

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 129 Session of 2009

INTRODUCED BY KILLION, MUSTIO, SWANGER AND VULAKOVICH,
JANUARY 30, 2009

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 30, 2009

AN ACT

1 Amending the act of December 18, 1984 (P.L.1005, No.205),
2 entitled "An act mandating actuarial funding standards for
3 all municipal pension systems; establishing a recovery
4 program for municipal pension systems determined to be
5 financially distressed; providing for the distribution of the
6 tax on the premiums of foreign fire insurance companies; and
7 making repeals," further providing for definitions, for
8 contents of actuarial valuation report, for minimum funding
9 standards and for revision of financing; and providing for
10 deferred retirement option plans in local governments.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The title of the act of December 18, 1984 (P.L.
14 1005, No.205), known as the Municipal Pension Plan Funding
15 Standard and Recovery Act, is amended to read:

AN ACT

17 Mandating actuarial funding standards for all municipal pension
18 systems; establishing a recovery program for municipal
19 pension systems determined to be financially distressed;
20 providing for the distribution of the tax on the premiums of
21 foreign fire insurance companies; providing for the
22 establishment and administration of deferred retirement

option plans in local governments; and making repeals.

Section 2. The definition of "municipal employee" in section 102 of the act is amended and the section is amended by adding definitions to read:

Section 102. Definitions.

Except as provided in Chapter 7, the following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"DROP." A deferred retirement option plan created and operated by a local government or the Pennsylvania Municipal Retirement System under Chapter 11 or any deferred retirement option plan or similar program established by a local government that provides for the commencement and accumulation of retirement benefit payments for active employees with disbursement of the accumulated payments and interest earnings as a lump sum upon termination of employment.

"DROP participant." A retired member of a local government-defined benefit pension plan who is eligible to participate in a DROP under section 1112, who has elected to participate in a DROP under section 1113 and who is not an elected official.

"DROP participant account." A pension trust fund ledger account established under section 1121(a).

* * *

"Local government." A municipality or any county.

* * *

"Municipal employee." Any person [other than an independent contractor] who provides regular services for a municipality in return for compensation from the municipality. The term does not

1 include an independent contractor or a DROP participant.

2 * * *

3 Section 3. Section 202(b) of the act, amended July 15, 2004
4 (P.L.715, No.81), is amended to read:

5 Section 202. Contents of actuarial valuation report.

6 * * *

7 (b) Contents of actuarial exhibits; defined benefit plans
8 self-insured in whole or in part.--For any pension plan which is
9 a defined benefit plan and which is self-insured in whole or in
10 part, all applicable actuarial exhibits shall be prepared in
11 accordance with the entry age normal actuarial cost method with
12 entry age established as the actual entry age for all plan
13 members unless the municipality applies for and is granted
14 authorization by the commission to use an alternative actuarial
15 cost method. Authorization shall be granted if the municipality
16 demonstrates on an individual pension plan basis that there are
17 compelling reasons of an actuarial nature for the use of an
18 alternative actuarial cost method. The commission shall issue
19 rules and regulations specifying the criteria which the
20 commission will use to determine the question of the existence
21 of compelling reasons for the use of an alternative actuarial
22 cost method, the documentation which a municipality seeking the
23 authorization will be required to supply and the acceptable
24 alternative actuarial cost methods which the commission may
25 authorize. The actuarial cost method shall be used to value all
26 aspects of the benefit plan or plans of the pension plan unless
27 the municipality applies for and is granted authorization by the
28 commission to use approximation techniques other than the
29 actuarial cost method for aspects of the benefit plan or plans
30 of the pension plan other than the retirement benefit.

1 Authorization shall be granted if the municipality demonstrates
2 on an individual pension plan basis that there are compelling
3 reasons of an actuarial nature for the use of these
4 approximation techniques. The commission shall issue rules and
5 regulations specifying the criteria which the commission will
6 use to determine the question of the existence of compelling
7 reasons for the use of approximation techniques, the
8 documentation which a municipality seeking the authorization
9 will be required to supply and the acceptable approximation
10 technique which the commission may authorize. The actuarial
11 exhibits shall use actuarial assumptions which are, in the
12 judgment of the actuary and the governing body of the plan, the
13 best available estimate of future occurrences in the case of
14 each assumption. With respect to economic actuarial assumptions,
15 the assumptions shall either be within the range specified in
16 rules and regulations issued by the commission or documentation
17 explaining and justifying the choice of assumptions outside the
18 range shall accompany the report. The actuarial exhibits shall
19 measure all aspects of the benefit plan or plans of the pension
20 plan in accordance with modifications in the benefit plan or
21 plans, if any, and salaries which as of the valuation date are
22 known or can reasonably be expected to be in force during the
23 ensuing plan year. In preparing the actuarial exhibits or any
24 actuarial valuation report, the municipality shall exclude the
25 compensation of all DROP participants from the active member
26 payroll, all DROP participants from active member data and the
27 balance in the DROP participant account from the assets of the
28 pension trust fund. The actuarial valuation report shall contain
29 the following actuarial exhibits:

30 (1) An exhibit of the normal cost of the benefits

1 provided by the benefit plan as of the date of the actuarial
2 valuation, expressed as a percentage of the future covered
3 payroll of the active membership of the pension plan as of
4 the date of the actuarial valuation.

5 (2) An exhibit of the actuarial accrued liability of the
6 benefit plan as of the date of the actuarial valuation in
7 total which shall be the actuarial present value of all
8 projected benefits provided by the benefit plan reduced by
9 the actuarial present value of future normal costs, and in
10 particular, which shall include the following required
11 actuarial present values for pension plan benefits of related
12 items:

13 (i) Required actuarial present values on account of
14 active members:

15 (A) Retirement benefits.

16 (B) Disability benefits.

17 (C) Survivor benefits.

18 (D) Refund liability due to withdrawal from
19 active service or death.

20 (E) Other benefits, specifying the nature of
21 each type.

22 This item shall include a footnote indicating the amount
23 of accumulated member contributions without accrued
24 interest.

25 (ii) Required actuarial present values on account of
26 former members with a deferred, vested or otherwise
27 nonforfeitable right to a retirement benefit.

28 (iii) Required actuarial present values on account
29 of former members who do not have a deferred, vested or
30 otherwise nonforfeitable right to the retirement benefit

1 and who have not withdrawn any accumulated member
2 contributions.

3 (iv) Required actuarial present values on account of
4 benefit recipients:

5 (A) Retirement benefits.

6 (B) Disability benefits.

7 (C) Surviving spouse benefits.

8 (D) Surviving child benefits.

9 (E) Other benefits, specifying the nature of
10 each type.

11 (v) Required actuarial present values for other
12 benefits provided by the benefit plan, specifying the
13 nature of each type.

14 (vi) Actuarial present value of future normal cost.

15 (3) An exhibit of the unfunded actuarial accrued
16 liability of the pension plan in total, which shall be the
17 actuarial accrued liability of the pension plan calculated
18 pursuant to paragraph (2) less the actuarial value of assets
19 of the pension plan calculated pursuant to subsection (e)(1),
20 and which, in particular, shall include the following:

21 (i) The remaining balance of the unfunded actuarial
22 accrued liability in existence as of the first actuarial
23 valuation report required by this section occurring next
24 following the date of enactment of this section.

25 (ii) The remaining balance of each increment of
26 unfunded actuarial accrued liability attributable to
27 modifications in the benefit plan governing the pension
28 plan which were applicable to active members, separately
29 indicating each and designating each by the plan year in
30 which the benefit plan modification was made effective.

1 (iii) The remaining balance of each increment of
2 unfunded actuarial accrued liability attributable to
3 modifications in the benefit plan governing the pension
4 plan which were applicable to retired members and other
5 benefit recipients, separately indicating each and
6 designating each by the plan year in which the benefit
7 plan modification was made effective.

8 (iv) The remaining balance of each increment of net
9 unfunded actuarial accrued liability attributable to
10 modifications in the actuarial assumptions used to
11 calculate the actuarial accrued liability of the pension
12 plan separately indicating each and designating each by
13 the plan year in which the actuarial assumption
14 modification was made effective.

15 (v) The remaining balance of each increment or
16 decrement of net unfunded actuarial accrued liability
17 attributable to net actuarial experience losses or gains,
18 separately indicating each and designating each by the
19 plan year in which the actuarial experience loss or gain
20 was recognized.

21 (vi) The remaining balance of each increment of
22 unfunded actuarial accrued liability attributable to the
23 provision of survivor benefits payable under section 5(e)
24 (2) of the act of May 29, 1956 (1955 P.L.1804, No.600),
25 referred to as the Municipal Police Pension Law,
26 separately indicating each and designating each by the
27 plan year in which the actuarial experience loss was
28 recognized.

29 The initial determination of the unfunded actuarial accrued
30 liability attributable to a modification in the benefit plan

governing the pension plan or to a modification in the actuarial assumptions used to calculate the actuarial accrued liability of the pension plan shall be made by calculating the unfunded actuarial accrued liability of the pension plan in accordance with the benefit plan provisions and actuarial assumptions which were in effect prior to the modification and by calculating the unfunded actuarial accrued liability of the pension plan in accordance with the modification in the provisions of the benefit plan governing the pension plan or the actuarial assumptions used to calculate the actuarial accrued liability of the pension plan, whichever is applicable, and the remaining benefit plan provisions and actuarial assumptions. The initial determination of the unfunded actuarial accrued liability attributable to an actuarial loss shall be made in conjunction with the analysis of increases or decreases in the unfunded actuarial accrued liability of the pension plan required pursuant to paragraph (6).

(4) An exhibit of any additional funding costs associated with the amortization of any unfunded actuarial accrued liability of the pension plan, indicating for each increment of unfunded actuarial accrued liability specified in paragraph (3), the level annual dollar contribution required to pay an amount equal to the actuarial assumption as to investment earnings applied to the principal amount of the remaining balance of the increment of unfunded actuarial accrued liability and to retire by the applicable amortization target date specified in this paragraph the principal amount of the remaining balance of the increment of unfunded actuarial accrued liability. The amortization target

1 date applicable for each type of increment of unfunded
2 actuarial accrued liability shall be as follows:

3 (i) (A) In the case of a pension plan established
4 on or prior to January 1, 1985 for the unfunded
5 actuarial accrued liability in existence as of the
6 beginning of the plan year occurring in calendar year
7 1985, at the end of the plan year occurring in
8 calendar year 2015; or

9 (B) In the case of a pension plan established
10 after January 1, 1985, for the unfunded actuarial
11 accrued liability then or subsequently determined to
12 be or to have been in existence as of the date of the
13 establishment of the plan, at the end of the plan
14 year occurring 30 years after the calendar year in
15 which the pension plan was established.

16 (ii) Increment or decrement of net unfunded
17 actuarial accrued liability attributable to a change in
18 actuarial assumptions, at the end of the plan year
19 occurring 20 years after the calendar year in which
20 actuarial assumption modification was effective.

21 (iii) Increment of net unfunded actuarial accrued
22 liability attributable to a modification in the benefit
23 plan applicable to active members, at the end of the plan
24 year occurring 20 years after the calendar year in which
25 the benefit plan modification was effective.

26 (iv) Increment of unfunded actuarial accrued
27 liability attributable to a modification in the benefit
28 plan applicable to retired members and other benefit
29 recipients, at the end of the plan year occurring 10
30 years after the calendar year in which the benefit plan

1 modification was effective.

2 (v) (A) Increment or decrement of net unfunded
3 actuarial accrued liability attributable to an
4 actuarial experience loss or gain, at the end of plan
5 year occurring 15 years after the calendar year in
6 which the actuarial experience loss or gain was
7 recognized.

8 (B) Notwithstanding any other provision of this
9 act or other law, as of the beginning of the plan
10 year occurring in calendar year 2003, the outstanding
11 balance of the increment of unfunded actuarial
12 accrued liability attributable to the net actuarial
13 investment losses incurred in calendar years 2001 and
14 2002 may, at the sole discretion of the municipality,
15 be amortized with the amortization target date being
16 the end of the plan year occurring 30 years after
17 January 1, 2003. In order for a municipality to
18 extend the applicable amortization period pursuant to
19 this clause, the municipality must file a revised
20 actuarial valuation report reflecting the
21 amortization period extension provided for under this
22 clause with the executive director of the commission
23 no later than September 30, 2004. Any such revised
24 actuarial valuation report may not be filed in lieu
25 of the actuarial valuation report prepared in
26 compliance with clause (A) and required to be filed
27 on or before March 31, 2004, and may be used only for
28 the purposes of recalculating the 2004 minimum
29 municipal obligation of the municipality and
30 calculating the 2005 minimum municipal obligation of

1 the municipality to reflect the amortization period
2 extension. Any such revised actuarial valuation
3 report shall not affect distributions under the
4 General Municipal Pension System State Aid Program
5 under Chapter 4.

6 (vi) Increment of unfunded actuarial accrued
7 liability attributable to the provision of survivor
8 benefits payable under section 5(e)(2) of the Municipal
9 Police Pension Law at the end of the plan year occurring
10 40 years after the calendar year in which the survivor
11 benefits were first payable.

12 With respect to any applicable pension plan other than a plan
13 which comprises all or part of a moderately distressed or a
14 severely distressed municipal pension system, if the
15 remaining average period between the current average attained
16 age of active members as of the valuation date and the later
17 of their earliest average normal retirement age or their
18 average assumed retirement age is less than the applicable
19 period or periods ending with the amortization target date or
20 dates specified in subparagraph (i), (ii), (iii) or (v)(A),
21 the appropriate amortization target date for the applicable
22 subparagraph determined with reference to the longest
23 applicable remaining average period rounded to the next
24 largest whole number shall be used. With respect to any plan
25 year beginning after December 31, 1997, if, as of the
26 beginning of the plan year, the ratio of the actuarial value
27 of assets to the actuarial accrued liability exceeds 0.70 and
28 the governing body of the municipality has passed a
29 resolution to irrevocably commit the municipality to apply
30 the limit on the additional funding costs, as provided

herein, in the preparation of the current and all future exhibits under this paragraph, then the sum of the additional funding costs for subparagraphs (i), (ii), (iii), (iv) and (v) above shall not exceed the amount required to amortize the remaining unfunded actuarial accrued liability as of the beginning of the plan year over 10 years in level annual dollar contributions. The exhibit shall indicate the total dollar amount of additional funding costs associated with the amortization of any unfunded actuarial accrued liability of the pension plan applicable for that plan year and any subsequent plan year occurring prior to the preparation of the next required actuarial valuation report, which shall be the total of the additional funding costs associated with the amortization of each increment of unfunded actuarial accrued liability. The exhibit shall also indicate the plan year in which any unfunded actuarial accrued liability of the pension plan would be fully amortized if the total annual additional funding cost calculated pursuant to this paragraph were met continuously without increase or decrease in amount until the total unfunded actuarial accrued liability currently existing was fully amortized. In calculating the additional funding costs associated with the amortization of any unfunded actuarial accrued liability of the pension plan in any plan year, any amortization contribution made in the interval since the last actuarial valuation report shall be allocated to each type of increment of unfunded actuarial accrued liability in proportion to the remaining dollar amount of each type.

(5) An exhibit of the total administrative cost of the pension plan for the plan year occurring immediately prior to

1 the plan year for which the actuarial valuation report is
2 made.

3 (6) An exhibit containing an analysis of the increase or
4 decrease in the unfunded actuarial accrued liability of the
5 pension plan since the most recent prior actuarial valuation
6 report, including specifically an indication of increases or
7 decreases due to the following:

8 (i) Modifications in the benefit plan or plans of
9 the pension plan.

10 (ii) Changes in actuarial assumptions.

11 (iii) Deviations in the actual experience of the
12 pension plan from the experience expected by virtue of
13 the actuarial assumptions.

14 (iv) Presence or absence of payments to amortize the
15 unfunded accrued liability of the pension plan.

16 (v) Other reasons.

17 The analysis shall be based on the best professional
18 judgment of the approved actuary reached after preparing
19 the various applicable actuarial exhibits of the
20 actuarial valuation report. If, in the opinion of the
21 approved actuary, the inclusion of any portion of this
22 information is not appropriate, that portion of the
23 analysis may be omitted with the provision of adequate
24 explanation or justification of the appropriateness of
25 the omission.

26 (7) An exhibit summarizing the economic and demographic
27 actuarial assumptions used in the preparation of the
28 actuarial exhibits.

29 (8) A summary of the principal provisions of the benefit
30 plan of the pension plan upon which the actuarial exhibits

are based.

* * *

Section 4. Section 302(b) (2) of the act, amended December 18, 1990 (P.L.753, No.189), is amended to read:

Section 302. Minimum funding standard; defined benefit plans self-insured in whole or in part.

* * *

(b) Financial requirements of the pension plan.--

* * *

(2) The normal cost and administrative expense requirements for the following plan year shall be expressed as a dollar amount and shall be determined by applying the normal cost of the benefit plan and the administrative expense payable from the assets attributable to the benefit plan, as reported in the actuarial valuation report of the pension plan and expressed as a percentage of payroll, to the payroll of the active membership of the pension plan as of the date the financial requirements of the pension plan are determined. In expressing the normal cost and administrative expense requirements as a dollar amount, the municipality shall exclude the compensation of all DROP participants from the payroll of the active membership of the pension plan.

* * *

Section 5. Section 402(e) (2) of the act is amended to read:
Section 402. Revision of financing from State revenue sources;
General Municipal Pension System State Aid Program.

* * *

(e) Allocation of general municipal pension system State aid.--

* * *

(2) The applicable number of units shall be attributable to each active employee who was employed on a full-time basis for a minimum of six consecutive months prior to December 31 preceding the date of certification and who was participating in a pension plan maintained by that municipality, provided that the municipality maintains a generally applicable pension plan for that type of employee which was either established on or prior to December 31, 1984, or, if established after December 31, 1984, has been maintained by that municipality for at least three plan years. For the purpose of computing and reporting the applicable number of units, a DROP participant shall not be reported to the Auditor General as an active employee. The applicable number of units per employee attributable to each eligible recipient county of the second class shall be two units for each police officer. The applicable number of units attributable to each eligible recipient city, borough, incorporated town and township shall be as follows:

(i) Police officer - two units.

(ii) Firefighter - two units.

(iii) Employee other than police officer or firefighter - one unit.

* * *

Section 6. The act is amended by adding a chapter to read:

CHAPTER 11

DEFERRED RETIREMENT OPTION PLANS LAW

SUBCHAPTER A

PRELIMINARY PROVISIONS

Section 1101. Short title.

This chapter shall be known and may be cited as the Deferred

1 Retirement Option Plans Law.

2 Section 1102. Declaration of purpose.

3 It is the purpose of this chapter to provide for a deferred
4 retirement option plan under which an eligible member of the
5 local government's retirement system may elect to participate in
6 a DROP, defer receipt of retirement system benefits and continue
7 employment with the local government.

8 Section 1103. Definitions.

9 The following words and phrases when used in this chapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Normal retirement benefit." The retirement benefit payable
13 to a member of a defined benefit pension plan on or after the
14 date on which the member first satisfies the age and service
15 requirements for full, unreduced retirement benefits, including
16 supplemental amounts provided to the member after retirement as
17 cost-of-living increases.

18 "Subsidiary DROP participant account." The separate,
19 interest-bearing, subsidiary DROP participant account
20 established for a DROP participant under section 1121.

21 Section 1104. Employment status.

22 Participation in a DROP does not guarantee the DROP
23 participant's employment by the local government during the
24 specified period of the DROP.

25 SUBCHAPTER B

26 GENERAL PROVISIONS

27 Section 1111. Establishment of DROP.

28 (a) Local governments.--A local government that has
29 established or maintains a defined benefit pension plan for a
30 group of its employees which is self-insured in whole or in part

1 under section 202(b), except for a local government that has
2 joined the Pennsylvania Municipal Retirement System, may
3 establish by ordinance a DROP for those employees as part of the
4 pension plan. The ordinance establishing the DROP shall specify
5 a uniform participation period for the DROP that is not more
6 than five years in duration.

7 (b) Pennsylvania Municipal Retirement System participants.--
8 A local government that has established or maintains a defined
9 benefit plan for a group of its employees which is self-insured
10 in whole or in part under section 202(b) and has joined the
11 Pennsylvania Municipal Retirement System may establish a DROP
12 for those employees as a part of the pension plan only through
13 participation in the DROP established and administered by the
14 Pennsylvania Municipal Retirement System.

15 (c) Pennsylvania Municipal Retirement System standards.--The
16 Pennsylvania Municipal Retirement Board shall establish a DROP
17 for local government-defined benefit pension plans that have
18 joined the Pennsylvania Municipal Retirement System. The DROP so
19 established shall be uniform, in compliance with the provisions
20 of this chapter, open to any local government and applicable to
21 any of the defined benefit pension plans administered by the
22 Pennsylvania Municipal Retirement System.

23 Section 1112. Eligibility of member to participate in DROP.

24 An active member of a local government retirement system that
25 has a DROP as a part of its defined benefit pension plan who is
26 eligible for a normal retirement benefit under the pension plan
27 or will be eligible for a normal retirement benefit under the
28 pension plan prior to participation in the DROP and who is not
29 an elected official is eligible to participate in the DROP by
30 filing a written application with the retirement system at least

30 days before the member's effective date of retirement.

Section 1113. Participation in DROP.

(a) Election by an active member.--An eligible active member may elect to participate in a DROP for the period specified in the ordinance establishing the DROP.

(b) DROP participation election.--Upon deciding to participate in a DROP, a member shall submit on forms provided and required by the retirement system:

(1) A binding and irrevocable letter of resignation from regular employment with the local government that discloses the member's intent to retire and specifies the member's retirement date.

(2) An irrevocable written election to participate in the DROP that:

(i) Details a DROP participant's rights and obligations under the DROP.

(ii) Includes an agreement to forgo:

(A) Active membership in the retirement system.

(B) Any growth in the salary base used for calculating the regular retirement benefit.

(C) Any additional benefit accrual for retirement purposes, including length-of-service increments.

(iii) Specifies the effective date of DROP participation that shall be the day after the specified retirement date.

(iv) Specifies the DROP termination date that satisfies the limitation in subsection (a).

(3) Any other information required by the retirement system.

1 (c) DROP termination.--

2 (1) A DROP participant may change the DROP termination
3 date to an earlier date within the limitations of subsection
4 (a). No penalty shall be imposed for early termination of
5 DROP participation.

6 (2) Upon either early or regular termination of DROP
7 participation:

8 (i) The DROP participant shall be separated from
9 employment by the local government.

10 (ii) The retirement system shall pay the balance in
11 the DROP participant's subsidiary DROP participant
12 account to the terminating DROP participant as provided
13 in section 1114(d).

14 (iii) The DROP participant shall be ineligible to
15 reenroll in the DROP thereafter even if the former DROP
16 participant is reemployed by the local government with
17 renewed active membership in the retirement system.

18 Section 1114. Benefits payable under DROP.

19 (a) Fixing retirement benefit, retirement date, retirement
20 benefits and DROP dates.-- Effective with the date of
21 retirement, which shall be the day before the effective date of
22 DROP participation, the member's monthly, normal retirement
23 benefit under the pension plan, the member's effective date of
24 retirement and the member's effective dates of beginning and
25 terminating employment as a DROP participant shall be fixed.

26 (b) Effective dates of DROP participation.--

27 (1) A retired member's effective date of participation
28 in a DROP shall begin the day following the effective date of
29 the member's regular retirement.

30 (2) A retired member's participation in a DROP shall end

1 on the last day of the participation period specified in the
2 ordinance establishing the DROP that is in effect on the
3 effective date of the retired member's participation in the
4 DROP.

5 (c) Treatment of normal retirement benefit payments and
6 accruals.--All of the retired member's monthly, normal
7 retirement benefit and interest thereon at the assigned rate
8 shall be credited to the DROP participant's subsidiary DROP
9 participant account in the pension trust fund and a separate
10 accounting of the DROP participant's accrued benefit
11 accumulation under the DROP shall be calculated annually and
12 provided to the DROP participant.

13 (d) Payment of DROP benefits.--On the effective date of a
14 DROP participant's termination of employment with the local
15 government as a DROP participant, participation in the DROP
16 shall cease and the retirement system shall calculate and pay to
17 the participant the participant's total accumulated DROP
18 benefits in the DROP participant's subsidiary DROP participant
19 account subject to the following provisions:

20 (1) Except as provided in paragraph (2), the terminating
21 DROP participant or, if deceased, the participant's survivor
22 as provided by the enabling pension statute applicable to the
23 appropriate class of employees of the municipality or, in
24 lieu thereof, the participant's named beneficiary, shall
25 elect on a form provided by the retirement system to receive
26 payment of the DROP benefits in accordance with one of the
27 following options:

28 (i) The balance in the DROP participant's subsidiary
29 DROP participant account less withholding taxes, if any,
30 remitted to the Internal Revenue Service shall be paid

1 within 45 days by the retirement system from the account
2 to the DROP participant or surviving beneficiary.

3 (ii) The balance in the DROP participant's
4 subsidiary DROP participant account shall be paid within
5 45 days by the retirement system from the account
6 directly to the custodian of an eligible retirement plan
7 as defined in section 402(c)(8)(b) of the Internal
8 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
9 402(c)(8)(b)), or, in the case of an eligible rollover
10 distribution to the surviving spouse of a deceased DROP
11 participant, an eligible retirement plan that is an
12 individual retirement account or an individual retirement
13 annuity as described in section 402(c)(9) of the Internal
14 Revenue Code of 1986 (26 U.S.C. § 402(c)(9)).

15 (2) If the DROP participant or beneficiary fails to
16 elect a method of payment within 60 days after the
17 participant's termination date, the retirement system shall
18 pay the balance as a lump sum as provided in paragraph (1).

19 (3) The form of payment selected by the DROP participant
20 or surviving beneficiary shall comply with the minimum
21 distribution requirements of the Internal Revenue Code.

22 (e) Taxation, attachment and assignment of DROP
23 participant's account.--

24 (1) Except as provided in paragraphs (2), (3) and (4),
25 the right of a DROP participant to any benefit or right
26 accrued or accruing under the provisions of this chapter and
27 the moneys in the DROP participant's subsidiary DROP
28 participant account are exempt from any State or municipal
29 tax, levy and sale, garnishment, attachment, spouse's
30 election or any other process whatsoever.

1 (2) Rights under this chapter shall be subject to
2 forfeiture as provided by the act of July 8, 1978 (P.L.752,
3 No.140), known as the Public Employee Pension Forfeiture Act.
4 Forfeitures under this subsection or under any other
5 provision of law may not be applied to increase the benefits
6 that any DROP participant otherwise would receive under this
7 chapter.

8 (3) Rights under this chapter shall be subject to
9 attachment in favor of an alternate payee as set forth in a
10 qualified domestic relations order.

11 (4) (i) Under subsection (d)(1)(ii), a distributee may
12 elect to have an eligible rollover distribution paid
13 directly to an eligible retirement plan by way of a
14 direct rollover.

15 (ii) For purposes of this paragraph, a "distributee"
16 includes a DROP participant, a DROP participant's
17 survivor as provided by the enabling pension statute
18 applicable to the appropriate class of employees of the
19 municipality or, in lieu thereof, the participant's
20 designated beneficiary and a DROP participant's former
21 spouse who is an alternate payee under a qualified
22 domestic relations order.

23 (iii) For purposes of this paragraph, "eligible
24 rollover distribution" has the meaning given the term by
25 section 402(f)(2)(A) of the Internal Revenue Code of 1986
26 (26 U.S.C. § 402(f)(2)(A)), except that a qualified trust
27 shall be considered an eligible retirement plan only if
28 it accepts the distributee's eligible rollover
29 distribution and, in the case of an eligible rollover
30 distribution to a surviving spouse, an eligible

1 retirement plan is an "individual retirement account" or
2 an "individual retirement annuity" as those terms are
3 defined in section 408(a) and (b) of the Internal Revenue
4 Code of 1986 (26 U.S.C. § 408(a) and (b)).

5 (f) Effect of disability pension benefits.--If a DROP
6 participant becomes eligible for a disability pension benefit
7 and terminates employment, the monthly normal retirement benefit
8 of the DROP participant shall terminate.

9 (g) Eligibility for active member benefits.--Except for
10 those benefits specified under section 1113(b)(2)(ii) as forgone
11 by the member, a DROP participant shall be eligible for any
12 employee benefits provided to active employees before retirement
13 as set forth in the ordinance instituting the DROP.

14 (h) Eligibility for benefits otherwise provided by law.--A
15 DROP participant shall be eligible for all preretirement
16 benefits for employees otherwise provided by law, including, but
17 not limited to, benefits under:

18 (1) the act of June 2, 1915 (P.L.736, No.338), known as
19 the Workers' Compensation Act;

20 (2) the act of June 28, 1935 (P.L.477, No.193), referred
21 to as the Enforcement Officer Disability Benefits Law;

22 (3) the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.
23 2897, No.1), known as the Unemployment Compensation Law;

24 (4) the act of June 24, 1976 (P.L.424, No.101), referred
25 to as the Emergency and Law Enforcement Personnel Death
26 Benefits Act; and

27 (5) the Public Safety Officers' Benefit Act of 1976
28 (Public Law 94-430, 42 U.S.C. § 90 Stat. 1347).

29 Section 1115. Death benefits under DROP.

30 (a) DROP benefits for named beneficiary.--If a DROP

1 participant dies, the DROP participant's named beneficiary shall
2 be entitled to apply for and receive the benefits accrued in the
3 DROP participant's subsidiary DROP participant account as
4 provided in section 1114(d).

5 (b) Final credited monthly retirement benefit.--The monthly
6 retirement system benefit accrued in the DROP participant's
7 subsidiary DROP participant account during the month of a DROP
8 participant's death shall be the final monthly retirement system
9 benefit credited for DROP participation.

10 (c) DROP eligibility terminates upon participant's death.--A
11 DROP participant's eligibility to participate in the DROP
12 terminates upon the death of the DROP participant. If a DROP
13 participant dies on or after the effective date of participation
14 in the DROP but before the monthly retirement system benefit of
15 the participant accruable for the month has accrued in the DROP
16 participant's subsidiary DROP participant account, the local
17 government shall pay the monthly retirement system benefits as
18 though the participant had not elected DROP participation and
19 had died after the member's effective date of retirement but
20 before receipt of the retired member's first regular retirement
21 benefit.

22 (d) Survivors ineligible for active member's death
23 benefit.--Except for those benefits specifically payable as a
24 result of death incurred in the course of performing a hazardous
25 public duty, the survivors of a DROP participant who dies shall
26 not be eligible to receive retirement system death benefits
27 payable in the event of the death of an active member.

28 (e) Survivors eligible for retired member's death benefit.--
29 The DROP participant's survivor shall be eligible to receive
30 retirement system death benefits normally payable in the event

1 of the death of a retired employee.

2 Section 1116. Subsequent employment and renewal of active
3 membership.

4 After both the termination of a DROP participant's employment
5 as a DROP participant by the local government and the expiration
6 of the DROP participation period, a former DROP participant
7 shall be subject to such reemployment limitations as other
8 retired members and shall be eligible for renewed membership as
9 an active member in the local government employees' retirement
10 system.

11 SUBCHAPTER C

12 ADMINISTRATIVE PROVISIONS

13 Section 1121. DROP participant account.

14 (a) General rule.--If a local government creates a DROP, it
15 shall establish a DROP participant account as an interest-
16 bearing ledger account in its pension trust fund. The account
17 balance shall be accounted for separately but need not be
18 physically segregated from other pension trust fund assets.

19 (b) Subsidiary DROP participant accounts.--A separate
20 interest-bearing subsidiary DROP participant account shall be
21 established for each DROP participant. While a retired member is
22 employed as a DROP participant, the member's monthly, normal
23 retirement benefit and interest thereon shall be credited to the
24 DROP participant's subsidiary DROP participant account under
25 section 1114(c). The interest shall be compounded and credited
26 monthly at an annual rate specified in the ordinance
27 establishing the DROP that shall be not less than 1% nor more
28 than 4 1/2%.

29 (c) Termination of employment.--

30 (1) When a DROP participant terminates employment with

1 the local government as a DROP participant, the DROP
2 participant's total accumulated benefits shall be calculated,
3 charged to the DROP participant account and paid out of the
4 pension trust fund under section 1114(d) (2).

5 (2) Under section 202(b), the balance in the DROP
6 participant account shall be excluded from actuarial
7 valuation reports of the retirement system prepared and filed
8 under this act.

9 (d) Account held in trust.--A DROP participant account shall
10 be held in trust for the exclusive benefit of DROP retired
11 members who are or were DROP participants and for the
12 beneficiaries of the members.

13 Section 1122. Audit of Pennsylvania Municipal Retirement
14 System.

15 The DROP established by the Pennsylvania Municipal Retirement
16 Board shall be subject to financial and compliance audits
17 conducted by the Auditor General with the initial audit
18 conducted within one year of establishment of the DROP.

19 Section 1123. Existing DROPs.

20 A local government that established a DROP prior to or on the
21 effective date of this section that does not conform to the
22 provisions of this chapter shall amend its plan within 180 days
23 of the effective date of this section or when the current labor-
24 management contract creating the plan expires, whichever is
25 later, to conform with the provisions of this chapter with
26 respect to future DROP participants.

27 Section 1124. Noncompliance.

28 (a) General rule.--If a local government that established a
29 DROP under section 1111(a) or the Pennsylvania Municipal
30 Retirement Board that established a DROP under section 1111(c)

1 fails to comply within 90 days with a finding by the Auditor
2 General of noncompliance with this chapter or if the finding is
3 appealed within 90 days of conclusion of the appeal process, the
4 failure to comply shall be deemed sufficient refusal by the
5 local government or the Pennsylvania Municipal Retirement Board
6 to comply with its duty antecedent to the commencement of a
7 mandamus action and the Auditor General shall refer the finding
8 to the Attorney General.

9 (b) Mandamus action.--Upon receipt of the finding from the
10 Auditor General, the Attorney General, following an
11 administrative proceeding in accordance with 2 Pa.C.S. (relating
12 to administrative law and procedure), shall proceed in the name
13 of the Commonwealth to institute a legal proceeding for mandamus
14 and no other remedy at law shall be deemed to be sufficiently
15 adequate and appropriate to bar the commencement of this action.

16 Section 7. This act shall take effect in 60 days.