 shall include in the first payment any omitted amount payable  
20 between the effective date of the adjustment and the date of the  
21 first payment.

## 22 CHAPTER 5

### 23 FINANCING OF ANNUAL MUNICIPAL EMPLOYEE POSTRETIREMENT

#### 24 ADJUSTMENT

25 Section 501. Actuarial funding by municipality.

26 A municipality shall fund the actuarial liability  
27 attributable to an annual municipal employee postretirement  
28 adjustment under the provisions of the act of December 18, 1984  
29 (P.L.1005, No.205), known as the Municipal Pension Plan Funding  
30 Standard and Recovery Act, and shall include that actuarial

1 liability in the actuarial valuation report under that act.  
2 Section 502. Reimbursement by Commonwealth for annual  
3 adjustment.

4 (a) General rule.--

5 (1) Except as provided in subsection (b), beginning in  
6 the year following the year in which the amortization  
7 contribution requirement attributable to an annual adjustment  
8 under Chapter 3 is first reflected in the financial  
9 requirements of the retirement system determined under  
10 Chapter 3 of the act of December 18, 1984 (P.L.1005, No.205),  
11 known as the Municipal Pension Plan Funding Standard and  
12 Recovery Act, the Auditor General shall determine the  
13 Commonwealth reimbursement payable to the municipality  
14 representing the amortization contribution requirement  
15 attributable to the annual postretirement adjustment under  
16 Chapter 3 that was paid with revenues of the municipality  
17 other than general municipal pension system State aid  
18 provided under the Municipal Pension Plan Funding Standard  
19 and Recovery Act.

20 (2) The determination of the reimbursable amount of the  
21 amortization contribution requirement attributable to the  
22 annual postretirement adjustment under Chapter 3 in any year  
23 shall be calculated as the amortization contribution  
24 requirement attributable to the annual postretirement  
25 adjustments under Chapter 3 and reflected in the  
26 determination of the financial requirements of the pension  
27 plan under Chapter 3 of the Municipal Pension Plan Funding  
28 Standard and Recovery Act for the immediate prior year less  
29 the product of that amortization contribution requirement  
30 multiplied by the ratio of the amount of general municipal

1 pension system State aid allocated to the retirement system  
2 in the immediate prior year to the total amount of municipal  
3 contributions made to the retirement system from all sources  
4 other than employee contributions in the immediate prior  
5 year. Where a municipality has issued bonds or notes to fund  
6 an unfunded actuarial accrued liability under 53 Pa.C.S. Pt.  
7 VII Subpt. B (relating to indebtedness and borrowing) or  
8 under other laws applicable to the municipality, the general  
9 municipal pension system State aid and municipal  
10 contributions used by the municipality to make debt service  
11 payments on the bonds or notes, or both, issued to fund an  
12 unfunded actuarial accrued liability shall be included in the  
13 calculation of the ratio applied to the amortization  
14 contribution requirement.

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

19 (b) Limitation of eligibility.--

20 (1) The Commonwealth shall not reimburse any  
21 municipality for an annual adjustment paid under Chapter 3 if  
22 the information required under section 901(a) either was not  
23 certified to the Auditor General or was certified after April  
24 1 of the year the certification was due.

25 (2) The Commonwealth shall not reimburse a municipality  
26 for the reimbursable amount of the amortization contribution  
27 requirement attributable to the annual postretirement  
28 adjustment under Chapter 3 if the municipality fails to  
29 submit a complete certification of the reimbursable amount of  
30 the amortization contribution requirement determined under

1 subsection (a) to the Auditor General before April 1 of the  
2 year in which the reimbursement is payable.

3 (c) Variable definition of "amortization contribution  
4 requirement."--For purposes of this section, the term  
5 "amortization contribution requirement" shall have the meaning  
6 specified in this subsection as follows:

7 (1) In a municipal pension plan with defined benefits  
8 for which the municipality determines the financial  
9 requirements of the pension plan under section 302 of the  
10 Municipal Pension Plan Funding Standard and Recovery Act, the  
11 term "amortization contribution requirement" shall mean the  
12 amortization contribution requirement attributable to the  
13 annual postretirement adjustments under Chapter 3 that was  
14 reflected in the financial requirements of the pension plan  
15 determined for the immediate prior year.

16 (2) In a municipal pension plan without defined benefits  
17 for which the municipality determines the financial  
18 requirements of the pension plan under section 303 of the  
19 Municipal Pension Plan Funding Standard and Recovery Act, the  
20 term "amortization contribution requirement" shall mean the  
21 sum of the payments made to the retirement system in the  
22 immediate prior year in order to provide the annual  
23 postretirement adjustments under Chapter 3 in that year.

24 CHAPTER 7

25 SPECIAL ACCOUNT

26 Section 701. Establishment.

27 The Annual Municipal Employee Postretirement Adjustment  
28 Account is established in the Municipal Pension Aid Fund. The  
29 special account shall be established as soon as practicable  
30 following the effective date of this section.

1 Section 702. Deposits into special account.

2 Notwithstanding any applicable provision of the act of May  
3 12, 1943 (P.L.259, No.120), referred to as the Foreign Casualty  
4 Insurance Premium Tax Allocation Law, or any applicable  
5 provision of the act of March 4, 1971 (P.L.6, No.2), known as  
6 the Tax Reform Code of 1971, or the provisions of sections  
7 402(b) and 803(c) of the act of December 18, 1984 (P.L.1005,  
8 No.205), known as the Municipal Pension Plan Funding Standard  
9 and Recovery Act, prior to the deposit of the proceeds of the  
10 insurance premium tax on foreign casualty insurance premiums  
11 into the General Municipal Pension System State Aid Program  
12 revenue account, an amount sufficient to provide for the  
13 Commonwealth's reimbursement payments and reimbursable amounts  
14 to municipalities for annual adjustments under this act shall be  
15 deposited in the separate account created under section 701.

16 CHAPTER 9

17 ADMINISTRATIVE PROVISIONS

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

20 (a) Certification.--On January 1 of each year the chief  
21 administrative officer of a municipal retirement system that  
22 pays an annual adjustment under Chapter 3 in that year shall  
23 certify the reimbursable amount under section 502(a) to the  
24 Auditor General not later than April 1 of the following year.

25 (b) Certification form.--Not later than February 1 of each  
26 year, the Auditor General shall send each municipality  
27 maintaining a retirement system for municipal employees a notice  
28 of the filing requirement for the certification of the  
29 reimbursable amount under section 502(a), which shall include a  
30 detailed description of the formula for determining the

1 reimbursable amount and the proper form on which to make the  
2 certifications under subsection (a).

3 Section 902. Commonwealth disbursement of reimbursement  
4 payment.

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

11 (b) Disbursements.--Not later than the first business day of  
12 October of the year in which the certification form is due, the  
13 State Treasurer shall disburse the reimbursement payment for the  
14 postretirement adjustments under Chapter 3 out of the special  
15 account.

16 Section 903. Municipal receipt of reimbursement payment.

17 Upon receipt of the reimbursement payment from the  
18 Commonwealth for the annual postretirement adjustments under  
19 Chapter 3, the treasurer of the municipality shall deposit the  
20 reimbursement payment into the municipality's general fund.

21 Section 904. Administration by Auditor General.

22 The Auditor General shall administer the annual municipal  
23 employee postretirement adjustment reimbursement payments. Under  
24 the act of July 31, 1968 (P.L.769, No.240), referred to as the  
25 Commonwealth Documents Law, and 2 Pa.C.S. (relating to  
26 administrative law and procedure), the Auditor General shall  
27 promulgate regulations necessary for the efficient  
28 administration of these reimbursement payments and shall specify  
29 the form and content of any forms applicable to the  
30 reimbursement payments. The Auditor General shall make an audit,

1 as deemed necessary, in accordance with generally accepted  
2 governmental auditing standards of every municipality that  
3 receives a reimbursement payment under this act and of every  
4 municipal retirement system that pays an annual adjustment under  
5 this act.

6 CHAPTER 11

7 MISCELLANEOUS PROVISIONS

8 Section 1101. Limitation of prior act.

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

17 Section 1102. Repeals.

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

20 Section 1103. Effective date.

21 This act shall take effect in 60 days.