

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

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JULY 3, 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

1 hereby enacts as follows:

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

5 ~~Section 102. Definitions. As used in this act:~~

6 ~~* * *~~

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

13 ~~* * *~~

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

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

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

28 SECTION 1. THE ACT OF FEBRUARY 1, 1974 (P.L.34, NO.15), <—
29 KNOWN AS THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW, IS AMENDED
30 BY ADDING A SECTION TO READ:

1 SECTION 117. PART-TIME EMPLOYES.--(A) (1) WHERE A
2 MUNICIPALITY DETERMINES TO PROHIBIT NEW PART-TIME EMPLOYES FROM
3 PARTICIPATING IN THE SYSTEM ESTABLISHED BY THIS ACT, ALL
4 EXISTING PERMANENT PART-TIME EMPLOYES SHALL HAVE THE RIGHT TO
5 ELECT WHETHER TO WITHDRAW FROM OR PARTICIPATE IN THE PENSION
6 PLAN. A MEMBER ELECTION TO WITHDRAW FROM OR TO PARTICIPATE IN
7 THE PENSION PLAN UNDER THIS SUBSECTION SHALL BE IRREVOCABLE.

8 (2) EXISTING PERMANENT PART-TIME EMPLOYES WHO NEWLY ELECT TO
9 PARTICIPATE IN THE PENSION PLAN UNDER THIS SUBSECTION MUST PAY
10 INTO THE SYSTEM ALL MEMBER CONTRIBUTIONS PLUS THE REGULAR
11 INTEREST THAT WOULD HAVE BEEN CREDITED TO THOSE CONTRIBUTIONS
12 HAD THEY PARTICIPATED IN THE SYSTEM FROM THEIR DATE OF HIRE. ALL
13 OTHER AMOUNTS REQUIRED TO BE CONTRIBUTED TO THE PENSION PLAN AS
14 A RESULT OF THEIR ELECTION TO PARTICIPATE SHALL BE PAID BY THE
15 MUNICIPALITY.

16 (B) WHERE A MUNICIPALITY CHANGES THE MEMBERSHIP REQUIREMENTS
17 TO PROHIBIT PART-TIME EMPLOYES FROM PARTICIPATING IN THE SYSTEM
18 ESTABLISHED BY THIS ACT, ALL EXISTING PART-TIME EMPLOYES
19 ENROLLED IN THE PENSION PLAN SHALL REMAIN MEMBERS OF THE PENSION
20 PLAN UNLESS THEY ELECT TO WITHDRAW FROM THE PENSION PLAN. A
21 MEMBER ELECTION TO WITHDRAW FROM THE PENSION PLAN UNDER THIS
22 SUBSECTION SHALL BE IRREVOCABLE.

23 Section 3 2. Section 203 of the act, amended May 17, 1980 ←
24 (P.L.135, No.50), is amended to read:

25 Section 203. Existing Local Retirement Systems and
26 Compulsory and Optional Membership.--Where a municipality elects
27 to join the system established by this act, and is then
28 maintaining a retirement or pension system or systems covering
29 its employes in whole or in part, those employes so covered, and
30 employes thereafter eligible to join such pension system, shall

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

30 No liability, on account of retirement allowances or pensions

1 being paid from any retirement or pension fund of the
2 municipality, shall attach against the fund, except as provided
3 in the agreement, making a transfer of an existing system in
4 accordance with this section. The liability to continue payment
5 of pensions not so transferred shall attach against the
6 municipality, which shall annually make appropriations from its
7 tax revenues sufficient to pay the same. In cases where workers
8 covered by an existing retirement or pension system elect to
9 join the system created by this act, the election to join shall
10 be deemed to have been made at the time the municipality elected
11 to join the system, and the liabilities of the municipality
12 shall be fixed accordingly.

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

1 Officers and employes paid only on a fee basis shall not be
2 eligible to join the system.

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

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

22 Section 4 3. Section 207(c) of the act, amended June 10, <—
23 1982 (P.L.446, No.131), is amended to read:

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

26 (c) Should a person who has been retired on a retirement
27 allowance under this act, return to employment on a regular
28 full-time basis in the same municipality, his retirement
29 allowance shall cease, and in the case of an annuity, other than
30 a disability annuity, the present value of such annuity shall be

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

21 * * *

22 Section ~~5~~ 4. Section 402 of the act, amended May 17, 1980 <—
23 (P.L.135, No.50), is amended to read:

24 Section 402. Existing Local Retirement Systems and
25 Compulsory and Optional Membership.--Where a municipality elects
26 to join the system established by this act, and is then
27 maintaining a retirement or pension system or systems covering
28 its employes in whole or in part, those employes so covered, and
29 employes thereafter eligible to join such pension system, shall
30 not become members of the retirement system established by this

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

29 No liability, on account of retirement allowances or pensions
30 being paid from any retirement or pension fund of the

1 municipality, shall attach against the fund, except as provided
2 in the agreement, making a transfer of an existing system in
3 accordance with this section. The liability to continue payment
4 of pensions not so transferred shall attach against the
5 municipality, which shall annually make appropriations from its
6 tax revenues sufficient to pay the same. In cases where workers
7 covered by an existing retirement or pension system elect to
8 join the system created by this act, the election to join shall
9 be deemed to have been made at the time the municipality elected
10 to join the system, and the liabilities of the municipality
11 shall be fixed accordingly.

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

24 When a municipality elects to enroll its municipal employes
25 into the system, then each officer other than elected officers,
26 and each municipal employe thereof, employed on a [permanent] <—
27 FULL-TIME basis,† shall be required to become a member of the <—
28 system. Each municipality shall determine whether membership in
29 said system for elected officials and employes hired on a
30 temporary [or seasonal], seasonal or part-time basis shall be

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

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

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

1 be observed.

2 Section 5. Section 406(c) of the act, amended June 10, ←
3 1982 (P.L.446, No.131), is amended to read:

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

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

1 * * *

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

4 Section 8 7. This act shall take effect immediately. <—