



COMMONWEALTH OF PENNSYLVANIA  
PUBLIC EMPLOYEE RETIREMENT COMMISSION  
P. O. BOX 1429, HARRISBURG, PA 17105-1429

June 4, 2013

The Honorable Keith Gillespie  
Majority Chairman  
House Urban Affairs Committee  
House of Representatives  
45 East Wing, Main Capitol  
Harrisburg, PA 17120

Re: House Bill Number 128, Printer's Number 126

Dear Representative Gillespie:

I am writing with regard to the above referenced bill. The Second Class A City Employee Pension Law (Act of September 23, 1959, P. L. 970, No. 400) permits an eligible member of the pension plan to purchase up to five years of nonintervening military service if the member enters employment with the City of Scranton within three years of the date of the member's release from active military service. The bill would amend the Second Class A City Employee Pension Law by removing the statutory three-year time limit within which a member must commence employment with the City following military service in order to be eligible to purchase credit for nonintervening military service, and by mandating that affected members be entitled to purchase the nonintervening military service credit.

Under the Public Employee Retirement Commission Act (Act 66 of 1981), the Commission has a mandated responsibility to review any legislative changes that affect public employee retirement systems. At my direction, the Commission staff has reviewed the provisions of House Bill Number 128, Printer's Number 126, and determined that: 1) on May 16, 2013, the Commission voted to attach an actuarial note to Senate Bill Number 704, Printer's Number 709 (copy enclosed); 2) the Commission's actuarial note on Senate Bill Number 704, Printer's Number 709, applies to House Bill Number 128, Printer's Number 126; and 3) House Bill Number 128, Printer's Number 126, will have no actuarial cost impact beyond that described in the Commission's previous actuarial note on Senate Bill Number 704, Printer's Number 709.

Based upon the determination that House Bill Number 128, Printer's Number 126, will have no actuarial cost impact beyond that described in the Commission's previous actuarial note on Senate Bill Number 704, Printer's Number 709, I am informing you, on behalf of the Commission, that the bill will not require an actuarial note prior to further consideration by the General Assembly.

The Honorable Keith Gillespie  
June 4, 2013

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If I may be of any further assistance, please feel free to contact me by telephoning (717) 783-6100.

Sincerely,



Anthony W. Salomone  
Chairman

Enclosures

cc: The Honorable Samuel H. Smith  
The Honorable Mike Turzai  
The Honorable Frank Dermody  
The Honorable Stan Saylor  
The Honorable Michael K. Hanna  
The Honorable Sandra Major  
The Honorable Dan Frankel  
The Honorable William F. Adolph, Jr.  
The Honorable Joseph Markosek  
The Honorable Kerry A. Benninghoff  
The Honorable Phyllis Mundy  
The Honorable Michael Tobash  
The Honorable R. Ted Harhai  
The Honorable Kevin Haggerty  
Mr. Anthony Aliano  
Mr. Clancy Myer  
Mr. Anthony F. Barbush  
Ms. Debbie Reeves  
Mr. Bernard Gallagher

**PUBLIC EMPLOYEE RETIREMENT COMMISSION****ACTUARIAL NOTE TRANSMITTAL**

Bill ID: Senate Bill Number 704, Printer's Number 709

System: Cities of the Second Class A (Scranton) Employees'  
Retirement System (Nonuniformed Employees)

Subject: Eligibility for Purchase of Nonintervening Military Service

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**SYNOPSIS**

Senate Bill Number 704, Printer's Number 709, would amend the Second Class A City Employee Pension Law by removing the statutory three-year time limit within which a member must commence employment with the City of Scranton following military service in order to be eligible to purchase credit for nonintervening military service, and by mandating that affected members be entitled to purchase the nonintervening military service credit. Senate Bill Number 704, Printer's Number 709, is a companion bill to Senate Bill Number 703, Printer's Number 708, which would similarly amend the pension statute affecting uniformed (police and fire) employees.

**DISCUSSION**

The Second Class A City Employee Pension Law (Act of September 23, 1959, P. L. 970, No. 400) establishes the pension plan for nonuniformed employees in the City of Scranton. The City of Scranton Nonuniformed Pension Plan is a contributory, defined benefit pension plan. Normal retirement age is age 55 with at least 15 years of service. As of January 1, 2011, there were 169 active members of the plan.

One of the most common service purchase authorizations provided by public employee retirement systems is for periods of military service which interrupt or delay the commencement of a career with the public employer. Permitting a member to receive retirement service credit for military service is of benefit to the member because the member's retirement benefit can be enhanced through the acquisition of additional service credit, and, in some cases, retirement eligibility can be accelerated.

## DISCUSSION (CONT'D)

In 1994, the United States Congress passed the Uniformed Services Employment and Re-employment Rights Act (USERRA), which replaced the former Veterans' Reemployment Rights Law (VRRL). To ensure that they are not held at a disadvantage in their employment rights, USERRA requires that all employees rendering intervening military service (service that interrupts employment) be considered as having been on leave of absence during that time, a policy that is also reflected in the Commonwealth of Pennsylvania's Military Code and in most state pension plan statutes. (USERRA does not address the issue of *nonintervening* military service.) Specifically, 38 U. S. C. § 4318(a)(2)(A) provides that the employee "shall be treated as not having incurred a break in service . . . by reason of such person's period or periods of service." Further, § 4318(b)(1) provides that "[a]n employer . . . shall . . . be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) . . .," and that "[n]o such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer" (§ 4318(b)(2)).

In addition to service credit for intervening military service (covered by USERRA), the Second Class A City Employee Pension Law permits an active member of the pension plan to purchase up to five years of nonintervening military service (military service performed prior to commencement of employment) if the member entered employment with the City of Scranton within three years of the date of the member's release from active military service. The bill would amend the Second Class A City Employee Pension Law by removing the statutory three-year time limit within which a member must commence employment with the City following military service in order to be eligible to purchase credit for nonintervening military service, and by mandating that affected members be entitled to purchase the nonintervening military service credit.

Permitting a member to receive retirement service credit for nonintervening military service has been a longstanding policy among the major public employee retirement systems of the Commonwealth. The currently mandated three-year time limit appears arbitrary and is a condition not imposed by any other state or municipal pension statute. There is no reasonable public pension policy rationale for making eligibility for the purchase of nonintervening military service contingent upon the expanse of time between when an individual left the military and became a public employee of the City. If the purchase of nonintervening military service is to be permitted, all such service should be treated equally. The bill, therefore, seeks to remove an inequity in the crediting of nonintervening military service that currently exists in the Second Class A City Employee Pension Law.

## **SUMMARY OF ACTUARIAL COST IMPACT**

The Commission's consulting actuary reviewed the bill and determined that because an eligible member would be required to purchase nonintervening military service by making a payment to the pension fund that is equal to the amount the member would have contributed had the member been a member of the pension fund during the period of nonintervening military service, plus the equivalent of the City's contributions on account of such service, there should be no actuarial cost to the City resulting from enactment of the bill.

## **POLICY CONSIDERATIONS**

In reviewing the bill, the Commission identified the following policy consideration:

Equity in the Crediting of Military Service. (+) Permitting a member to receive retirement service credit for military service has been a longstanding policy among the major public employee retirement systems of the Commonwealth. The bill removes language in the Second Class A City Employee Pension Law that currently treats nonintervening military service inequitably for retirement credit purposes.

## **COMMISSION RECOMMENDATION**

The Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issue identified above.

## **ATTACHMENTS**

Actuarial note prepared by David H. Killick of Conrad Siegel Actuaries.

Senate Bill Number 704, Printer's Number 709.





May 9, 2013

Mr. James L. McAneny  
Executive Director  
Public Employee Retirement Commission  
P.O.Box 1429  
Harrisburg, PA 17105-1429

Re: Senate Bill No. 704, Printer's No. 709  
Second Class A City Employee Pension Law (City of Scranton) – Nonintervening  
Military Service

Dear Jim:

Pursuant to engagement, I have reviewed Senate Bill No. 704 and am hereby providing an actuarial note on such bill. The bill would amend the Second Class A City Employee Pension Law (City of Scranton) to permit a member of the City Employees' Retirement Fund to purchase up to five years of nonintervening military service even if such member commenced employment with the City more than three years after the member's date of release from active military service. The bill also mandates that such eligible members be entitled to purchase nonintervening military service.

In order to purchase such nonintervening military service, the member must pay to the pension fund an amount equal to that which he would have paid had he been a member during the period for which he desires credit, computed with reference to the compensation he received when first employed by the City and his current member contribution percentage. In addition, such member must contribute to the pension fund an amount equal to the equivalent of the contributions to be made by the City on account of such military service. The contribution may be paid in a lump sum or by installments based upon the approval of the City Retirement Board.

I believe this bill is useful to members who have nonintervening military service since all nonintervening military service is treated equally regardless of the time in which it was served prior to the member's commencement of employment with the City. If this bill is passed, a member's nonintervening military service will not be rendered useless for this purpose simply because such member did not elect to become employed by the City within three years from such member's date of release from active military service.

Since the member is required to purchase such nonintervening military service by making a payment to the pension fund equal to the amount he would have contributed during the period of service that he is purchasing plus the equivalent of the City's contributions on

Mr. James L. McAneny  
May 9, 2013  
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account of such military service, there should be no actuarial cost to the City associated with the passage of Senate Bill No. 704.

With best regards,

Yours sincerely,



David H. Killick, F.S.A.  
Consulting Actuary

DHK:smf



THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 704 Session of 2013

INTRODUCED BY BLAKE, FERLO, FONTANA, BREWSTER, YUDICHAK,  
TARTAGLIONE, COSTA, WASHINGTON AND FARNESE, MARCH 15, 2013

REFERRED TO FINANCE, MARCH 15, 2013

AN ACT

1 Amending the act of September 23, 1959 (P.L.970, No.400),  
2 entitled "An act providing for the creation, maintenance and  
3 operation of an employees' retirement system in cities of the  
4 second class A, and imposing certain charges on cities of the  
5 second class A and school districts in cities of the second  
6 class A," further providing for credit for military service.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 12 of the act of September 23, 1959  
10 (P.L.970, No.400), referred to as the Second Class A City  
11 Employe Pension Law, amended July 15, 1968 (P.L.342, No.167), is  
12 amended to read:

13 Section 12. Credit for Military Service; Payment into Fund;  
14 Reimbursement.--Any city employe who, on or after September 16,  
15 1940, has been employed by the city for a period of six months  
16 and who, on or subsequent to such date, shall have enlisted or  
17 been inducted into the military service of the United States in  
18 time of war, armed conflict or national emergency so proclaimed  
19 by the President or the Congress of the United States, shall  
20 have credited to his employment record, for retirement benefits,

1 all of the time spent by him in such military service during the  
2 continuance of such war, armed conflict, or national emergency,  
3 and such payments as were heretofore or shall hereafter be  
4 required to be made during such period by such city employe into  
5 the city employes' retirement fund shall be paid into such fund  
6 by the city. Any employes who have made payments into the city  
7 employes' retirement fund, for which payments the city is liable  
8 under the provisions of this act, shall be reimbursed by the  
9 city to the full extent of such payments or be given credit  
10 towards future payments under this act.

11 Any member of the pension fund who is a contributor and who  
12 served in the armed forces of the United States subsequent to  
13 September 1, 1940, and who was not a member of the pension fund  
14 prior to such military service, and who commenced employment in  
15 city service [within three years from] after the date of release  
16 from active duty, [may, as the city or school district shall  
17 determine,] shall be entitled to have full credit for each year  
18 or fraction thereof, not to exceed five years of such service  
19 upon his payment to the pension fund an amount equal to that  
20 which he would have paid had he been a member during the period  
21 for which he desires credit, computed with reference to the  
22 compensation he received upon entry into city service and his  
23 current percentage of salary deductions, and an additional  
24 amount as the equivalent of the contributions of the city and  
25 school district on account of such military service, which  
26 amount may be paid in a lump sum or by installments as may be  
27 approved by the board.

28 Section 2. This act shall take effect immediately.

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 128 Session of  
2013

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INTRODUCED BY HAGGERTY, MICOZZIE, NEILSON, DEAN, KORTZ AND  
CALTAGIRONE, JANUARY 16, 2013

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, JANUARY 16, 2013

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AN ACT

1 Amending the act of September 23, 1959 (P.L.970, No.400),  
2 entitled "An act providing for the creation, maintenance and  
3 operation of an employes' retirement system in cities of the  
4 second class A, and imposing certain charges on cities of the  
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18 time of war, armed conflict or national emergency so proclaimed  
19 by the President or the Congress of the United States, shall  
20 have credited to his employment record, for retirement benefits,

1 all of the time spent by him in such military service during the  
2 continuance of such war, armed conflict, or national emergency,  
3 and such payments as were heretofore or shall hereafter be  
4 required to be made during such period by such city employe into  
5 the city employes' retirement fund shall be paid into such fund  
6 by the city. Any employes who have made payments into the city  
7 employes' retirement fund, for which payments the city is liable  
8 under the provisions of this act, shall be reimbursed by the  
9 city to the full extent of such payments or be given credit  
10 towards future payments under this act.

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23 current percentage of salary deductions, and an additional  
24 amount as the equivalent of the contributions of the city and  
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