

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2493 Session of 2010

INTRODUCED BY EACHUS AND D. EVANS, MAY 5, 2010

REFERRED TO COMMITTEE ON APPROPRIATIONS, MAY 5, 2010

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 implementation
 24 provisions for Deferred Retirement Option Plans and for
 25 corrective measures for maintaining tax qualified status of
 26 the Pennsylvania Municipal Retirement System.

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

29 Section 1. The definitions of "annuitant," "member" and
 30 "regular interest" in section 102 of the act of February 1, 1974

1 (P.L.34, No.15), known as the Pennsylvania Municipal Retirement
2 Law, are amended and the section is amended by adding
3 definitions to read:

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

5 * * *

6 "Alternate payee" means a spouse, former spouse, child or
7 dependent of a member, who is recognized by an approved domestic
8 relations order as having a right to receive all or a portion of
9 the money payable to the member under this act.

10 "Annuitant" means a [former contributor in receipt of a
11 superannuation retirement allowance or other benefit provided by
12 this act] member during the time period:

13 (1) beginning with the effective date of the member's
14 retirement; and

15 (2) ending on the date of termination of the member's
16 annuity.

17 "Approved domestic relations order" means a domestic
18 relations order which has been approved under this act.

19 * * *

20 "Compensation" means remuneration actually received for
21 services rendered as a municipal employee, municipal fire
22 fighter or municipal police officer, excluding reimbursement for
23 expenses incidental to employment. The following apply:

24 (1) Compensation shall be adjusted as appropriate to comply
25 with the terms of any contract entered into between the board
26 and the applicable municipality under Article IV.

27 (2) For members who are enrolled in a plan that has adopted
28 the provisions of section 414(h) of the Internal Revenue Code
29 (26 U.S.C. § 414(h)), the term includes a contribution
30 designated as a pickup contribution.

1 (3) Notwithstanding any provision of this act to the
2 contrary, a member's compensation shall not exceed the
3 limitations under section 401(a)(17) of the Internal Revenue
4 Code (26 U.S.C. § 401(a)(17)), as adjusted in accordance with
5 section 401(a)(17)(B) of the Internal Revenue Code (26 U.S.C. §
6 401(a)(17)(B)).

7 (i) The adjustment in effect for a calendar year applies to
8 a period:

9 (A) which begins in the calender year;

10 (B) which does not exceed twelve months; and

11 (C) over which compensation is determined.

12 (ii) If a determination period consists of fewer than twelve
13 months, the compensation limit shall be multiplied by a
14 fraction:

15 (A) the numerator of which is the number of months in the
16 determination period; and

17 (B) the denominator of which is twelve.

18 * * *

19 "Date of termination of service" means:

20 (1) for an active member, the last day of employment in a
21 status covered by the eligibility requirements of the pension
22 plan; and

23 (2) for an inactive member on leave without pay, the date of
24 resignation or the date employment is formally discontinued by
25 the municipality.

26 "Domestic relations order" means any judgment, decree or
27 order, including approval of a property settlement agreement,
28 entered on or after the effective date of this definition by a
29 court of competent jurisdiction pursuant to a domestic relations
30 law which relates to the marital property rights of the spouse

1 or former spouse of a member, including the right to receive all
2 or a portion of the money payable to that member under this act,
3 in furtherance of the equitable distribution of marital assets.
4 The term includes an "order of support" under 23 Pa.C.S. § 4302
5 (relating to definitions) and an order for the enforcement of
6 arrearages under 23 Pa.C.S. § 3703 (relating to enforcement of
7 arrearages).

8 "DROP" means the Deferred Retirement Option Plan established
9 by the board under this act and by a municipality under Chapter
10 11 of the Municipal Pension Plan Funding Standard and Recovery
11 Act.

12 "DROP interest" means the actual rate earned and credited by
13 the board on the subsidiary DROP participant accounts, which
14 shall not be less than zero percent nor more than four and one-
15 half percent, annually.

16 "DROP participant" means an annuitant who has elected to
17 participate in the DROP.

18 "Effective date of retirement" means one of the following:

19 (1) For a member who files an application for an annuity
20 within ninety days after the date of termination of service, the
21 first day following the date of termination of service.

22 (2) For a member who does not file an application for an
23 annuity within ninety days after the date of termination of
24 service, the later of:

25 (i) the date the application is filed; or

26 (ii) the date specified on the application.

27 (3) For a member who applies for a disability retirement,
28 the date certified by the board as the effective date of
29 disability.

30 (4) For a DROP participant, the day before the effective

1 date of DROP participation as determined in accordance with the
2 provisions of this act and Chapter 11 of the Municipal Pension
3 Funding Standard and Recovery Act.

4 * * *

5 "Internal Revenue Code" means the Internal Revenue Code of
6 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

7 * * *

8 "Member" means an individual that is:

9 (1) a municipal officer, employe, fireman or policeman[,];
10 or;

11 (2) an employe of a municipal government association who
12 [has become a member of the Pennsylvania Municipal Retirement
13 System created by this act] is an active member, inactive
14 member, annuitant, disability annuitant or vested member.

15 * * *

16 "Municipal Pension Funding Standard and Recovery Act" means
17 the act of December 18, 1984 (P.L.1005, No.205), known as the
18 Municipal Pension Plan Funding Standard and Recovery Act.

19 * * *

20 "Regular interest" means the rate fixed by the board, from
21 time to time, on the basis of earnings on investments to be
22 applied to the member's accounts, to the municipal accounts and
23 to the retired member's reserve account.

24 * * *

25 "Subsidiary DROP participant account" has the meaning given
26 in section 1102 of the Municipal Pension Funding Standard and
27 Recovery Act.

28 "Subsidiary DROP participant reserve account" means the
29 account maintained for each subsidiary DROP participant account.

30 * * *

1 Section 2. Section 104(10), (12.1), (12.2) and (13) of the
2 act, amended May 17, 1980 (P.L.135, No.50), are amended and the
3 section is amended by adding clauses to read:

4 Section 104. General Powers of the Board.--The board shall:

5 * * *

6 (10) From time to time, with the advice of the Attorney
7 General and the actuary, to adopt and promulgate such rules and
8 regulations as may be required for the proper administration of
9 the fund created by this act and the several accounts
10 thereof[,]; to establish procedures which would permit an
11 eligible retired public safety officer to pay qualified
12 accident, health or long-term care insurance premiums as
13 permitted under section 402(1) of the Internal Revenue Code (26
14 U.S.C. § 402(1)); and to provide for the transaction of the
15 business of the board;

16 * * *

17 (12.1) [From time to time, at the direction of
18 municipalities electing to] In accordance with the plan
19 contract, provide cost-of-living increases from [their] a plan's
20 share of excess investment earnings[, the board shall allocate
21 excess investment earnings to provide additional "cost-of-
22 living" pension benefits] to those members of such
23 municipalities who have already retired. Such allocations shall
24 be made, with the advice of the actuary, on a fully funded basis
25 employing actuarial assumptions which reflect the nature of the
26 liability.

27 (12.2) [From time to time, at the direction of
28 municipalities electing to apply their excess investment
29 earnings to member contributions] In accordance with the plan
30 contract, the board shall allocate excess investment earnings

1 for active members of such municipalities by applying such
2 allocation to member contributions. To the extent that
3 additional liabilities may accrue as a result of such
4 allocation, the actuary shall employ actuarial assumptions, on a
5 fully funded basis, to accurately reflect the nature of the
6 liability generated therefrom.

7 (12.3) Promulgate regulations required for the proper
8 administration of the DROP.

9 (12.4) Establish a subsidiary DROP participant account for
10 each DROP participant, provide for the separate investment and
11 funding of each account and establish a monthly rate of interest
12 to credit the money deposited in each account.

13 (13) Perform such other functions as are required for the
14 execution of the provisions of this act and of other Federal and
15 State law and administer and interpret this act to ensure that
16 the system is maintained as tax qualified under the Internal
17 Revenue Code.

18 Section 3. Section 108 of the act is amended to read:

19 Section 108. Retirement Funds and Accounts.--The
20 Pennsylvania Municipal Retirement Fund shall consist of the
21 money received from municipalities arising from contributions by
22 municipalities, [and] from payroll deductions from salary or
23 compensation of members, and other contributions made by members
24 through the municipality to the system, from DROP participants
25 and from transfers made from municipal retirement or pension
26 systems and credited as provided in this act, and investment
27 earnings thereon.

28 The fund shall be a trust and the assets of the system shall
29 be held in trust. No part of the assets of the system shall be
30 used for or diverted to purposes other than for the exclusive

1 benefit of the members, their spouses or the members'
2 beneficiaries prior to the satisfaction of all liabilities of
3 the system with respect to them. The assets of the fund shall
4 only be used to pay:

5 (1) Benefits to members in accordance with this act.

6 (2) Necessary expenses of the system as established in this
7 act.

8 Contributions made by municipalities toward superannuation
9 retirement and death benefits of members shall be credited to
10 the municipal account of said fund, contributions made by
11 municipalities toward disability retirement of members shall be
12 credited to the total disability reserve account of said fund,
13 retirement benefits paid to DROP participants shall be credited
14 to the subsidiary DROP reserve account and payroll deductions
15 and other contributions of members shall be credited to the
16 member's account of said fund. Transfers made from existing
17 municipal retirement or pension systems shall be credited as
18 provided in this act.

19 The board shall keep separate accounts of each municipality
20 and for each separate class of employes enrolled by that
21 municipality under the several articles of this act, except the
22 total disability reserve account and the retired member's
23 reserve account which shall be maintained as pooled accounts.
24 Each municipality and the members thereof shall be liable to the
25 board for the amount of contributions required to cover the cost
26 of the retirement allowance and other benefits payable to such
27 members.

28 Upon the granting of a superannuation or voluntary or
29 involuntary withdrawal retirement allowance to any contributor,
30 the amount of such contributor's accumulated deductions in the

1 member's account shall lose their status as accumulated
2 deductions and shall be transferred to the retired member's
3 reserve account and the actuarial equivalent of the municipal
4 annuity shall be similarly transferred from the municipal
5 account to the retired member's reserve account.

6 Upon the granting of a superannuation retirement allowance to
7 any DROP participant, the full amount of the DROP participant's
8 monthly retirement benefit shall be deposited monthly to a
9 subsidiary DROP participant account in the subsidiary DROP
10 participant reserve account until the DROP participant
11 terminates employment.

12 Upon the granting of a disability retirement allowance to any
13 contributor, there shall be transferred to the retired member's
14 reserve account the amount of the contributor's accumulated
15 deductions in the member's account, the amount of the equivalent
16 actuarial value to the municipal annuity, and such additional
17 amount from the total disability reserve account as is needed in
18 addition thereto to provide the actuarial equivalent of the
19 total disability allowance to which the contributor is entitled.

20 Section 4. Section 110 of the act, amended May 17, 1980
21 (P.L.135, No.50), is amended to read:

22 Section 110. Management and Investment of Fund; Interest
23 Credits.--(a) The members of the board shall be trustees of the
24 fund, and shall have the exclusive management of said fund, with
25 full power to invest the moneys therein, subject to the terms,
26 conditions, limitations and restrictions imposed by law upon
27 fiduciaries. The said trustees shall have power to hold,
28 purchase, sell, assign, transfer and dispose of any securities
29 and investments in said fund, as well as the proceeds of such
30 investments, and of the money belonging to such fund.

1 (b) The board shall annually allow regular interest to the
2 credit on each contributor's account, municipal account, the
3 retired members reserve account and the total disability reserve
4 account. [In addition, the board shall, after paying expenses,
5 annually allow such excess interest as each municipality deems
6 appropriate to the credit of the municipal accounts, member's
7 accounts, the member's excess investment accounts, retired
8 members reserve accounts and total disability reserve accounts.]
9 The board shall monthly credit DROP interest to the subsidiary
10 DROP participant accounts in accordance with established
11 procedures.

12 (c) The board shall, after deducting money to pay for the
13 appropriate expenses, allow excess interest as each contract
14 provides to the credit of the municipal accounts, member's
15 accounts, the member's excess investment accounts and retired
16 members reserve accounts. Except as provided in a contract, the
17 board shall credit the excess interest to the plan's municipal
18 account.

19 Section 5. Section 111 of the act is amended to read:

20 Section 111. Municipal Guarantee.--The regular interest
21 charges payable, the DROP interest charges payable and the
22 creation and maintenance of the necessary reserves for the
23 payment of the municipal and member's annuities, as to any
24 municipality in accordance with this act, are hereby made the
25 obligation of that municipality.

26 In the case of the failure of a municipality to make payments
27 as required by this act, the Commonwealth shall withhold payment
28 to the municipality of any funds to which the municipality may
29 be entitled for pension purposes. The board may recover any sums
30 due to the fund by suit at law, or other appropriate remedy.

1 Section 6. Section 112 of the act, amended July 5, 2005
2 (P.L.50, No.16), is amended to read:

3 Section 112. Annual Estimates to Municipalities;
4 Administrative Expenses.--The board shall prepare and submit to
5 each municipality, on or before the first day of the third month
6 preceding the commencing of each municipality's fiscal year, an
7 itemized estimate of the amounts necessary to be appropriated by
8 the municipality to complete the payments of the obligations of
9 the municipality to the fund during its next fiscal year.

10 The board shall annually prepare and approve a budget
11 covering the administrative expenses of this act. Such expenses
12 as approved by the board shall be paid from receipts from
13 assessments made against each municipality for administrative
14 expenses. This assessment shall be based on the number of
15 members in each municipality and shall not exceed the sum of
16 twenty dollars (\$20) per member per year. If, in [the calendar
17 years 1995 through 2005] any calendar year, the amount received
18 from such assessments, when imposed at the maximum rate, is not
19 sufficient to cover the administrative expenses, then the
20 balance of such expenses shall be paid from interest earnings on
21 the fund in excess of the regular interest credited to the
22 municipal, members' and retired members' reserve accounts and
23 DROP interest credited to the subsidiary DROP participant
24 reserve account and shall not, in any year, exceed six-tenths of
25 one per cent of the total asset value of the fund as of the
26 beginning of the calendar year. The administration of the
27 Pennsylvania Municipal Retirement System shall be audited
28 annually and a report of this audit shall be made annually to
29 the General Assembly.

30 The secretary of the board shall submit a proposed budget for

1 the following fiscal year to the Senate and House Local
2 Government Committees no later than November 1 of the year
3 preceding that for which the budget is being prepared. The
4 respective committees shall meet and review such budget
5 document. If the committees take no action within sixty days of
6 said November 1, the budget for the following calendar year
7 shall be deemed approved.

8 Section 7. Section 114 of the act is amended to read:

9 Section 114. Monthly Payments.--[Any] (a) (1) Except as
10 provided under clause (2), any retirement allowance created
11 under the provisions of this act shall be paid in equal monthly
12 installments and shall not be increased, decreased, revoked or
13 repealed, except where specifically otherwise provided by this
14 act.

15 (2) Notwithstanding clause (1), if the annuitant is a DROP
16 participant, the equal monthly installment shall be deposited to
17 the subsidiary DROP participant account and paid out in
18 accordance with the DROP program.

19 (b) The annual retirement benefit payable to a member shall
20 not exceed the annual dollar limitation under section 415(b)(1)
21 (A) of the Internal Revenue Code (26 U.S.C. § 415(b)(1)(A)), as
22 may be adjusted under section 415(d) of the Internal Revenue
23 Code (26 U.S.C. § 415(d)). If an adjustment is required due to
24 the Internal Revenue Code, regulations or other publications
25 issued by the Internal Revenue Service, the adjustment shall
26 only apply to the dollar limitation specified in this section.

27 Section 8. Section 115 of the act, repealed in part April
28 28, 1978 (P.L.202, No.53), is amended to read:

29 Section 115. Exemption of Retirement Allowance.--(a) The
30 retirement allowance and the contributions of members to the

1 fund, all contributions returned to contributors under the
2 provisions of this act and the moneys in the fund created by
3 this act, shall be exempt from any State or municipal tax and
4 shall be unassignable except to a beneficiary.

5 (b) Rights under this act shall be subject to all of the
6 following:

7 (1) Attachment in favor of an alternate payee as set forth
8 in an approved domestic relations order.

9 (2) Forfeiture as provided by the act of July 8, 1978
10 (P.L.752, No.140), known as the "Public Employee Pension
11 Forfeiture Act." Forfeitures under this clause or under any
12 other provision of law may not be applied to increase the
13 benefits that any member would otherwise receive under this act.

14 (c) Notwithstanding any other provision of this section, a
15 distributee may elect, at the time and in the manner prescribed
16 by the board, to have any portion of an eligible rollover
17 distribution paid directly to an eligible retirement plan
18 utilizing a direct rollover.

19 (d) For purposes of this section, the following words shall
20 have the following meanings:

21 "Distributee." A member, a member's surviving spouse or a
22 member's former spouse who is an alternate payee under an
23 approved domestic relations order.

24 "Eligible retirement plan." (1) Except as provided under
25 clause (2), the term shall have the meaning given to it in
26 section 402(c)(8)(B) of the Internal Revenue Code (26 U.S.C. §
27 402(c)(8)(B)).

28 (2) The term shall include a qualified trust in section
29 402(c)(8)(B)(iii) of the Internal Revenue Code only if the
30 qualified trust accepts the distributee's eligible rollover

1 distribution. If the eligible rollover distribution is made to a
2 nonspousal beneficiary, an eligible retirement plan shall be
3 deemed an "individual retirement account" or an "individual
4 retirement annuity" as defined in section 408(a) and (b) of the
5 Internal Revenue Code (26 U.S.C. § 408(a) and (b)).

6 "Eligible rollover distribution." The term shall have the
7 meaning given to it in section 402(f)(2)(A) of the Internal
8 Revenue Code (26 U.S.C. § 402(f)(2)(A)).

9 Section 9. The act is amended by adding sections to read:

10 Section 118. Approval of Domestic Relations Orders.--(a) A
11 domestic relations order shall be certified as an approved
12 domestic relations order by the secretary of the board or the
13 secretary's designated representative only if the order meets
14 all of the following:

15 (1) Requires the system to provide a type or form of benefit
16 or an option already provided under this act.

17 (2) Requires the system to provide no more than the total
18 amount of benefits that the member would otherwise receive,
19 determined on the basis of actuarial value, unless increased
20 benefits are paid to the member or, if the order provides, to
21 the alternate payee based upon cost-of-living increases or
22 increases based on other than actuarial value.

23 (3) Specifies the amount or percentage of the member's
24 benefits to be paid by the system to each alternate payee or the
25 manner in which the amount or percentage is to be determined.

26 (4) Specifies the retirement option to be selected by the
27 member upon retirement or states that the member may select any
28 retirement option offered by this act upon retirement.

29 (5) Specifies the name and last known mailing address of the
30 member and the name and last known mailing address of each

1 alternate payee covered by the order and states that it is the
2 responsibility of each alternate payee to keep a current mailing
3 address on file with the system.

4 (6) Does not grant an alternate payee any of the rights,
5 options or privileges of a member under this act.

6 (7) Requires the member to execute an authorization allowing
7 each alternate payee to monitor the member's compliance with the
8 terms of the domestic relations order through access to
9 information concerning the member maintained by the system.

10 (b) The following apply:

11 (1) Upon receipt of a proposed domestic relations order, the
12 secretary of the board or the secretary's designated
13 representative shall determine whether the proposed order shall
14 be deemed an approved domestic relations order and shall notify
15 the member and each alternate payee of this determination.

16 (2) Notwithstanding any other provision of law, the
17 exclusive remedy of any member or alternate payee aggrieved by a
18 decision of the secretary of the board or the secretary's
19 designated representative shall be the right to an adjudication
20 by the board under 2 Pa.C.S. Ch. 5 Subch. A (relating to
21 practice and procedure of Commonwealth agencies) with appeal to
22 the Commonwealth Court under 2 Pa.C.S. Ch. 7 Subch. A (relating
23 to judicial review of Commonwealth agency action) and 42 Pa.C.S.
24 § 763(a)(1) (relating to direct appeals from government
25 agencies).

26 (c) The following apply:

27 (1) The requirements for approval under subsection (a) shall
28 not apply to any domestic relations order which is an "order of
29 support" under 23 Pa.C.S. § 4302 (relating to definitions) or an
30 order for the enforcement of arrearages under 23 Pa.C.S. § 3703

1 (relating to enforcement of arrearages).

2 (2) Orders under clause (1) shall be approved to the extent
3 that they do not attach money in excess of the limits on
4 attachments as established by the Federal or State law.

5 (d) Only the requirements of this section and regulations
6 promulgated under this act shall be used to govern the approval
7 or disapproval of a domestic relations order. If the secretary
8 of the board or the secretary's designated representative acts
9 in accordance with this act and regulations promulgated under
10 this act in approving or disapproving a domestic relations
11 order, the obligations of the system with respect to the
12 approval or disapproval shall be discharged.

13 Section 119. Amendment of Approved Domestic Relations
14 Orders.--(a) If an alternate payee of an approved domestic
15 relations order predeceases the member and there are benefits
16 payable to the alternate payee, the court may amend the approved
17 domestic relations order to substitute a person for the deceased
18 alternate payee to receive benefits payable to the deceased
19 alternate payee.

20 (b) If a court amends an approved domestic relations order,
21 the amended order must be submitted for recertification as an
22 approved domestic relations order as provided in this act.

23 Section 120. Irrevocable Beneficiary.--Notwithstanding any
24 other provision of this act, a domestic relations order may
25 provide for an irrevocable beneficiary. A domestic relations
26 order requiring the nomination of an irrevocable beneficiary
27 shall be deemed to be one that requires a member to nominate an
28 alternate payee as a beneficiary and that prohibits the removal
29 or change of that beneficiary without approval of a court of
30 competent jurisdiction, except by operation of law. A domestic

1 relations order subject to this section may be certified as an
2 approved domestic relations order by the secretary of the board
3 or the secretary's designated representative after the member
4 makes the nomination, in which case the irrevocable beneficiary
5 ordered by the court may not be changed by the member without
6 approval of the court.

7 Section 121. Irrevocable Survivor Annuitant.--

8 Notwithstanding any other provision of this act, a domestic
9 relations order may provide for an irrevocable survivor
10 annuitant. A domestic relations order requiring the designation
11 of an irrevocable survivor annuitant shall be deemed to be one
12 that requires a member to designate an alternate payee as a
13 survivor annuitant and that prohibits the removal or change of
14 that survivor annuitant without approval of a court of competent
15 jurisdiction, except by operation of law. A domestic relations
16 order subject to this section may be certified as an approved
17 domestic relations order by the secretary of the board or the
18 secretary's designated representative, in which case the
19 irrevocable survivor annuitant ordered by the court may not be
20 changed by the member without approval of the court. A person
21 ineligible to be designated as a survivor annuitant may not be
22 designated an irrevocable survivor annuitant.

23 Section 10. Section 207(c) of the act, amended November 29,
24 2004 (P.L.1331, No.169), is amended and the section is amended
25 by adding a subsection to read:

26 Section 207. Withdrawal; Return to Service; Death in
27 Service.--* * *

28 (c) (1) Should a person who has been retired on a
29 retirement under this act, return to employment on a regular
30 full-time basis in the same municipality, his retirement

1 allowance shall cease, and in the case of an annuity, other than
2 a disability annuity, the present value of such annuity shall be
3 frozen as of the date such annuity ceases. Upon subsequent
4 discontinuance of service, such member, other than a former
5 disability annuitant, shall be entitled to an annuity which is
6 actuarially equivalent to the sum of the present value of the
7 annuity previously being paid and the present value of the
8 annuity earned by further service and further deductions added
9 upon reemployment.

10 (2) For the purposes of this section if a person is
11 reemployed [on a temporary, seasonal or part-time basis and his
12 gross post-retirement earnings from such reemployment during the
13 calendar year are less than five thousand dollars (\$5,000) or
14 such other maximum as the board may establish, he shall not be
15 deemed reemployed, but if and when his gross post-retirement
16 earnings exceed five thousand dollars (\$5,000) or such other
17 maximum as the board may establish in any calendar year he shall
18 not be entitled to receive his retirement allowance for that
19 month or any subsequent month in the calendar year in which he
20 continues in service.] following commencement of his retirement
21 allowance, he shall not be entitled to receive his retirement
22 allowance for that month or any subsequent month in which he
23 continues in service.

24 (3) Notwithstanding clause (2), if the person is otherwise
25 eligible to receive an in-service distribution of his retirement
26 benefit by attainment of normal retirement age as defined in
27 section 411(a)(8) of the Internal Revenue Code (26 U.S.C. §
28 411(a)(8)), operation of section 401(a)(36) of the Internal
29 Revenue Code (26 U.S.C. § 401(a)(36)) or operation of any other
30 provision as may be adopted by the board and consistent with the

1 tax-qualification provisions of the Internal Revenue Code, the
2 person's retirement allowance shall continue to be paid through
3 the period of reemployment.

4 (4) The municipality is required to notify the board
5 immediately of the reemployment status of any retired former
6 employe and file separate monthly reports of his gross earnings
7 as prescribed by the board.

8 * * *

9 (e) If a member dies while performing qualified military
10 service, as defined in section 414(u) (5) of the Internal Revenue
11 Code (26 U.S.C. § 414(u) (5)), the survivors of the member shall
12 be entitled to receive any additional benefits, other than
13 benefit accruals relating to the period of qualified military
14 service, as though the member had returned to service and then
15 terminated employment on account of death.

16 Section 11. Section 211 of the act, amended June 10, 1982
17 (P.L.446, No.131), is amended to read:

18 Section 211. Options on Superannuation or Early
19 Retirement.--(a) At the time of his superannuation or early
20 retirement, a contributor may elect to receive his benefits in a
21 retirement allowance payable throughout his life, which shall be
22 known as a single life annuity. In the event of the death of an
23 annuitant who has elected to receive the maximum single life
24 annuity before he has received in annuity payments the full
25 amount of the total accumulated deductions standing to his
26 credit on the effective date of retirement, the balance shall be
27 paid to his designated beneficiary, or instead, he may elect to
28 receive the equivalent actuarial value at that time of his
29 retirement allowance in a lesser allowance, payable throughout
30 life with provisions that:

1 (1) Option 1. If he shall die before receiving in payments
2 the present value of his retirement allowance as it was at the
3 time of his retirement, the balance, if less than five thousand
4 dollars (\$5,000), shall be paid in a lump sum to his legal
5 representative, or to or in trust for his beneficiary. If the
6 balance is five thousand dollars (\$5,000) or more, the
7 beneficiary may elect by application duly acknowledged and filed
8 with the board to receive payment of such balance according to
9 any one of the following provisions: (i) a lump sum payment;
10 (ii) an annuity having a present value equal to the balance
11 payable; (iii) a lump sum payment and an annuity. Such annuity
12 shall be of equivalent actuarial value to the balance payable
13 less the amount of the lump sum payment specified by the
14 beneficiary.

15 (2) Option 2. Upon his death, his retirement allowance
16 shall be continued throughout the life of and paid to his
17 survivor annuitant, if then living.

18 (3) Option 3. Upon his death, one-half of his retirement
19 allowance shall be continued throughout the life of and paid to
20 his survivor annuitant, if then living.

21 (b) A member or beneficiary shall not be entitled to a form
22 of benefit which commences or is payable over a period which
23 fails to satisfy the required distributions of section 401(a)(9)
24 of the Internal Revenue Code (26 U.S.C. § 401(a)(9)).

25 Section 12. Section 213 of the act is amended by adding a
26 subsection to read:

27 Section 213. Vesting.--* * *

28 (e) Upon the termination of the retirement plan, all
29 members, regardless of credited service, shall be deemed fully
30 vested in their accrued benefit to the extent the benefits

1 provided under the plan are funded as of the date of
2 termination.

3 Section 13. Section 308 of the act, amended May 17, 1980
4 (P.L.135, No.50) and June 10, 1982 (P.L.446, No.131), is amended
5 to read:

6 Section 308. Withdrawal; Return to Service; Death in
7 Service.--(a) Should a contributor, before reaching
8 superannuation retirement age, for any reason cease to be a
9 municipal fireman or a municipal policeman, he shall be paid by
10 the board the full amount of the accumulated deductions standing
11 to his credit in the member's account, unless he is entitled to
12 vesting rights or to a retirement allowance for retirement not
13 voluntarily, and elects to exercise such vesting rights or take
14 such retirement allowance. Should such former contributor
15 thereafter return to the service of the same municipality and
16 restore to the fund, in such manner as may be agreed upon by
17 such person and the board, his withdrawn accumulated deductions
18 as they were at the time of his separation from service, his
19 annuity rights as they existed at the time of separation from
20 service shall be restored and his obligations as a member shall
21 begin again.

22 (b) Should a contributor, having attained or passed
23 superannuation age, elect, upon leaving the service of the
24 municipality, not to claim the retirement allowance to which he
25 is entitled, he shall, upon written application, be paid by the
26 board the full amount of the accumulated deductions standing to
27 his credit in the member's account, and the balance in the
28 member's excess investment account.

29 (c) (1) Should a person who has been retired on a
30 retirement allowance under this act, return to employment on a

1 regular full-time basis in the same municipality, his retirement
2 allowance shall cease, and in the case of an annuity, other than
3 a disability annuity, the present value of such annuity shall be
4 frozen as of the date such annuity ceases. Upon subsequent
5 discontinuance of service, such member, other than a former
6 disability annuitant, shall be entitled to an annuity which is
7 actuarially equivalent to the sum of the present value of the
8 annuity previously being paid and the present value of the
9 annuity earned by further service and further deductions added
10 upon reemployment.

11 (2) For the purposes of this section if a person is
12 reemployed [on a temporary or seasonal basis and his gross post-
13 retirement earnings from such reemployment during the calendar
14 year are less than five thousand dollars (\$5,000) or such other
15 maximum as the board may establish, he shall not be deemed
16 reemployed, but if and when his gross post-retirement earnings
17 exceed five thousand dollars (\$5,000) or such other maximum as
18 the board may establish in any calendar year he shall not be
19 entitled to receive his retirement allowance for that month or
20 any subsequent month in the calendar year in which he continues
21 in service.] following commencement of his retirement allowance
22 in a capacity other than as a DROP participant, the person shall
23 not be entitled to receive his retirement allowance for that
24 month or any subsequent month in which he continues in service.

25 (3) Notwithstanding clause (2), if the person is otherwise
26 eligible to receive an in-service distribution of his retirement
27 benefit by attainment of normal retirement age as defined in
28 section 411(a)(8) of the Internal Revenue Code (26 U.S.C. §
29 411(a)(8)), operation of section 401(a)(36) of the Internal
30 Revenue Code (26 U.S.C. § 401(a)(36)) or operation of any other

1 provision as may be adopted by the board and consistent with the
2 tax-qualification provisions of the Internal Revenue Code, the
3 person's retirement allowance shall continue to be paid through
4 the period of reemployment. The municipality is required to
5 notify the board immediately of the reemployment status of any
6 retired former employe and file separate monthly reports of his
7 gross earnings as prescribed by the board.

8 (d) Should a contributor die while in service, prior to
9 becoming eligible for a retirement allowance, his accumulated
10 deductions shall be paid to his estate, or to such person, if
11 living, as he shall have designated, in writing, filed with the
12 board as his beneficiary. In case any contributor has failed to
13 designate a beneficiary, or if the named beneficiary has
14 predeceased the member and no successor beneficiary has been
15 named, and upon the death in service shall have less than one
16 hundred dollars (\$100) in accumulated deductions standing to his
17 credit, the board may, if letters testamentary or of
18 administration have not been taken out on his estate within six
19 months after his death, pay such accumulated deductions on the
20 claim of the undertaker, or to such person or municipality which
21 shall have paid the claim of the undertaker.

22 (e) If a member dies while performing qualified military
23 service, as defined in section 414(u)(5) of the Internal Revenue
24 Code (26 U.S.C. § 414(u)(5)), the survivors of the member shall
25 be entitled to receive any additional benefits, other than
26 benefit accruals relating to the period of qualified military
27 service, as though the member had returned to service and then
28 terminated employment on account of death.

29 Section 14. Section 312 of the act, amended June 10, 1982
30 (P.L.446, No.131), is amended to read:

1 Section 312. Options on Superannuation or Early
2 Retirement.--(a) At the time of his superannuation or early
3 retirement, a contributor may elect to receive his benefits in a
4 retirement allowance payable throughout his life, which shall be
5 known as a single life annuity. In the event of the death of an
6 annuitant who has elected to receive the maximum single life
7 annuity before he has received in annuity payments the full
8 amount of the total accumulated deductions standing to his
9 credit on the effective date of retirement, the balance shall be
10 paid to his designated beneficiary, or instead, he may elect, to
11 receive the actuarial equivalent value at that time of his
12 retirement allowance in a lesser allowance, payable throughout
13 life with provisions that:

14 (1) Option 1. If he shall die before receiving in payments
15 the present value of his retirement allowance as it was at the
16 time of his retirement, the balance, if less than five thousand
17 dollars (\$5,000) shall be paid in a lump sum to his legal
18 representative, or to or in trust for his beneficiary. If the
19 balance is five thousand dollars (\$5,000) or more, the
20 beneficiary may elect by application duly acknowledged and filed
21 with the board to receive payment of such balance according to
22 any of the following provisions: (i) a lump sum payment, (ii) an
23 annuity having a present value equal to the balance payable,
24 (iii) a lump sum payment and an annuity. Such annuity shall be
25 of equivalent actuarial value to the balance payable less the
26 amount of the lump sum payment specified by the beneficiary.

27 (2) Option 2. Upon his death his retirement allowance shall
28 be continued throughout the life of and paid to his survivor
29 annuitant, if then living.

30 (3) Option 3. Upon his death, one-half of his retirement

1 allowance shall be continued throughout the life of and paid to
2 his survivor annuitant, if then living.

3 (b) A member or beneficiary shall not be entitled to a form
4 of benefit which commences or is payable over a period which
5 fails to satisfy the required distributions of section 401(a)(9)
6 of the Internal Revenue Code (26 U.S.C. § 401(a)(9)).

7 Section 15. Section 314 of the act is amended by adding a
8 subsection to read:

9 Section 314. Vesting.--* * *

10 (e) Upon the termination of the retirement plan, all
11 members, regardless of credited service, shall be deemed fully
12 vested in their accrued benefit to the extent the benefits
13 provided under the plan are funded as of the date of
14 termination.

15 Section 16. Section 403(8) and (14) of the act, amended May
16 17, 1980 (P.L.135, No.50), are amended to read:

17 Section 403. Contract Provisions.--Any contract for an
18 optional retirement plan entered into between a municipality and
19 the board shall not provide for any benefits in excess of or
20 minimum member's contribution rates less than those available to
21 that municipality for that class of employes under any existing
22 law pertaining to the establishment of a retirement or pension
23 system, except to the extent that excess investment earnings are
24 allocated to provide for additional pension benefits or member
25 accruals as otherwise provided in this law.

26 The contract shall specifically state the following terms and
27 conditions:

28 * * *

29 (8) A description of any optional methods of payment of
30 retirement allowances available to a member, including the

1 availability of the DROP.

2 * * *

3 (14) Any other information which might have a bearing on the
4 costs or benefits of the retirement plan which might be required
5 by the board in the administration of the plan, including
6 whether the municipality will permit an eligible retired public
7 safety officer to direct that a portion of his annuity be used
8 to pay qualified accident, health or long-term care insurance
9 premiums as remitted under section 402(l) of the Internal
10 Revenue Code (26 U.S.C. § 402(l)).

11 Section 17. Section 406(c) of the act, amended November 29,
12 2004 (P.L.1331, No.169), is amended and the section is amended
13 by adding a subsection to read:

14 Section 406. Withdrawal; Return to Service; Death in
15 Service.--* * *

16 (c) (1) Should a person who has been retired on a
17 retirement allowance under this act and who is not a DROP
18 participant, return to employment on a regular full-time basis
19 in the same municipality, his retirement allowance shall cease,
20 and in the case of an annuity, other than a disability annuity,
21 the present value of such annuity shall be frozen as of the date
22 such annuity ceases. Upon subsequent discontinuance of service,
23 such member, other than a former disability annuitant, shall be
24 entitled to an annuity which is actuarially equivalent to the
25 sum of the present value of the annuity previously being paid
26 and the present value of the annuity earned by further service
27 and further deductions added upon reemployment.

28 (2) For the purposes of this section if a person [is
29 reemployed on a temporary, seasonal or part-time basis and his
30 gross post-retirement earnings from such reemployment during the

1 calendar year are less than five thousand dollars (\$5,000) or
2 such other maximum as the board may establish, he shall not be
3 deemed reemployed, but if and when his gross post-retirement
4 earnings exceed five thousand dollars (\$5,000) or such other
5 maximum as the board may establish in any calendar year he shall
6 not be entitled to receive his retirement allowance for that
7 month or any subsequent month in the calendar year in which he
8 continues in service.], other than a DROP participant, is
9 reemployed following commencement of his retirement allowance,
10 the person shall not be entitled to receive the person's
11 retirement allowance for that month or any subsequent month in
12 which he continues in service.

13 (3) Notwithstanding clause (2), if the person is otherwise
14 eligible to receive an in-service distribution of his retirement
15 benefit by attainment of normal retirement age as defined in
16 section 411(a) (8) of the Internal Revenue Code (26 U.S.C. §
17 411(a) (8)), operation of section 401(a) (36) of the Internal
18 Revenue Code (26 U.S.C. § 401(a) (36)) or operation of any other
19 provision as may be adopted by the board and consistent with the
20 tax-qualification provisions of the Internal Revenue Code, the
21 person's retirement allowance shall continue to be paid through
22 the period of reemployment. The municipality is required to
23 notify the board immediately of the reemployment status of any
24 retired former employe and file separate monthly reports of his
25 gross earnings as prescribed by the board.

26 * * *

27 (f) If a member dies while performing qualified military
28 service, as defined in section 414(u) (5) of the Internal Revenue
29 Code (26 U.S.C. § 414(u) (5)), the survivors of the member shall
30 be entitled to receive any additional benefits, other than

1 benefit accruals relating to the period of qualified military
2 service, as though the member had returned to service and then
3 terminated employment on account of death.

4 Section 18. Section 409 of the act, amended June 10, 1982
5 (P.L.446, No.131), is amended to read:

6 Section 409. Options on Superannuation or Early
7 Retirement.--(a) At the time of his superannuation or early
8 retirement, a contributor may elect to receive his benefits in a
9 retirement allowance payable throughout his life, which shall be
10 known as a single life annuity. In the event of the death of an
11 annuitant who has elected to receive the maximum single life
12 annuity before he has received in annuity payments the full
13 amount of the total accumulated deductions standing to his
14 credit on the effective date of retirement, the balance shall be
15 paid to his designated beneficiary, or instead, he may elect to
16 receive the actuarial equivalent at that time of his retirement
17 allowance in a lesser allowance, payable throughout life with
18 provisions that:

19 (1) Option 1. If he shall die before receiving in payments
20 the present value of his retirement allowance as it was at the
21 time of his retirement, the balance, if less than five thousand
22 dollars (\$5,000), shall be paid in a lump sum to his legal
23 representative, or to or in trust for his beneficiary. If the
24 balance is five thousand dollars (\$5,000) or more, the
25 beneficiary may elect by application duly acknowledged and filed
26 with the board to receive payment of such balance according to
27 any one of the following provisions: (i) a lump sum payment,
28 (ii) an annuity having a present value equal to the balance
29 payable, (iii) a lump sum payment and an annuity. Such annuity
30 shall be of equivalent actuarial value to the balance payable

1 less the amount of the lump sum payment specified by the
2 beneficiary.

3 (2) Option 2. Upon his death, his retirement allowance
4 shall be continued throughout the life of and paid to his
5 survivor annuitant, if then living.

6 (3) Option 3. Upon his death, one-half of his retirement
7 allowance shall be continued throughout the life of and paid to
8 his survivor annuitant, if then living.

9 (4) Option 4. Any other optional form of payment contained
10 in the contract.

11 (b) A member or beneficiary shall not be entitled to a form
12 of benefit which commences or is payable over a period which
13 fails to satisfy the required distribution provisions of section
14 401(a) (9) of the Internal Revenue Code (26 U.S.C. § 401(a) (9)),
15 including the incidental benefit distribution requirements.

16 Section 19. Section 410 of the act, amended January 4, 1978
17 (P.L.1, No.1), is amended to read:

18 Section 410. Vesting.--(a) Provisions for vesting may be
19 included in the contract between the municipality and the board.
20 When such provision is made it shall mean that a contributor who
21 terminates his employment with the municipality after a
22 stipulated age or length of service, or both, may, if he so
23 elects in writing, leave his contributions, plus interest, as
24 credited to his account, in the fund, and, upon reaching
25 superannuation retirement age, receive a superannuation
26 retirement allowance and accumulated deductions would include
27 interest from date of termination until the earlier of the date
28 of commencement of the annuity or the date of payment of member
29 contributions.

30 (b) Upon the termination of the retirement plan, all

1 members, regardless of credited service, shall be deemed fully
2 vested in their accrued benefit to the extent the benefits
3 provided under the plan are funded as of the date of
4 termination.

5 Section 20. Section 412 of the act, amended May 17, 1980,
6 P.L.135, No.50), is amended to read:

7 Section 412. Withdrawal Provisions.--A municipality which
8 has joined the retirement system created or continued under this
9 Article IV may, for good and stated cause, file an application
10 with the board for permission to withdraw from the system if it
11 meets all of the following requirements:

12 (1) The municipality has been enrolled in the system for a
13 period of at least five years.

14 (2) The municipality has met all of its financial
15 obligations to the system.

16 (3) The legislative body of the municipality has passed an
17 ordinance or resolution signifying its intention to withdraw
18 from the system.

19 (4) The municipality has certified to the board that an
20 affirmative vote approving withdrawal from the system had been
21 obtained from at least seventy-five per cent of all of the
22 municipal employes affected by the ordinance or resolution.

23 The board shall within ninety days of its receipt, take
24 action on an application filed by a municipality for permission
25 to withdraw from the system. If the application is approved the
26 withdrawing municipality shall be entitled to receive a net
27 refund of the amounts then standing to the credit of the
28 municipality in the member's account, the member's excess
29 investment account, the municipal account, the subsidiary DROP
30 participant reserve account and the retired member's reserve

1 accounts of the system. In no event shall the total amount of
2 the net refund to the municipality exceed the pro rata interest
3 of the withdrawing municipality in the net assets of the entire
4 fund based on the market value of the investments of the fund as
5 of the date of receipt of the application for permission to
6 withdraw. The liability for the continuation of retirement or
7 disability allowances being paid from the fund shall attach
8 against the withdrawing municipality and be paid from funds
9 transferred to a retirement system established subsequent to its
10 withdrawal from the system or from moneys appropriated annually
11 from tax revenues sufficient to pay the same. If the board
12 disapproves the application of the municipality for permission
13 to withdraw from the system the board shall promptly notify the
14 municipality of its decision and advise the municipality of the
15 board's reason or reasons for disapproval. The board shall
16 establish rules and regulations, in accordance with the
17 provisions of clause (10) of section 104 of this act, governing
18 the details of the procedures to be followed in the withdrawal
19 of municipalities from the system.

20 Section 21. This act shall take effect immediately.