

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2748 Session of
2004

INTRODUCED BY R. MILLER, PAYNE, ARMSTRONG, BALDWIN, CAPPELLI,
GILLESPIE, GINGRICH, JAMES, KILLION, MACKERETH, McCALL,
McILHINNEY, NAILOR, O'NEILL, READSHAW, SAYLOR, THOMAS, TIGUE
AND YOUNGBLOOD, JUNE 23, 2004

REFERRED TO COMMITTEE ON FINANCE, JUNE 23, 2004

AN ACT

1 Amending the act of February 1, 1974 (P.L.34, No.15), entitled
2 "An act creating a Pennsylvania Municipal Retirement System
3 for the payment of retirement allowances to officers,
4 employes, firemen and police of political subdivisions and
5 municipal authorities and of institutions supported and
6 maintained by political subdivisions and municipal government
7 associations and providing for the administration of the same
8 by a board composed of the State Treasurer and others
9 appointed by the Governor; imposing certain duties on the
10 Pennsylvania Municipal Retirement Board and the actuary
11 thereof; providing the procedure whereby political
12 subdivisions and municipal authorities may join such system,
13 and imposing certain liabilities and obligations on such
14 political subdivisions and municipal authorities in
15 connection therewith, and as to certain existing retirement
16 and pension systems, and upon officers, employes, firemen and
17 police of such political subdivisions, institutions supported
18 and maintained by political subdivisions, and upon municipal
19 authorities; providing for the continuation of certain
20 municipal retirement systems now administered by the
21 Commonwealth; providing certain exemptions from taxation,
22 execution, attachment, levy and sale and providing for the
23 repeal of certain related acts," further defining "municipal
24 employe"; providing for part-time employees; and further
25 providing for existing local retirement systems and
26 compulsory and optional membership and for return to service
27 relating to certain municipal employees and optional
28 retirement plans.

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

1 Section 1. The definition of "municipal employe" in section
2 102 of the act of February 1, 1974 (P.L.34, No.15), known as the
3 Pennsylvania Municipal Retirement Law, is amended to read:

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

5 * * *

6 "Municipal employe" means a person holding an office or a
7 full-time position, other than that of a municipal fireman or
8 municipal policeman, under a municipality or a municipal
9 government association and paid on a regular salary or per diem
10 basis. The term shall not include officers and employes paid
11 wholly on a fee basis.

12 * * *

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

14 Section 117. Part-Time Employes.--(a) Where a municipality
15 determines that membership for part-time employes in the system
16 established by this act shall be prohibited and there are
17 currently part-time employes enrolled in the pension plan due to
18 membership previously being required for part-time employes,
19 continued membership in the pension plan for those part-time
20 employes shall be at the election of the member.

21 (b) If a municipality elects to change the membership
22 requirements to exclude part-time employes, any part-time
23 employes currently enrolled in the pension plan shall remain
24 members of the plan unless the member elects to withdraw from
25 the pension plan. A member election under this subsection shall
26 be irrevocable.

27 Section 3. Section 203 of the act, amended May 17, 1980
28 (P.L.135, No.50), is amended to read:

29 Section 203. Existing Local Retirement Systems and
30 Compulsory and Optional Membership.--Where a municipality elects

1 to join the system established by this act, and is then
2 maintaining a retirement or pension system or systems covering
3 its employes in whole or in part, those employes so covered, and
4 employes thereafter eligible to join such pension system, shall
5 not become members of the retirement system established by this
6 act, unless at the time the municipality elects to join the
7 system, the members of each such existing retirement or pension
8 system shall, by the affirmative vote of seventy-five per cent
9 of all the members of each pension system, elect to be covered
10 by the retirement system established by this act. At any time
11 thereafter, within a period of three years after the
12 municipality has elected to join the system, but not thereafter,
13 the members of an existing retirement or pension system may, in
14 like manner, elect to join the system established by this act.
15 In any such case, provisions may be made for the transfer of
16 moneys and securities in its retirement or pension fund or
17 funds, in whole or in part, to the fund established by this act.
18 Securities so transferred shall be only those acceptable to the
19 board. Securities not so acceptable shall be converted into
20 cash, and said cash transferred to the fund created by this act.
21 In any such transfer, provision shall be made to credit the
22 accumulated deductions of each member, at least the amount he
23 has paid into the retirement or pension system of the
24 municipality, which moneys shall be credited against the prior
25 service contributions of such member, or a municipality may turn
26 over to the retirement system created by this act any existing
27 local pension system on a completely funded basis, as to
28 pensioners and pension credits of members related to prior
29 service to the date of transfer, or on a partially funded basis
30 if the municipality pays annually into the retirement system

1 amounts sufficient to completely liquidate the municipality's
2 liability for prior service within a period not to exceed thirty
3 years.

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

17 If a municipality elects to join the system under the
18 provisions of this Article II, then each officer other than
19 elected officers, and each municipal employe [thereof other than
20 a municipal fireman and a municipal policeman, employed on a
21 permanent basis], except one who is not eligible for Federal
22 Social Security coverage and except one who is covered by an
23 existing retirement or pension system and is exempted as
24 outlined above, shall be required to become a member of the
25 system. Each municipality shall determine whether membership in
26 said system for elected officials and employes hired on a
27 temporary [or seasonal], seasonal or part-time basis shall be
28 compulsory, optional or prohibited. Where membership may be
29 optional with an elected officer or an employe hired on a
30 temporary [or seasonal], seasonal or part-time basis, an

1 election to join the system must be made within one year after
2 the municipality elected to join the system or within one year
3 after the officer or temporary [or seasonal], seasonal or part-
4 time employe first entered the service of the municipality.
5 Officers and employes paid only on a fee basis shall not be
6 eligible to join the system.

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

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

26 Section 4. Section 207(c) of the act, amended June 10, 1982
27 (P.L.446, No.131), is amended to read:

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

30 (c) Should a person who has been retired on a retirement

1 allowance under this act, return to employment on a regular
2 full-time basis in the same municipality, his retirement
3 allowance shall cease, and in the case of an annuity, other than
4 a disability annuity, the present value of such annuity shall be
5 frozen as of the date such annuity ceases. Upon subsequent
6 discontinuance of service, such member, other than a former
7 disability annuitant, shall be entitled to an annuity which is
8 actuarially equivalent to the sum of the present value of the
9 annuity previously being paid and the present value of the
10 annuity earned by further service and further deductions added
11 upon reemployment. For the purposes of this section if a person
12 is reemployed on a temporary [or seasonal], seasonal or part-
13 time basis and his gross post-retirement earnings from such
14 reemployment during the calendar year are less than five
15 thousand dollars (\$5,000) or such other maximum as the board may
16 establish, he shall not be deemed reemployed, but if and when
17 his gross post-retirement earnings exceed five thousand dollars
18 (\$5,000) or such other maximum as the board may establish in any
19 calendar year he shall not be entitled to receive his retirement
20 allowance for that month or any subsequent month in the calendar
21 year in which he continues in service. The municipality is
22 required to notify the board immediately of the reemployment
23 status of any retired former employe and file separate monthly
24 reports of his gross earnings as prescribed by the board.

25 * * *

26 Section 5. Section 402 of the act, amended May 17, 1980
27 (P.L.135, No.50), is amended to read:

28 Section 402. Existing Local Retirement Systems and
29 Compulsory and Optional Membership.--Where a municipality elects
30 to join the system established by this act, and is then

1 maintaining a retirement or pension system or systems covering
2 its employes in whole or in part, those employes so covered, and
3 employes thereafter eligible to join such pension system, shall
4 not become members of the retirement system established by this
5 act, unless at the time the municipality elects to join the
6 system, the members of each such existing retirement or pension
7 system shall, by the affirmative vote of seventy-five per cent
8 of all the members of each pension system, elect to be covered
9 by the retirement system established by this act. At any time
10 thereafter, within a period of three years after the
11 municipality has elected to join the system, but not thereafter,
12 the members of an existing retirement or pension system may, in
13 like manner, elect to join the system established by this act.
14 In any such case, provisions may be made for the transfer of
15 moneys and securities in its retirement or pension fund or
16 funds, in whole or in part, to the fund established by this act.
17 Securities so transferred shall be only those acceptable to the
18 board. Securities not so acceptable shall be converted into
19 cash, and said cash transferred to the fund created by this act.
20 In any such transfer, provision shall be made to credit the
21 accumulated deductions of each member, at least the amount he
22 has paid into the retirement or pension system of the
23 municipality, which moneys shall be credited against the prior
24 service contributions of such member, or a municipality may turn
25 over to the retirement system created by this act any existing
26 local pension system on a completely funded basis, as to
27 pensioners and pension credits of members related to prior
28 service to the date of transfer, or on a partially funded basis
29 if the municipality pays annually into the retirement system
30 amounts sufficient to completely liquidate the municipality's

1 liability for prior service within a period not to exceed thirty
2 years.

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

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

28 When a municipality elects to enroll its municipal employes
29 into the system, then each officer other than elected officers,
30 and each municipal employe thereof[, employed on a permanent

1 basis,] shall be required to become a member of the system. Each
2 municipality shall determine whether membership in said system
3 for elected officials and employes hired on a temporary [or
4 seasonal], seasonal or part-time basis shall be compulsory,
5 optional or prohibited. Where membership may be optional with an
6 elected officer or an employe hired on a temporary [or
7 seasonal], seasonal or part-time basis, an election to join the
8 system must be made within one year after the municipality
9 elected to join the system or within one year after the officer
10 or temporary [or seasonal], seasonal or part-time employe first
11 entered the service of the municipality. Officers and employes
12 paid only on a fee basis shall not be eligible to join the
13 system.

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

18 When a municipality has established a policy of placing new
19 employes on a probationary status it may elect to refrain from
20 enrolling such employes into the system for a period of up to
21 one year from the date the probationary employe first entered
22 the service of the municipality. In such cases service credits
23 shall not be earned by the employe for probationary time served
24 prior to enrollment. Notwithstanding any other provision herein,
25 the board may, in its discretion, entertain a request from a
26 municipality to join the system established by this act for
27 those employes who are excluded from local pension plan coverage
28 by virtue of the collective bargaining process or otherwise. The
29 request to join the system must be accompanied by an affirmative
30 vote of no less than three-fourths of those employes not covered

1 by the local pension plan. The benefits to be established may be
2 in accordance with the provisions of this article or any other
3 relevant pension law covering that class of municipality. The
4 other requirements of this section for joining this system shall
5 be observed.

6 Section 6. Section 406(c) of the act, amended June 10, 1982
7 (P.L.446, No.131), is amended to read:

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

10 (c) Should a person who has been retired on a retirement
11 allowance under this act, return to employment on a regular
12 full-time basis in the same municipality, his retirement
13 allowance shall cease, and in the case of an annuity, other than
14 a disability annuity, the present value of such annuity shall be
15 frozen as of the date such annuity ceases. Upon subsequent
16 discontinuance of service, such member, other than a former
17 disability annuitant, shall be entitled to an annuity which is
18 actuarially equivalent to the sum of the present value of the
19 annuity previously being paid and the present value of the
20 annuity earned by further service and further deductions added
21 upon reemployment. For the purposes of this section if a person
22 is reemployed on a temporary [or seasonal], seasonal or part-
23 time basis and his gross post-retirement earnings from such
24 reemployment during the calendar year are less than five
25 thousand dollars (\$5,000) or such other maximum as the board may
26 establish, he shall not be deemed reemployed, but if and when
27 his gross post-retirement earnings exceed five thousand dollars
28 (\$5,000) or such other maximum as the board may establish in any
29 calendar year he shall not be entitled to receive his retirement
30 allowance for that month or any subsequent month in the calendar

1 year in which he continues in service. The municipality is
2 required to notify the board immediately of the reemployment
3 status of any retired former employe and file separate monthly
4 reports of his gross earnings as prescribed by the board.

5 * * *

6 Section 7. This act shall apply to employees hired after the
7 effective date of this act.

8 Section 8. This act shall take effect immediately.