

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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 9, 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," providing for part-time
24 employees; and further providing for existing local
25 retirement systems and compulsory and optional membership and
26 for return to service relating to certain municipal employees
27 and optional retirement plans.

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

1 Section 1. The act of February 1, 1974 (P.L.34, No.15),
2 known as the Pennsylvania Municipal Retirement Law, is amended
3 by adding a section to read:

4 Section 117. Part-Time Employes.--(a) (1) ~~Where a~~ ←
5 ~~municipality determines to prohibit new part time employes from~~
6 ~~participating in the system established by this act, all~~
7 ~~existing permanent part time employes shall have the right to~~
8 ~~elect whether to withdraw from or participate in the pension~~
9 ~~plan. A member election to withdraw from or to participate in~~
10 ~~the pension plan under this subsection shall be irrevocable.~~

11 ~~(2) Existing permanent part time employes who newly elect to~~
12 ~~ALL EXISTING PART-TIME EMPLOYES NOT ENROLLED IN THE PENSION~~ ←
13 ~~PLAN SHALL HAVE THE RIGHT TO ELECT TO PARTICIPATE IN THE~~
14 ~~PENSION PLAN. A MEMBER'S ELECTION TO PARTICIPATE IN THE~~
15 ~~PENSION PLAN UNDER THIS SUBSECTION MUST BE MADE IN WRITING~~
16 ~~AND RECEIVED BY THE MUNICIPALITY BEFORE JULY 1, 2005, AND~~
17 ~~SHALL BE IRREVOCABLE.~~

18 (2) EXISTING PART-TIME EMPLOYES NOT ENROLLED IN THE
19 PENSION PLAN WHO ELECT TO participate in the pension plan
20 under this subsection must pay into the system all member
21 contributions plus the regular interest that would have been
22 credited to those contributions had they participated in the
23 system from their date of hire. FAILURE OF THE PART-TIME ←
24 EMPLOYE TO MAKE SUCH CONTRIBUTIONS AND REGULAR INTEREST
25 PAYMENTS AS DETERMINED BY THE ADMINISTRATOR OF THE SYSTEM
26 SHALL BE CONSIDERED THE SAME AS IF THE PART-TIME EMPLOYE HAD
27 CHOSEN NOT TO PARTICIPATE IN THE SYSTEM. All other amounts
28 required to be contributed to the pension plan as a result of
29 their election to participate shall be paid by the
30 municipality.

1 (b) Where a municipality ~~changes~~ DETERMINES TO CHANGE the <—
2 membership requirements to prohibit part-time employes from
3 participating in the system established by this act, all
4 existing part-time employes enrolled in the pension plan shall
5 remain members of the pension plan unless they elect to withdraw
6 from the pension plan. A member election to withdraw from the
7 pension plan under this subsection MUST BE MADE IN WRITING AND <—
8 RECEIVED BY THE MUNICIPALITY BEFORE JULY 1, 2005, AND shall be
9 irrevocable.

10 Section 2. Section 203 of the act, amended May 17, 1980
11 (P.L.135, No.50), is amended to read:

12 Section 203. Existing Local Retirement Systems and
13 Compulsory and Optional Membership.--Where a municipality elects
14 to join the system established by this act, and is then
15 maintaining a retirement or pension system or systems covering
16 its employes in whole or in part, those employes so covered, and
17 employes thereafter eligible to join such pension system, shall
18 not become members of the retirement system established by this
19 act, unless at the time the municipality elects to join the
20 system, the members of each such existing retirement or pension
21 system shall, by the affirmative vote of seventy-five per cent
22 of all the members of each pension system, elect to be covered
23 by the retirement system established by this act. At any time
24 thereafter, within a period of three years after the
25 municipality has elected to join the system, but not thereafter,
26 the members of an existing retirement or pension system may, in
27 like manner, elect to join the system established by this act.
28 In any such case, provisions may be made for the transfer of
29 moneys and securities in its retirement or pension fund or
30 funds, in whole or in part, to the fund established by this act.

1 Securities so transferred shall be only those acceptable to the
2 board. Securities not so acceptable shall be converted into
3 cash, and said cash transferred to the fund created by this act.
4 In any such transfer, provision shall be made to credit the
5 accumulated deductions of each member, at least the amount he
6 has paid into the retirement or pension system of the
7 municipality, which moneys shall be credited against the prior
8 service contributions of such member, or a municipality may turn
9 over to the retirement system created by this act any existing
10 local pension system on a completely funded basis, as to
11 pensioners and pension credits of members related to prior
12 service to the date of transfer, or on a partially funded basis
13 if the municipality pays annually into the retirement system
14 amounts sufficient to completely liquidate the municipality's
15 liability for prior service within a period not to exceed thirty
16 years.

17 No liability, on account of retirement allowances or pensions
18 being paid from any retirement or pension fund of the
19 municipality, shall attach against the fund, except as provided
20 in the agreement, making a transfer of an existing system in
21 accordance with this section. The liability to continue payment
22 of pensions not so transferred shall attach against the
23 municipality, which shall annually make appropriations from its
24 tax revenues sufficient to pay the same. In cases where workers
25 covered by an existing retirement or pension system elect to
26 join the system created by this act, the election to join shall
27 be deemed to have been made at the time the municipality elected
28 to join the system, and the liabilities of the municipality
29 shall be fixed accordingly.

30 If a municipality elects to join the system under the

1 provisions of this Article II, then each officer other than
2 elected officers, and each municipal employe [thereof other than
3 a municipal fireman and a municipal policeman,] employed on a
4 [permanent] full-time basis, except one who is not eligible for
5 Federal Social Security coverage and except one who is covered
6 by an existing retirement or pension system and is exempted as
7 outlined above, shall be required to become a member of the
8 system. Each municipality shall determine whether membership in
9 said system for elected officials and employes hired on a
10 temporary [or seasonal], seasonal or part-time basis shall be
11 compulsory, optional or prohibited. Where membership may be
12 optional with an elected officer or an employe hired on a
13 temporary [or seasonal], seasonal or part-time basis, an
14 election to join the system must be made within one year after
15 the municipality elected to join the system or within one year
16 after the officer or temporary [or seasonal], seasonal or part-
17 time employe first entered the service of the municipality.
18 Officers and employes paid only on a fee basis shall not be
19 eligible to join the system.

20 When a municipality has established a policy of placing new
21 employes on a probationary status it may elect to refrain from
22 enrolling such employes into the system for a period of up to
23 one year from the date the probationary employe first entered
24 the service of the municipality. In such cases service credits
25 shall not be earned by the employe for probationary time served
26 prior to enrollment.

27 Notwithstanding any other provision herein, the board may, in
28 its discretion, entertain a request from a municipality to join
29 the system established by this act for those employes who are
30 excluded from local pension plan coverage by virtue of the

1 collective bargaining process or otherwise. The request to join
2 the system must be accompanied by an affirmative vote of no less
3 than three-fourths of those employes not covered by the local
4 pension plan. The benefits to be established may be in
5 accordance with the provisions of this article or any other
6 relevant pension law covering that class of municipality. The
7 other requirements of this section for joining this system shall
8 be observed.

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

11 Section 207. Withdrawal; Return to Service; Death in
12 Service.-- * * *

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

1 (\$5,000) or such other maximum as the board may establish in any
2 calendar year he shall not be entitled to receive his retirement
3 allowance for that month or any subsequent month in the calendar
4 year in which he continues in service. The municipality is
5 required to notify the board immediately of the reemployment
6 status of any retired former employe and file separate monthly
7 reports of his gross earnings as prescribed by the board.

8 * * *

9 Section 4. Section 402 of the act, amended May 17, 1980
10 (P.L.135, No.50), is amended to read:

11 Section 402. Existing Local Retirement Systems and
12 Compulsory and Optional Membership.--Where a municipality elects
13 to join the system established by this act, and is then
14 maintaining a retirement or pension system or systems covering
15 its employes in whole or in part, those employes so covered, and
16 employes thereafter eligible to join such pension system, shall
17 not become members of the retirement system established by this
18 act, unless at the time the municipality elects to join the
19 system, the members of each such existing retirement or pension
20 system shall, by the affirmative vote of seventy-five per cent
21 of all the members of each pension system, elect to be covered
22 by the retirement system established by this act. At any time
23 thereafter, within a period of three years after the
24 municipality has elected to join the system, but not thereafter,
25 the members of an existing retirement or pension system may, in
26 like manner, elect to join the system established by this act.
27 In any such case, provisions may be made for the transfer of
28 moneys and securities in its retirement or pension fund or
29 funds, in whole or in part, to the fund established by this act.
30 Securities so transferred shall be only those acceptable to the

1 board. Securities not so acceptable shall be converted into
2 cash, and said cash transferred to the fund created by this act.
3 In any such transfer, provision shall be made to credit the
4 accumulated deductions of each member, at least the amount he
5 has paid into the retirement or pension system of the
6 municipality, which moneys shall be credited against the prior
7 service contributions of such member, or a municipality may turn
8 over to the retirement system created by this act any existing
9 local pension system on a completely funded basis, as to
10 pensioners and pension credits of members related to prior
11 service to the date of transfer, or on a partially funded basis
12 if the municipality pays annually into the retirement system
13 amounts sufficient to completely liquidate the municipality's
14 liability for prior service within a period not to exceed thirty
15 years.

16 No liability, on account of retirement allowances or pensions
17 being paid from any retirement or pension fund of the
18 municipality, shall attach against the fund, except as provided
19 in the agreement, making a transfer of an existing system in
20 accordance with this section. The liability to continue payment
21 of pensions not so transferred shall attach against the
22 municipality, which shall annually make appropriations from its
23 tax revenues sufficient to pay the same. In cases where workers
24 covered by an existing retirement or pension system elect to
25 join the system created by this act, the election to join shall
26 be deemed to have been made at the time the municipality elected
27 to join the system, and the liabilities of the municipality
28 shall be fixed accordingly.

29 If a municipality elects to join the system under the
30 provisions of this Article IV, it shall first negotiate a

1 contract with the board, acceptable to both the municipality and
2 the board, which shall set forth all the specific details of
3 municipal and member contribution rates and benefits. The
4 municipality shall then pass an ordinance or resolution electing
5 to join the system, and confirming the terms of the contract by
6 reference thereto. Separate contracts and separate resolutions
7 shall be executed for each class of employes, namely municipal
8 employes, municipal firemen and municipal police in those cases
9 where the municipality elects to bring more than one class of
10 its employes into the system.

11 When a municipality elects to enroll its municipal employes
12 into the system, then each officer other than elected officers,
13 and each municipal employe thereof, employed on a [permanent]
14 full-time basis, shall be required to become a member of the
15 system. Each municipality shall determine whether membership in
16 said system for elected officials and employes hired on a
17 temporary [or seasonal], seasonal or part-time basis shall be
18 compulsory, optional or prohibited. Where membership may be
19 optional with an elected officer or an employe hired on a
20 temporary [or seasonal], seasonal or part-time basis, an
21 election to join the system must be made within one year after
22 the municipality elected to join the system or within one year
23 after the officer or temporary [or seasonal], seasonal or part-
24 time employe first entered the service of the municipality.
25 Officers and employes paid only on a fee basis shall not be
26 eligible to join the system.

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

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

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

21 Section 406. Withdrawal; Return to Service; Death in
22 Service.-- * * *

23 (c) Should a person who has been retired on a retirement
24 allowance under this act, return to employment on a regular
25 full-time basis in the same municipality, his retirement
26 allowance shall cease, and in the case of an annuity, other than
27 a disability annuity, the present value of such annuity shall be
28 frozen as of the date such annuity ceases. Upon subsequent
29 discontinuance of service, such member, other than a former
30 disability annuitant, shall be entitled to an annuity which is

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

18 * * *

19 ~~Section 6. This act shall apply to employees hired after the~~ <—
20 ~~effective date of this act.~~

21 SECTION 6. THIS ACT SHALL BE APPLICABLE ONLY TO ACTIVE <—
22 EMPLOYEES OF A MUNICIPALITY AND SHALL NOT BE CONSTRUED TO GRANT
23 RIGHTS OR PRIVILEGES TO INDIVIDUALS NO LONGER EMPLOYED BY THE
24 MUNICIPALITY PARTICIPATING IN THE SYSTEM.

25 Section 7. This act shall take effect immediately.