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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

No. **1058** Session of  
2009

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INTRODUCED BY KITCHEN, COSTA, MELLOW, WASHINGTON, WILLIAMS,  
HUGHES, FARNESE AND TARTAGLIONE, JULY 31, 2009

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REFERRED TO FINANCE, JULY 31, 2009

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AN ACT

1 Amending the act of December 18, 1984 (P.L.1005, No.205),  
2 entitled "An act mandating actuarial funding standards for  
3 all municipal pension systems; establishing a recovery  
4 program for municipal pension systems determined to be  
5 financially distressed; providing for the distribution of the  
6 tax on the premiums of foreign fire insurance companies; and  
7 making repeals," adding special provisions for amortization  
8 of unfunded actuarial accrued liability and minimum municipal  
9 obligation in cities of the first class; and providing for  
10 special taxing authority for cities of the first class.

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

13 Section 1. Chapter 10 heading of the act of December 18,  
14 1984 (P.L.1005, No.205), known as the Municipal Pension Plan  
15 Funding Standard and Recovery Act, added June 18, 1998 (P.L.626,  
16 No.82), is amended to read:

17 CHAPTER 10

18 [ALTERNATIVE FUNDING MECHANISM]

19 PROVISIONS RELATING TO CITIES OF THE FIRST CLASS

20 Section 2. Section 1001(b) of the act, added June 18, 1998  
21 (P.L.626, No.82), is amended and the section is amended by  
22 adding a subsection to read:

1 Section 1001. Alternative funding mechanism.

2 \* \* \*

3 (b) Period of payment requirements prior to July 1, 2009.--

4 The period of the city's payment requirements under an  
5 alternative funding mechanism implemented prior to December 31,  
6 2002, shall be the greater of:

7 (1) the remaining period not exceeding 30 years during  
8 which the city would have amortized the unfunded actuarial  
9 accrued liability reported in its last actuarial valuation  
10 report filed under Chapter 2 using the total amortization  
11 payment and interest assumption, reported in that actuarial  
12 valuation report; or

13 (2) 30 years.

14 If an alternative funding mechanism is implemented after  
15 December 31, 2002, but before July 1, 2009, the period described  
16 in paragraph (1) shall be the period of the city's payment  
17 requirements.

18 (b.1) Period of payment requirements beginning July 1,  
19 2009.--The period of the city's payment requirements under an  
20 alternative funding mechanism implemented or refinanced in whole  
21 or in part on or after July 1, 2009, and prior to the beginning  
22 of the plan year that commences in 2019, shall be the greater  
23 of:

24 (1) the remaining period not exceeding 30 years during  
25 which the city would have amortized the unfunded actuarial  
26 accrued liability reported in its last actuarial valuation  
27 report filed under Chapter 2 using the total amortization  
28 payment and interest assumption, reported in that actuarial  
29 valuation report; or

30 (2) 30 years.

1 If an alternative funding mechanism is implemented after July 1,  
2 2019, the period described in paragraph (1) shall be the period  
3 of the city's payment requirements.

4 \* \* \*

5 Section 3. The act is amended by adding sections to read:

6 Section 1002. Special provisions for amortization of unfunded  
7 actuarial accrued liability and minimum municipal  
8 obligation.

9 (a) Amortization of unfunded actuarial accrued liability.--

10 (1) Notwithstanding any other provision of this act or  
11 other law, a city of the first class, in its sole discretion,  
12 may amortize its entire unfunded actuarial accrued liability,  
13 as measured on a valuation date selected by the city of the  
14 first class and occurring in the plan year commencing after  
15 January 1, 2009, and ending before December 31, 2010, as a  
16 level dollar amount with the amortization target date being  
17 the end of the plan year occurring 30 years after the plan  
18 year commencing on July 1, 2009, with payments to commence in  
19 the next plan year.

20 (2) In order for a city of the first class to extend the  
21 applicable amortization period pursuant to this subsection,  
22 the city of the first class must file a revised actuarial  
23 valuation report reflecting the amortization period extension  
24 provided for under this section and the actuarial assumed  
25 rate in effect on the valuation date with the commission not  
26 later than March 31, 2010.

27 (3) Any such revised actuarial valuation report may not  
28 be filed in lieu of the actuarial valuation report prepared  
29 in compliance with section 202(b)(4)(v)(A) and required to be  
30 filed on or before March 31, 2009, and may be used only for

1 the purposes of recalculating the minimum municipal  
2 obligation of the city of the first class for the plan year  
3 commencing on July 1, 2009, and calculating the minimum  
4 municipal obligation of the city of the first class for the  
5 plan year commencing on July 1, 2010, to reflect the  
6 amortization period extension. The revised report shall  
7 supersede the original report to the extent of the revisions.

8 (4) Any such revised actuarial valuation report shall  
9 not affect distributions under the General Municipal Pension  
10 System State Aid Program under Chapter 4.

11 (b) Revised minimum municipal obligation for certain plan  
12 years.--

13 (1) Notwithstanding any other provision of this act or  
14 other law, a city of the first class is authorized to defer a  
15 portion of the minimum municipal obligation provided for in  
16 section 302:

17 (i) for the plan year ending June 30, 2010, in an  
18 amount not to exceed \$155,000,000; and

19 (ii) for the plan year ending June 30, 2011, in an  
20 amount not to exceed \$80,000,000.

21 (2) The amounts deferred shall bear interest at the rate  
22 of 8.25%, which shall be calculated from the beginning of the  
23 plan year in which the deferral was made. Accrued interest on  
24 any amounts deferred shall be paid yearly on or before June  
25 30, 2010, June 30, 2011 and June 30, 2012.

26 (3) On or before June 30, 2013, the city of the first  
27 class shall repay:

28 (i) at least \$90,000,000 of any amounts deferred,  
29 plus interest accrued on all amounts deferred; or

30 (ii) if the total amount deferred is less than

1       \$90,000,000, the total amount deferred, plus interest  
2       accrued on that amount.

3       (4) The balance of all amounts deferred, including  
4       interest accrued and unpaid on amounts deferred, shall be  
5       repaid by June 30, 2014.

6       (5) Any of the amounts deferred, including interest  
7       accrued on deferred amounts, which remain unpaid at the end  
8       of the plan year ending June 30, 2014, shall be added to the  
9       minimum municipal obligation of the city of the first class  
10       for the following plan year, with interest calculated and due  
11       until the date that the amounts due are paid.

12       (6) The calculation of the unfunded actuarial accrued  
13       liability made by and certified by an approved actuary under  
14       section 202 shall not include any amounts deferred pursuant  
15       to this subsection, so long as the city of the first class is  
16       paying interest accrued on such deferred amounts and repaying  
17       such deferred amounts in accordance with the terms of this  
18       subsection.

19       (7) The repayment of any amounts deferred, including  
20       interest accrued on deferred amounts, as and when required in  
21       this subsection, shall constitute a commitment and  
22       obligation, binding and absolute, on the city of the first  
23       class; and the city of the first class shall include all  
24       amounts due to be paid under this subsection in the budget of  
25       the city, and all amounts due to be paid shall be  
26       appropriated and paid in order to make timely repayment of  
27       any amounts deferred, including interest accrued on deferred  
28       amounts, with such payment being unconditional and without  
29       setoff.

30       (8) (i) Any person who is beneficially interested in

1 the city of the first class paying its minimum municipal  
2 obligation under this subsection shall have standing to  
3 institute a legal proceeding for mandamus to enforce the  
4 obligation of the city of the first class to make  
5 payments under this subsection in the same manner as  
6 payment requirements of an alternative funding mechanism  
7 may be enforced under section 1001.

8 (ii) For purposes of this paragraph, a person is  
9 beneficially interested under this subsection if the  
10 person is a beneficially interested person under section  
11 1001(f).

12 (9) The city of the first class shall be required to pay  
13 the balance of its minimum municipal obligation in full when  
14 due in each plan year.

15 Section 1003. Special taxing authority.

16 (a) Imposition of special tax.--

17 (1) Solely for the purposes set forth in subsection (c),  
18 a city of the first class is authorized to impose a tax on  
19 the sale at retail of tangible personal property or services  
20 or use of tangible personal property or services purchased at  
21 retail, as those terms are defined in Article II of the act  
22 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
23 of 1971, which tax shall be in addition to the tax authorized  
24 under the provisions of section 503(a) and (b) of the act of  
25 June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
26 Intergovernmental Cooperation Authority Act for Cities of the  
27 First Class. The tax authorized by this subsection shall not  
28 be levied, assessed and collected upon the occupancy of a  
29 room or rooms in a hotel in the city.

30 (2) The tax authorized under this subsection shall be

1 imposed and collected at the rate of 1%, and shall be  
2 computed as set forth in section 503(e)(3) of the  
3 Pennsylvania Intergovernmental cooperation Authority Act for  
4 Cities of the First Class.

5 (3) The tax authorized under this subsection shall be  
6 administered, collected, deposited and disbursed in the same  
7 manner as the tax imposed under Chapter 5 of the Pennsylvania  
8 Intergovernmental Cooperation Authority Act for Cities of the  
9 First Class and the situs of the tax authorized under this  
10 subsection shall be determined in accordance with that act  
11 and Article II-A of the Tax Reform Code of 1971. The  
12 department shall use the money received by the department to  
13 cover its costs of administration of the tax authorized by  
14 the provisions of Chapter 5 of the Pennsylvania  
15 Intergovernmental Cooperation Authority Act for Cities of the  
16 First Class to cover the costs of administration of the tax  
17 authorized by this section; and the department shall not  
18 retail any additional amounts for the costs of collection of  
19 the tax authorized by this section. No additional fee shall  
20 be charged for either a license or any renewal in addition to  
21 a license or renewal fee otherwise authorized and imposed  
22 pursuant to Article II of the Tax Reform Code of 1971.

23 (b) Municipal action.--

24 (1) If a city determines to impose the tax authorized by  
25 subsection (a), the governing body of the city shall adopt or  
26 shall previously have adopted an ordinance which shall state  
27 the tax rate.

28 (2) The city ordinance, including an ordinance adopted  
29 prior to the effective date of this article, may take effect  
30 no earlier than 20 days after the adoption of the ordinance

1 or 20 days after the effective date of this section,  
2 whichever is later.

3 (3) A certified copy of a city ordinance imposing the  
4 tax authorized by subsection (a) shall be delivered to the  
5 department within ten days prior to or after the effective  
6 date of that ordinance.

7 (4) A certified copy of a repeal ordinance shall be  
8 delivered to the department at least 30 days prior to the  
9 effective date of the repeal.

10 (c) Use of tax receipts.--Any moneys received by the city  
11 from the levy, assessment and collection of the tax authorized  
12 under subsection (a) may only be used to:

13 (1) pay as and when due in any plan year any amounts of  
14 the city's minimum municipal obligation provided for in  
15 section 302, including, but not limited to, amounts deferred  
16 pursuant to section 1002(b) and interest accrued on deferred  
17 amounts; and

18 (2) reimburse the city for payments made by the city,  
19 from sources other than the tax authorized in subsection (a),  
20 of the city's minimum municipal obligation for that year,  
21 including, but not limited to, amounts deferred pursuant to  
22 section 1002(b) and interest accrued on deferred amounts.

23 (d) Expiration.--

24 (1) This section shall expire July 1, 2014.

25 (2) Notwithstanding the expiration of this section, any  
26 tax imposed pursuant to subsection (a) on sales or use  
27 occurring before July 1, 2014, shall be paid to and received  
28 by the department and, along with interest and penalties,  
29 less any refunds and credits paid, shall be credited to the  
30 Local Sales and Use Tax Fund created pursuant to the



1 Pennsylvania Intergovernmental Cooperation Authority Act for  
2 Cities of the First Class as if this section had not expired.  
3 Such moneys shall be disbursed to the city imposing the tax  
4 in the manner provided by section 509 of the Pennsylvania  
5 Intergovernmental Cooperation Authority Act for Cities of the  
6 First Class.

7 (e) Effect of imposition, expiration or repeal of tax.--The  
8 imposition, termination or repeal of the tax authorized under  
9 subsection (a) shall not affect in any way the amount of  
10 supplemental State assistance allocable to the city imposing the  
11 tax.

12 Section 1004. Additional assistance.

13 Notwithstanding any other provision of this act or other law,  
14 a city of the first class shall continue to receive State  
15 supplemental assistance and any other assistance available under  
16 this act.

17 Section 4. This act shall take effect immediately.