
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. **2493** Session of
2010

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

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, JULY 2, 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 AND FOR ←
 27 SOLICITATION OF POLITICAL CONTRIBUTIONS; AND MAKING A RELATED
 28 REPEAL.

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

1 Section 1. The definitions of "annuitant," "member" and
2 "regular interest" in section 102 of the act of February 1, 1974
3 (P.L.34, No.15), known as the Pennsylvania Municipal Retirement
4 Law, are amended and the section is amended by adding
5 definitions to read:

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

7 * * *

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

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

15 (1) beginning with the effective date of the member's
16 retirement; and

17 (2) ending on the date of termination of the member's
18 annuity.

19 "Approved domestic relations order" means a domestic
20 relations order which has been approved under this act.

21 * * *

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

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

29 (2) For members who are enrolled in a plan that has adopted
30 the provisions of section 414(h) of the Internal Revenue Code

1 (26 U.S.C. § 414(h)), the term includes a contribution
2 designated as a pickup contribution.

3 (3) Notwithstanding any provision of this act to the
4 contrary, a member's compensation shall not exceed the
5 limitations under section 401(a)(17) of the Internal Revenue
6 Code (26 U.S.C. § 401(a)(17)), as adjusted in accordance with
7 section 401(a)(17)(B) of the Internal Revenue Code (26 U.S.C. §
8 401(a)(17)(B)).

9 (i) The adjustment in effect for a calendar year applies to
10 a period:

11 (A) which begins in the calender year;

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

13 (C) over which compensation is determined.

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

17 (A) the numerator of which is the number of months in the
18 determination period; and

19 (B) the denominator of which is twelve.

20 * * *

21 "Date of termination of service" means:

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

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

28 "Domestic relations order" means any judgment, decree or
29 order, including approval of a property settlement agreement,
30 entered on or after the effective date of this definition by a

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

10 "DROP" means the Deferred Retirement Option Plan established
11 by the board under this act and by a municipality under Chapter
12 11 of the Municipal Pension Plan Funding Standard and Recovery
13 Act.

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

18 "DROP participant" means an annuitant who has elected to
19 participate in the DROP.

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

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

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

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

28 (ii) the date specified on the application.

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

1 disability.

2 (4) For a DROP participant, the day before the effective
3 date of DROP participation as determined in accordance with the
4 provisions of this act and Chapter 11 of the Municipal Pension
5 Funding Standard and Recovery Act.

6 * * *

7 "Internal Revenue Code" means the Internal Revenue Code of
8 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

9 * * *

10 "Member" means an individual that is:

11 (1) a municipal officer, employe, fireman or policeman[,];
12 or;

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

17 * * *

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

21 * * *

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

26 * * *

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

30 "Subsidiary DROP participant reserve account" means the

1 account maintained for each subsidiary DROP participant account.

2 * * *

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

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

7 * * *

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

18 * * *

19 (12.1) [From time to time, at the direction of
20 municipalities electing to] In accordance with the plan
21 contract, provide cost-of-living increases from [their] a plan's
22 share of excess investment earnings[, the board shall allocate
23 excess investment earnings to provide additional "cost-of-
24 living" pension benefits] to those members of such
25 municipalities who have already retired. Such allocations shall
26 be made, with the advice of the actuary, on a fully funded basis
27 employing actuarial assumptions which reflect the nature of the
28 liability. AN AWARD OF EXCESS INTEREST SHALL NOT BE MADE UNDER
29 THIS PARAGRAPH IF THE PLAN IS LESS THAN 95% FUNDED AS OF THE
30 PLAN'S MOST RECENT FILING OF THE ACTUARIAL REPORT REQUIRED UNDER



1 THE ACT OF DECEMBER 18, 1984 (P.L.1005, NO.205), KNOWN AS THE
2 "MUNICIPAL PENSION PLAN FUNDING STANDARD AND RECOVERY ACT."

3 (12.2) [From time to time, at the direction of
4 municipalities electing to apply their excess investment
5 earnings to member contributions] In accordance with the plan
6 contract, the board shall allocate excess investment earnings
7 for active members of such municipalities by applying such
8 allocation to member contributions. To the extent that
9 additional liabilities may accrue as a result of such
10 allocation, the actuary shall employ actuarial assumptions, on a
11 fully funded basis, to accurately reflect the nature of the
12 liability generated therefrom. AN AWARD OF EXCESS INTEREST SHALL ←
13 NOT BE MADE UNDER THIS PARAGRAPH IF THE PLAN IS LESS THAN 95%
14 FUNDED AS OF THE PLAN'S MOST RECENT FILING OF THE ACTUARIAL
15 REPORT REQUIRED UNDER THE "MUNICIPAL PENSION PLAN FUNDING
16 STANDARD AND RECOVERY ACT."

17 (12.3) Promulgate regulations required for the proper
18 administration of the DROP.

19 (12.4) Establish a subsidiary DROP participant account for
20 each DROP participant, provide for the separate investment and
21 funding of each account and establish a monthly rate of interest
22 to credit the money deposited in each account.

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

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

29 Section 108. Retirement Funds and Accounts.--The
30 Pennsylvania Municipal Retirement Fund shall consist of the

1 money received from municipalities arising from contributions by
2 municipalities, [and] from payroll deductions from salary or
3 compensation of members, and other contributions made by members
4 through the municipality to the system, from DROP participants
5 and from transfers made from municipal retirement or pension
6 systems and credited as provided in this act, and investment
7 earnings thereon.

8 The fund shall be a trust and the assets of the system shall
9 be held in trust. No part of the assets of the system shall be
10 used for or diverted to purposes other than for the exclusive
11 benefit of the members, their spouses or the members'
12 beneficiaries prior to the satisfaction of all liabilities of
13 the system with respect to them. The assets of the fund shall
14 only be used to pay:

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

16 (2) Necessary expenses of the system as established in this
17 act.

18 Contributions made by municipalities toward superannuation
19 retirement and death benefits of members shall be credited to
20 the municipal account of said fund, contributions made by
21 municipalities toward disability retirement of members shall be
22 credited to the total disability reserve account of said fund,
23 retirement benefits paid to DROP participants shall be credited
24 to the subsidiary DROP reserve account and payroll deductions
25 and other contributions of members shall be credited to the
26 member's account of said fund. Transfers made from existing
27 municipal retirement or pension systems shall be credited as
28 provided in this act.

29 The board shall keep separate accounts of each municipality
30 and for each separate class of employes enrolled by that

1 municipality under the several articles of this act, except the
2 total disability reserve account and the retired member's
3 reserve account which shall be maintained as pooled accounts.
4 Each municipality and the members thereof shall be liable to the
5 board for the amount of contributions required to cover the cost
6 of the retirement allowance and other benefits payable to such
7 members.

8 Upon the granting of a superannuation or voluntary or
9 involuntary withdrawal retirement allowance to any contributor,
10 the amount of such contributor's accumulated deductions in the
11 member's account shall lose their status as accumulated
12 deductions and shall be transferred to the retired member's
13 reserve account and the actuarial equivalent of the municipal
14 annuity shall be similarly transferred from the municipal
15 account to the retired member's reserve account.

16 Upon the granting of a superannuation retirement allowance to
17 any DROP participant, the full amount of the DROP participant's
18 monthly retirement benefit shall be deposited monthly to a
19 subsidiary DROP participant account in the subsidiary DROP
20 participant reserve account until the DROP participant
21 terminates employment.

22 Upon the granting of a disability retirement allowance to any
23 contributor, there shall be transferred to the retired member's
24 reserve account the amount of the contributor's accumulated
25 deductions in the member's account, the amount of the equivalent
26 actuarial value to the municipal annuity, and such additional
27 amount from the total disability reserve account as is needed in
28 addition thereto to provide the actuarial equivalent of the
29 total disability allowance to which the contributor is entitled.

30 Section 4. Section 110 of the act, amended May 17, 1980

1 (P.L.135, No.50), is amended to read:

2 Section 110. Management and Investment of Fund; Interest
3 Credits.--(a) The members of the board shall be trustees of the
4 fund, and shall have the exclusive management of said fund, with
5 full power to invest the moneys therein, subject to the terms,
6 conditions, limitations and restrictions imposed by law upon
7 fiduciaries. The said trustees shall have power to hold,
8 purchase, sell, assign, transfer and dispose of any securities
9 and investments in said fund, as well as the proceeds of such
10 investments, and of the money belonging to such fund.

11 (b) The board shall annually allow regular interest to the
12 credit on each contributor's account, municipal account, the
13 retired members reserve account and the total disability reserve
14 account. [In addition, the board shall, after paying expenses,
15 annually allow such excess interest as each municipality deems
16 appropriate to the credit of the municipal accounts, member's
17 accounts, the member's excess investment accounts, retired
18 members reserve accounts and total disability reserve accounts.]
19 The board shall monthly credit DROP interest to the subsidiary
20 DROP participant accounts in accordance with established
21 procedures.

22 (c) The board shall, after deducting money to pay for the
23 appropriate expenses, allow excess interest as each contract
24 provides to the credit of the municipal accounts, member's
25 accounts, the member's excess investment accounts and retired
26 members reserve accounts. Except as provided in a contract, the
27 board shall credit the excess interest to the plan's municipal
28 account.

29 SECTION 4.1. THE ACT IS AMENDED BY ADDING A SECTION TO READ: ←

30 SECTION 110.1. SOLICITATION OF POLITICAL CONTRIBUTIONS.-- (A)

1 THIS SECTION APPLIES TO A PERSON OR AN AFFILIATED ENTITY THAT
2 DOES ANY OF THE FOLLOWING:

3 (1) ENTERS INTO A PROFESSIONAL SERVICES CONTRACT WITH THE
4 SYSTEM OR ANY MUNICIPAL PENSION SYSTEM IN THIS COMMONWEALTH.

5 (2) SUBMITS AN OFFER FOR OR BIDS ON A PROFESSIONAL SERVICES
6 CONTRACT WITH THE SYSTEM OR ANY MUNICIPAL PENSION SYSTEM IN THIS
7 COMMONWEALTH.

8 (3) RESPONDS TO A REQUEST FOR PROPOSAL ON A PROFESSIONAL
9 SERVICES CONTRACT WITH THE SYSTEM OR ANY MUNICIPAL PENSION
10 SYSTEM IN THIS COMMONWEALTH.

11 (4) OTHERWISE SOLICITS A PROFESSIONAL SERVICES CONTRACT WITH
12 THE SYSTEM OR ANY MUNICIPAL PENSION SYSTEM IN THIS COMMONWEALTH.

13 (B) A PERSON OR AN AFFILIATED ENTITY SUBJECT TO SUBSECTION
14 (A) MAY NOT SOLICIT A CONTRIBUTION TO A MUNICIPAL OFFICIAL OR
15 CANDIDATE FOR MUNICIPAL OFFICE WHERE THE MUNICIPAL PENSION
16 SYSTEM IS ORGANIZED OR TO THE POLITICAL ~~ACTION~~ COMMITTEE OF THAT ←
17 OFFICIAL OR CANDIDATE. THE PROHIBITION UNDER THIS SUBSECTION ←
18 APPLIES TO ANY AGENT, OFFICER, DIRECTOR OR EMPLOYEE OF THE
19 PERSON OR AFFILIATED ENTITY.

20 (C) DEFINITIONS.--AS USED IN THIS SECTION:

21 "AFFILIATED ENTITY" HAS THE MEANING GIVEN IN SECTION 701-A OF
22 THE ACT OF DECEMBER 18, 1984 (P.L.1005, NO.205), KNOWN AS THE
23 MUNICIPAL PENSION PLAN FUNDING STANDARD AND RECOVERY ACT.

24 "PROFESSIONAL SERVICES CONTRACT" HAS THE MEANING GIVEN IN
25 SECTION 701-A OF THE MUNICIPAL PENSION PLAN FUNDING STANDARD AND
26 RECOVERY ACT.

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

28 Section 111. Municipal Guarantee.--The regular interest
29 charges payable, the DROP interest charges payable and the
30 creation and maintenance of the necessary reserves for the

1 payment of the municipal and member's annuities, as to any
2 municipality in accordance with this act, are hereby made the
3 obligation of that municipality.

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

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

11 Section 112. Annual Estimates to Municipalities;
12 Administrative Expenses.--The board shall prepare and submit to
13 each municipality, on or before the first day of the third month
14 preceding the commencing of each municipality's fiscal year, an
15 itemized estimate of the amounts necessary to be appropriated by
16 the municipality to complete the payments of the obligations of
17 the municipality to the fund during its next fiscal year.

18 The board shall annually prepare and approve a budget
19 covering the administrative expenses of this act. Such expenses
20 as approved by the board shall be paid from receipts from
21 assessments made against each municipality for administrative
22 expenses. This assessment shall be based on the number of
23 members in each municipality and shall not exceed the sum of
24 twenty dollars (\$20) per member per year. If, in [the calendar
25 years 1995 through 2005] any calendar year, the amount received
26 from such assessments, when imposed at the maximum rate, is not
27 sufficient to cover the administrative expenses, then the
28 balance of such expenses shall be paid from interest earnings on
29 the fund in excess of the regular interest credited to the
30 municipal, members' and retired members' reserve accounts and

1 DROP interest credited to the subsidiary DROP participant
2 reserve account and shall not, in any year, exceed six-tenths of
3 one per cent of the total asset value of the fund as of the
4 beginning of the calendar year. The administration of the
5 Pennsylvania Municipal Retirement System shall be audited
6 annually and a report of this audit shall be made annually to
7 the General Assembly.

8 The secretary of the board shall submit a proposed budget for
9 the following fiscal year to the Senate and House Local
10 Government Committees no later than November 1 of the year
11 preceding that for which the budget is being prepared. The
12 respective committees shall meet and review such budget
13 document. If the committees take no action within sixty days of
14 said November 1, the budget for the following calendar year
15 shall be deemed approved.

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

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

23 (2) Notwithstanding clause (1), if the annuitant is a DROP
24 participant, the equal monthly installment shall be deposited to
25 the subsidiary DROP participant account and paid out in
26 accordance with the DROP program.

27 (b) The annual retirement benefit payable to a member shall
28 not exceed the annual dollar limitation under section 415(b)(1)
29 (A) of the Internal Revenue Code (26 U.S.C. § 415(b)(1)(A)), as
30 may be adjusted under section 415(d) of the Internal Revenue

1 Code (26 U.S.C. § 415(d)). If an adjustment is required due to
2 the Internal Revenue Code, regulations or other publications
3 issued by the Internal Revenue Service, the adjustment shall
4 only apply to the dollar limitation specified in this section.

5 Section 8. Section 115 of the act, repealed in part April
6 28, 1978 (P.L.202, No.53), is amended to read:

7 Section 115. Exemption of Retirement Allowance.--(a) The
8 retirement allowance and the contributions of members to the
9 fund, all contributions returned to contributors under the
10 provisions of this act and the moneys in the fund created by
11 this act, shall be exempt from any State or municipal tax and
12 shall be unassignable except to a beneficiary.

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

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

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

22 (c) Notwithstanding any other provision of this section, a
23 distributee may elect, at the time and in the manner prescribed
24 by the board, to have any portion of an eligible rollover
25 distribution paid directly to an eligible retirement plan
26 utilizing a direct rollover.

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

29 "Distributee." A member, a member's surviving spouse or a
30 member's former spouse who is an alternate payee under an

1 approved domestic relations order.

2 "Eligible retirement plan." (1) Except as provided under
3 clause (2), the term shall have the meaning given to it in
4 section 402(c)(8)(B) of the Internal Revenue Code (26 U.S.C. §
5 402(c)(8)(B)).

6 (2) The term shall include a qualified trust in section
7 402(c)(8)(B)(iii) of the Internal Revenue Code only if the
8 qualified trust accepts the distributee's eligible rollover
9 distribution. If the eligible rollover distribution is made to a
10 nonspousal beneficiary, an eligible retirement plan shall be
11 deemed an "individual retirement account" or an "individual
12 retirement annuity" as defined in section 408(a) and (b) of the
13 Internal Revenue Code (26 U.S.C. § 408(a) and (b)).

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

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

18 Section 118. Approval of Domestic Relations Orders.--(a) A
19 domestic relations order shall be certified as an approved
20 domestic relations order by the secretary of the board or the
21 secretary's designated representative only if the order meets
22 all of the following:

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

25 (2) Requires the system to provide no more than the total
26 amount of benefits that the member would otherwise receive,
27 determined on the basis of actuarial value, unless increased
28 benefits are paid to the member or, if the order provides, to
29 the alternate payee based upon cost-of-living increases or
30 increases based on other than actuarial value.

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

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

7 (5) Specifies the name and last known mailing address of the
8 member and the name and last known mailing address of each
9 alternate payee covered by the order and states that it is the
10 responsibility of each alternate payee to keep a current mailing
11 address on file with the system.

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

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

18 (b) The following apply:

19 (1) Upon receipt of a proposed domestic relations order, the
20 secretary of the board or the secretary's designated
21 representative shall determine whether the proposed order shall
22 be deemed an approved domestic relations order and shall notify
23 the member and each alternate payee of this determination.

24 (2) Notwithstanding any other provision of law, the
25 exclusive remedy of any member or alternate payee aggrieved by a
26 decision of the secretary of the board or the secretary's
27 designated representative shall be the right to an adjudication
28 by the board under 2 Pa.C.S. Ch. 5 Subch. A (relating to
29 practice and procedure of Commonwealth agencies) with appeal to
30 the Commonwealth Court under 2 Pa.C.S. Ch. 7 Subch. A (relating

1 to judicial review of Commonwealth agency action) and 42 Pa.C.S.
2 § 763(a)(1) (relating to direct appeals from government
3 agencies).

4 (c) The following apply:

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

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

13 (d) Only the requirements of this section and regulations
14 promulgated under this act shall be used to govern the approval
15 or disapproval of a domestic relations order. If the secretary
16 of the board or the secretary's designated representative acts
17 in accordance with this act and regulations promulgated under
18 this act in approving or disapproving a domestic relations
19 order, the obligations of the system with respect to the
20 approval or disapproval shall be discharged.

21 Section 119. Amendment of Approved Domestic Relations
22 Orders.--(a) If an alternate payee of an approved domestic
23 relations order predeceases the member and there are benefits
24 payable to the alternate payee, the court may amend the approved
25 domestic relations order to substitute a person for the deceased
26 alternate payee to receive benefits payable to the deceased
27 alternate payee.

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

1 Section 120. Irrevocable Beneficiary.--Notwithstanding any
2 other provision of this act, a domestic relations order may
3 provide for an irrevocable beneficiary. A domestic relations
4 order requiring the nomination of an irrevocable beneficiary
5 shall be deemed to be one that requires a member to nominate an
6 alternate payee as a beneficiary and that prohibits the removal
7 or change of that beneficiary without approval of a court of
8 competent jurisdiction, except by operation of law. A domestic
9 relations order subject to this section may be certified as an
10 approved domestic relations order by the secretary of the board
11 or the secretary's designated representative after the member
12 makes the nomination, in which case the irrevocable beneficiary
13 ordered by the court may not be changed by the member without
14 approval of the court.

15 Section 121. Irrevocable Survivor Annuitant.--
16 Notwithstanding any other provision of this act, a domestic
17 relations order may provide for an irrevocable survivor
18 annuitant. A domestic relations order requiring the designation
19 of an irrevocable survivor annuitant shall be deemed to be one
20 that requires a member to designate an alternate payee as a
21 survivor annuitant and that prohibits the removal or change of
22 that survivor annuitant without approval of a court of competent
23 jurisdiction, except by operation of law. A domestic relations
24 order subject to this section may be certified as an approved
25 domestic relations order by the secretary of the board or the
26 secretary's designated representative, in which case the
27 irrevocable survivor annuitant ordered by the court may not be
28 changed by the member without approval of the court. A person
29 ineligible to be designated as a survivor annuitant may not be
30 designated an irrevocable survivor annuitant.

1 Section 10. Section 207(c) of the act, amended November 29,
2 2004 (P.L.1331, No.169), is amended and the section is amended
3 by adding a subsection to read:

4 Section 207. Withdrawal; Return to Service; Death in
5 Service.--* * *

6 (c) (1) Should a person who has been retired on a
7 retirement under this act, return to employment on a regular
8 full-time basis in the same municipality, his retirement
9 allowance shall cease, and in the case of an annuity, other than
10 a disability annuity, the present value of such annuity shall be
11 frozen as of the date such annuity ceases. Upon subsequent
12 discontinuance of service, such member, other than a former
13 disability annuitant, shall be entitled to an annuity which is
14 actuarially equivalent to the sum of the present value of the
15 annuity previously being paid and the present value of the
16 annuity earned by further service and further deductions added
17 upon reemployment.

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

1 continues in service.

2 (3) Notwithstanding clause (2), if the person is otherwise
3 eligible to receive an in-service distribution of his retirement
4 benefit by attainment of normal retirement age as defined in
5 section 411(a) (8) of the Internal Revenue Code (26 U.S.C. §
6 411(a) (8)), operation of section 401(a) (36) of the Internal
7 Revenue Code (26 U.S.C. § 401(a) (36)) or operation of any other
8 provision as may be adopted by the board and consistent with the
9 tax-qualification provisions of the Internal Revenue Code, the
10 person's retirement allowance shall continue to be paid through
11 the period of reemployment.

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

16 * * *

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

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

26 Section 211. Options on Superannuation or Early
27 Retirement.--(a) At the time of his superannuation or early
28 retirement, a contributor may elect to receive his benefits in a
29 retirement allowance payable throughout his life, which shall be
30 known as a single life annuity. In the event of the death of an

1 annuitant who has elected to receive the maximum single life
2 annuity before he has received in annuity payments the full
3 amount of the total accumulated deductions standing to his
4 credit on the effective date of retirement, the balance shall be
5 paid to his designated beneficiary, or instead, he may elect to
6 receive the equivalent actuarial value at that time of his
7 retirement allowance in a lesser allowance, payable throughout
8 life with provisions that:

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

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

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

29 (b) A member or beneficiary shall not be entitled to a form
30 of benefit which commences or is payable over a period which

1 fails to satisfy the required distributions of section 401(a)(9)
2 of the Internal Revenue Code (26 U.S.C. § 401(a)(9)).

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

5 Section 213. Vesting.--* * *

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

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

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

30 (b) Should a contributor, having attained or passed

1 superannuation age, elect, upon leaving the service of the
2 municipality, not to claim the retirement allowance to which he
3 is entitled, he shall, upon written application, be paid by the
4 board the full amount of the accumulated deductions standing to
5 his credit in the member's account, and the balance in the
6 member's excess investment account.

7 (c) (1) Should a person who has been retired on a
8 retirement allowance under this act, return to employment on a
9 regular full-time basis in the same municipality, his retirement
10 allowance shall cease, and in the case of an annuity, other than
11 a disability annuity, the present value of such annuity shall be
12 frozen as of the date such annuity ceases. Upon subsequent
13 discontinuance of service, such member, other than a former
14 disability annuitant, shall be entitled to an annuity which is
15 actuarially equivalent to the sum of the present value of the
16 annuity previously being paid and the present value of the
17 annuity earned by further service and further deductions added
18 upon reemployment.

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

1 not be entitled to receive his retirement allowance for that
2 month or any subsequent month in which he continues in service.

3 (3) Notwithstanding clause (2), if the person is otherwise
4 eligible to receive an in-service distribution of his retirement
5 benefit by attainment of normal retirement age as defined in
6 section 411(a) (8) of the Internal Revenue Code (26 U.S.C. §
7 411(a) (8)), operation of section 401(a) (36) of the Internal
8 Revenue Code (26 U.S.C. § 401(a) (36)) or operation of any other
9 provision as may be adopted by the board and consistent with the
10 tax-qualification provisions of the Internal Revenue Code, the
11 person's retirement allowance shall continue to be paid through
12 the period of reemployment. The municipality is required to
13 notify the board immediately of the reemployment status of any
14 retired former employe and file separate monthly reports of his
15 gross earnings as prescribed by the board.

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

30 (e) If a member dies while performing qualified military

1 service, as defined in section 414(u) (5) of the Internal Revenue
2 Code (26 U.S.C. § 414(u) (5)), the survivors of the member shall
3 be entitled to receive any additional benefits, other than
4 benefit accruals relating to the period of qualified military
5 service, as though the member had returned to service and then
6 terminated employment on account of death.

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

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

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

1 annuity having a present value equal to the balance payable,
2 (iii) a lump sum payment and an annuity. Such annuity shall be
3 of equivalent actuarial value to the balance payable less the
4 amount of the lump sum payment specified by the beneficiary.

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

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

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 distributions of section 401(a)(9)
14 of the Internal Revenue Code (26 U.S.C. § 401(a)(9)).

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

17 Section 314. Vesting.--* * *

18 (e) Upon the termination of the retirement plan, all
19 members, regardless of credited service, shall be deemed fully
20 vested in their accrued benefit to the extent the benefits
21 provided under the plan are funded as of the date of
22 termination.

23 Section 16. Section 403(8) and (14) of the act, amended May
24 17, 1980 (P.L.135, No.50), are amended to read:

25 Section 403. Contract Provisions.--Any contract for an
26 optional retirement plan entered into between a municipality and
27 the board shall not provide for any benefits in excess of or
28 minimum member's contribution rates less than those available to
29 that municipality for that class of employes under any existing
30 law pertaining to the establishment of a retirement or pension

1 system, except to the extent that excess investment earnings are
2 allocated to provide for additional pension benefits or member
3 accruals as otherwise provided in this law.

4 The contract shall specifically state the following terms and
5 conditions:

6 * * *

7 (8) A description of any optional methods of payment of
8 retirement allowances available to a member, including the
9 availability of the DROP.

10 * * *

11 (14) Any other information which might have a bearing on the
12 costs or benefits of the retirement plan which might be required
13 by the board in the administration of the plan, including
14 whether the municipality will permit an eligible retired public
15 safety officer to direct that a portion of his annuity be used
16 to pay qualified accident, health or long-term care insurance
17 premiums as remitted under section 402(1) of the Internal
18 Revenue Code (26 U.S.C. § 402(1)).

19 Section 17. Section 406(c) of the act, amended November 29,
20 2004 (P.L.1331, No.169), is amended and the section is amended
21 by adding a subsection to read:

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

24 (c) (1) Should a person who has been retired on a
25 retirement allowance under this act and who is not a DROP
26 participant, return to employment on a regular full-time basis
27 in the same municipality, his retirement allowance shall cease,
28 and in the case of an annuity, other than a disability annuity,
29 the present value of such annuity shall be frozen as of the date
30 such annuity ceases. Upon subsequent discontinuance of service,

1 such member, other than a former disability annuitant, shall be
2 entitled to an annuity which is actuarially equivalent to the
3 sum of the present value of the annuity previously being paid
4 and the present value of the annuity earned by further service
5 and further deductions added upon reemployment.

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

21 (3) Notwithstanding clause (2), if the person is otherwise
22 eligible to receive an in-service distribution of his retirement
23 benefit by attainment of normal retirement age as defined in
24 section 411(a) (8) of the Internal Revenue Code (26 U.S.C. §
25 411(a) (8)), operation of section 401(a) (36) of the Internal
26 Revenue Code (26 U.S.C. § 401(a) (36)) or operation of any other
27 provision as may be adopted by the board and consistent with the
28 tax-qualification provisions of the Internal Revenue Code, the
29 person's retirement allowance shall continue to be paid through
30 the period of reemployment. The municipality is required to

1 notify the board immediately of the reemployment status of any
2 retired former employe and file separate monthly reports of his
3 gross earnings as prescribed by the board.

4 * * *

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

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

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

27 (1) Option 1. If he shall die before receiving in payments
28 the present value of his retirement allowance as it was at the
29 time of his retirement, the balance, if less than five thousand
30 dollars (\$5,000), shall be paid in a lump sum to his legal

1 representative, or to or in trust for his beneficiary. If the
2 balance is five thousand dollars (\$5,000) or more, the
3 beneficiary may elect by application duly acknowledged and filed
4 with the board to receive payment of such balance according to
5 any one of the following provisions: (i) a lump sum payment,
6 (ii) an annuity having a present value equal to the balance
7 payable, (iii) a lump sum payment and an annuity. Such annuity
8 shall be of equivalent actuarial value to the balance payable
9 less the amount of the lump sum payment specified by the
10 beneficiary.

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

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

17 (4) Option 4. Any other optional form of payment contained
18 in the contract.

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

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

26 Section 410. Vesting.--(a) Provisions for vesting may be
27 included in the contract between the municipality and the board.
28 When such provision is made it shall mean that a contributor who
29 terminates his employment with the municipality after a
30 stipulated age or length of service, or both, may, if he so

1 elects in writing, leave his contributions, plus interest, as
2 credited to his account, in the fund, and, upon reaching
3 superannuation retirement age, receive a superannuation
4 retirement allowance and accumulated deductions would include
5 interest from date of termination until the earlier of the date
6 of commencement of the annuity or the date of payment of member
7 contributions.

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

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

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

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

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

24 (3) The legislative body of the municipality has passed an
25 ordinance or resolution signifying its intention to withdraw
26 from the system.

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

1 The board shall within ninety days of its receipt, take
2 action on an application filed by a municipality for permission
3 to withdraw from the system. If the application is approved the
4 withdrawing municipality shall be entitled to receive a net
5 refund of the amounts then standing to the credit of the
6 municipality in the member's account, the member's excess
7 investment account, the municipal account, the subsidiary DROP
8 participant reserve account and the retired member's reserve
9 accounts of the system. In no event shall the total amount of
10 the net refund to the municipality exceed the pro rata interest
11 of the withdrawing municipality in the net assets of the entire
12 fund based on the market value of the investments of the fund as
13 of the date of receipt of the application for permission to
14 withdraw. The liability for the continuation of retirement or
15 disability allowances being paid from the fund shall attach
16 against the withdrawing municipality and be paid from funds
17 transferred to a retirement system established subsequent to its
18 withdrawal from the system or from moneys appropriated annually
19 from tax revenues sufficient to pay the same. If the board
20 disapproves the application of the municipality for permission
21 to withdraw from the system the board shall promptly notify the
22 municipality of its decision and advise the municipality of the
23 board's reason or reasons for disapproval. The board shall
24 establish rules and regulations, in accordance with the
25 provisions of clause (10) of section 104 of this act, governing
26 the details of the procedures to be followed in the withdrawal
27 of municipalities from the system.

28 SECTION 21. REPEALS ARE AS FOLLOWS: 

29 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
30 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF

1 SECTION 110.1 OF THE ACT.

2 (2) SECTION 703-A(B) OF THE ACT OF DECEMBER 18, 1984
3 (P.L.1005, NO.205), KNOWN AS THE MUNICIPAL PENSION PLAN
4 FUNDING STANDARD AND RECOVERY ACT, IS REPEALED.

5 Section ~~21~~ 22. This act shall take effect immediately.

