Public Employee Retirement Laws For Pennsylvania Local Governments

Public Employee Retirement Commission

Commonwealth of Pennsylvania

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This publication is intended to serve as a general guide to selected Pennsylvania local government pension laws, and is not intended as a comprehensive guide to Pennsylvania public pension laws, nor is it intended to provide legal, accounting, actuarial or other professional advice and should not be utilized as a substitute for such advice.

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PREFACE

Retirement systems for employees of local governments in Pennsylvania are authorized for all classes of local governments. The General Assembly has required the establishment of pension or retirement systems for most police officers and firefighters. Systems for other classes of employees and officials generally are optional, and the establishment of such systems is left to the discretion of the individual local governments. Once a system is established, however, employees eligible for membership must become and remain members as long as they are eligible employees. Certain classes of employees, such as elected officials and per diem employees, may be eligible for membership, under certain circumstances, if the governing body of the local government so decides.

This publication is intended to be a nontechnical description of certain statutes regulating the public employee retirement systems of most of Pennsylvania's local governments. The systems of the Cities of Philadelphia, Pittsburgh, and Scranton and the County of Allegheny are not covered, as each of these applies to only one entity, is complex and detailed, and generally is of interest only to the affected officials and employees. Likewise, the Public School Employees' Retirement System (PSERS), covering the employees of the various school districts, area vocational-technical schools, and intermediate units is not addressed by this publication. Although the various school employers are generally local governments, the PSERS is adequately explained elsewhere and is beyond the scope of this brief publication.

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GENERAL

INFORMATION

PUBLIC EMPLOYEE RETIREMENT COMMISSION

Creation and Membership.

The Public Employee Retirement Commission was created by Act 66 of 1981, known as the Public Employee Retirement Commission Act (43 P.S. §§ 1401-1411). The Commission is composed of nine members, five of whom are appointed by the Governor with the advice and consent of the Senate and four of whom are appointed by the leaders of the General Assembly.

Main Responsibilities.

Under the Public Employee Retirement Commission Act, the Commission has two main responsibilities. One is to review legislation affecting public employee retirement systems. The other is to study, on a continuing basis, public employee retirement system policy as implemented at both the Commonwealth and local government levels, the interrelationships of the systems, and the actuarial soundness and costs of the systems.

The requirement that an actuarial note be attached to public employee pension and retirement bills prior to their second consideration in either house of the General Assembly makes the Commission an integral part of the process by which the General Assembly considers this legislation. The Commission's actuarial notes are required to provide a reliable estimate of both the immediate financial impact and the long-range actuarial effect of proposed legislation affecting public employee retirement systems.

Additional Responsibilities.

Under Act 205 of 1984, known as the Municipal Pension Plan Funding Standard and Recovery Act (53 P.S. §§ 895.101-895.803), the Commission has three additional responsibilities. The first is to administer the actuarial valuation reporting program for municipal retirement systems that entails monitoring and enforcing compliance with the legislatively mandated actuarial funding standard and the biennial publication of municipal pension plan data for over 3,000 systems. The second is to annually certify municipal pension cost data used in allocating General Municipal Pension System State Aid (over $206 million in 2007). The last is to administer the Financially Distressed Municipal Pension System Recovery Program established by the Act.

Under Act 293 of 1972 (53 P.S. §§ 730.1-730.5), the Commission also has the responsibility to administer the actuarial valuation reporting program for county retirement systems and to publish this county retirement system data biennially.

These additional responsibilities are more fully described in the following sections.

PROBATE, ESTATES AND FIDUCIARIES CODE

Fiduciary Investments.

In governmental investing, there are four issues to be considered: legality, quality, liquidity, and return. Under generally accepted accounting principles, a public employee pension trust fund is a fiduciary fund type and is subject to fiduciary standards requiring that the fund be managed solely for the benefit of plan members. The legality of investments by most public employee pension trust funds is controlled by Chapter 73, relating to fiduciaries' investments, of the Probate, Estates and Fiduciaries Code (20 Pa. C.S. §§ 7301-7319), as well as by public employee pension plan statutes, home rule charters, and creating ordinances. For example, section 1804.1(d)(7) of The Third Class City Code (53 P.S. § 36804.1(d)(7)), section 1316(c)(vii) of The Borough Code (53 P.S. § 46201(c)(vii)), section 1705.1(d)(vii) of The First Class Township Code (53 P.S. § 56705.1(d)(vii)), and section 3204(d)(7) of The Second Class Township Code (53 P.S. § 68204(d)(7)) all authorize any investment authorized by Chapter 73 for any pension or retirement fund of the municipality, and section 9 of the County Pension Law (16 P.S. § 11659) makes county pension trust fund investments subject to the terms, conditions, limitations, and restrictions imposed by law upon fiduciaries. In determining the legality of pension trust fund investments, Chapter 73 gives fiduciaries two options: A *Legal List* or a *Prudent Person Rule.*

Legal List.

Sections 7303-7316 list the forms of permitted investments. Because some of these forms would not be prudent for a public employee pension trust fund or may be prohibited by a pension plan statute or would endanger the pension plan's qualified status under the Internal Revenue Code, the list should not be used as an automatic approval of any listed investment.

Prudent Person Rule.

In addition to, and independent of, the *Legal List*, section 7302(b) provides a *Prudent Person Rule*, which also provides guidance on the degree of judgment and care required in determining quality, liquidity, and return. Section 7302(b) provides that:

> Any investment shall be an authorized investment if purchased or retained in the exercise of that degree of judgment and care, under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income to be derived therefrom as well as the probable safety of their capital. The authorization to make and retain investments pursuant to this subsection shall be in addition to, and independent of, authorizations to make investments pursuant to other provisions of this chapter and requirements applicable under other provisions of this chapter shall not affect investments also authorized by this subsection.

POSTRETIREMENT ADJUSTMENTS FOR CERTAIN RETIRED MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS

Under Act 147 of 1988, P.L. 1192, No. 147, known as the Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act (53 P.S. §§ 896.101-896.1103), a postretirement adjustment is paid to certain retired municipal police officers and firefighters based upon the date of retirement and years since retirement.

Act 64 of 2002 amended the Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act to mandate that municipalities pay an additional postretirement adjustment beginning with annuity payments after June 30, 2002, to retired municipal firefighters and police officers who began receiving a retirement benefit before January 1, 1996, with the reimbursement amount payable by the Commonwealth to municipal pension systems based on the amortization contribution requirement attributable to the postretirement adjustment.

PUBLIC EMPLOYEE PENSION FORFEITURE ACT

Disqualification and Forfeiture of Benefits.

Under Act 140 of 1978, known as the Public Employee Pension Forfeiture Act (43 P.S. §§ 1311-1315), a public official or public employee who is convicted or pleads guilty or no defense to a crime related to public office or public employment is disqualified to receive a retirement or other benefit or payment of any kind except a return without interest of the contributions paid into a retirement system. In addition, the appropriate retirement system board is authorized to retain that individual member's contributions and interest for the purpose of paying any fine imposed upon that member or for the repayment of any money misappropriated by the member.

Retirement system benefits are forfeited upon entry of a plea of guilty or no defense or upon initial conviction. Payments or partial payments are prohibited while an appeal is pending. In cases where a verdict of not guilty is rendered or the indictment or criminal information is finally dismissed, the public official or public employee is reinstated as a member of the retirement system and is entitled to all benefits including those accruing during the period of forfeiture. A retirement system required to withhold benefits from an individual under the Public Employee Pension Forfeiture Act cannot be required to pay interest on these amounts to that individual even though, on appeal, an appellate court holds the act to have been unconstitutionally applied to that individual.

Crimes Related to Public Office or Public Employment.

The violations of the Crimes Code that are defined as "crimes related to public office or employment" when committed by a public official or employee through that individual's public position or when that individual's public employment places the individual in a position to commit the crime are: theft by deception, theft by extortion, theft of services, theft by failure to make required disposition of funds received, forgery, tampering with records or identification, misapplication of entrusted property and property of government or financial institutions, bribery in official and political matters, threats and other improper influence in official and political matters, perjury, false swearing, unsworn falsification to authorities, false reports to law enforcement authorities, tampering with witnesses and informants, retaliation against witness or informant, taking a bribe as a witness or informant, tampering with or fabricating physical evidence, tampering with public records or information, obstructing administration of law or other governmental function, official oppression, and speculating or wagering on official action or information. A criminal offense under the personal income tax chapter of the Tax Reform Code of 1971 is also such a crime as is a criminal offense under federal law substantially the same as one of these listed crimes.

Restitution for Monetary Loss.

In any case where a public official or employee who is a member of a retirement system funded by public money is convicted or pleads guilty or no defense in a court of record to a crime related to public office or public employment, the court is directed to order that individual to make complete and full restitution to the Commonwealth or political subdivision of any monetary loss incurred as a result of the criminal offense. In cases where the court fails to order this restitution, a political subdivision is required to petition the court pronouncing sentence for an order establishing the amount of restitution due. If that court does not have authority to order restitution, the political subdivision must bring the action for restitution in the Commonwealth Court of Pennsylvania.

Whenever the court orders restitution or establishes the amount of restitution due after petition, all sums then credited to the convicted individual member's account or payable to that individual, including member contributions, must be available to satisfy the restitution order. Any provisions of law exempting the retirement pay amounts or benefits of any public official or public employee from garnishment or attachment are superseded by the provisions of the Public Employee Pension Forfeiture Act requiring these amounts to be available to satisfy restitution orders. The retirement system board, administrator of the retirement system, or employer of the convicted individual is required, upon being served with a copy of the court's order, to pay over all retirement pay, contributions, or other benefit amounts to the extent necessary to satisfy the order of restitution.

Prospective Effectiveness.

From July 8, 1978, public officials and public employees are placed on notice that unfaithful service jeopardizes their retirement rights. Where the offense for which the individual was convicted took place before July 8, 1978, that individual is not disqualified to receive that benefit nor does that individual forfeit that benefit. The Act applies to all members

Prospective Effectiveness. (Cont'd)

of public employee retirement systems, however, even those who became members before 1978, if they have been re-elected, reappointed, promoted, or changed job classification since then.

HOME RULE CHARTER MUNICIPAL EMPLOYEE RETIREMENT SYSTEMS

In General.

A municipality that has adopted a home rule charter under Act 62 of 1972 as reenacted by Act 177 of 1996, known as the Home Rule Charter and Optional Plans Law (53 Pa. C.S. §§ 2901–2984), may exercise any powers and perform any function not denied by the Constitution of Pennsylvania, by statute, or by its home rule charter. However, the Law is restrictive regarding the adoption and amendment of municipal pension plans.

Rights, Benefits, or Working Conditions of Municipal Employees Existing on April 13, 1972.

Section 2962(c)(5) of the Law (53 Pa. C.S. §2962(c)(5)) provides that a home rule municipality may not enact any provision inconsistent with any statute heretofore enacted prior to April 13, 1972, affecting the rights, benefits or working conditions of any employee of a political subdivision of the Commonwealth. The Courts of Pennsylvania have held that this section precludes home rule municipalities from providing pension benefits different from those prescribed in the municipal code that governed prior to adoption of a Home Rule Charter or Optional Plan.

Rights or Privileges of Former and Present Municipal Employees in Pension or Retirement Systems Protected.

Section 2962(c)(3) of the Law prohibits a home rule charter municipality from diminishing the rights or privileges of any former municipal employee entitled to benefits or any present municipal employee in that employee's pension or retirement system. Under the First Class City Home Rule Act, Act of April 21, 1949, P.L. 665, the City of Philadelphia is not required to adhere to the standards for pensions established by the First Class City Code.

SOURCES OF PUBLIC EMPLOYEE RETIREMENT SYSTEM CONSULTING SERVICES, INFORMATION, AND TECHNICAL ASSISTANCE

Creation and Management.

Under section 301(a)(16) of the Community and Economic Development Enhancement Act, the Department of Community and Economic Development has the duty to provide technical assistance and consultive services to local governments.

Governor's Center for Local Government Services
Department of Community and Economic Development
Fourth Floor
Commonwealth Keystone Building
Harrisburg, Pennsylvania 17120-0225
Telephone: (717) 787-8169
Telephone: (888) 223-6837
Facsimile: (717) 783-1402
URL: www.newpa.com

Actuarial Valuation Reporting Program.

Under Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act, the Public Employee Retirement Commission has the duty to administer the municipal actuarial valuation reporting program. Under Act 293 of

1972, the Commission has the duty to administer the county actuarial valuation reporting program.

Public Employee Retirement Commission
Post Office Box 1429
Harrisburg, Pennsylvania 17105-1429
Telephone: (717) 783-6100
Facsimile: (717) 787-9531
URL: www.perc.state.pa.us
E-mail: perc@state.pa.us

General Municipal Pension System State Aid Allocations.

Although section 10 of article 8 of the Pennsylvania Constitution and section 404 of The Fiscal Code prohibit the Department of the Auditor General from giving pre-audit advice, that Department does provide information on its post audit processes as well as on the allocation processes for General Municipal Pension System State Aid.

Bureau of Municipal Pension Audits
Department of the Auditor General
Room 406 UT Finance Building
Harrisburg, Pennsylvania 17120
Telephone: (717) 787-1159
Facsimile: (717) 705-3690
URL: www.auditorgen.state.pa.us
E-Mail: auditorgen@auditorgen.state.pa.us

Pennsylvania Municipal Retirement System.

Pennsylvania Municipal Retirement System
Post Office Box 1165
Harrisburg, Pennsylvania 17108-1165
Telephone: (800) 622-7968
Telephone: (717) 787-2065
Facsimile: (717) 783-8363
URL: www.pmrs.state.pa.us

MUNICIPAL PENSION PLAN

FUNDING STANDARD

AND

RECOVERY ACT

ACT AND REGULATIONS

Act 205 of 1984.

Act 205, known as the Municipal Pension Plan Funding Standard and Recovery Act (53 P.S. §§ 895.101-895.803), affects every borough, city, incorporated town, township, municipal authority, and council of governments. This act requires actuarial reporting by municipal retirement systems, establishes a minimum funding standard for every municipal pension plan, provides for the annual allocation of General Municipal Pension System State Aid, and establishes a recovery program for financially distressed municipal pension systems. The act also has specific provisions in Chapter 9 that apply only to the City of Pittsburgh and in Chapter 10 that apply only to the City of Philadelphia. The Public Employee Retirement Commission has issued regulations on administrative matters involved with implementing this act. These regulations are published in Chapters 201 through 209 of Title 16 of the Pennsylvania Code.

REPORTING REQUIREMENTS

Actuarial Valuation Reports.

The act provides for the submission of standardized reports on all municipal pension plans every two years. The initial reports under the act were for the plan year beginning in 1985. The reports must be filed with the Public Employee Retirement Commission on or before the last business day of March following each reporting year. The valuation date for the reports must be January 1 of the reporting year unless an alternate valuation date for the pension plan was formally established prior to December 31, 1982.

Required Data.

The act and the regulations list the actuarial, demographic, and financial data that are required to be in the report. The actuarial data demonstrate the calculation of the cost of the retirement system and summarize the principal provisions of the pension plan. The financial data provide information on the financial position of the pension trust fund and the revenues and expenses of the fund. The demographic data provide information on the current number and compensation of active and retired members. Through the issuance of rules and regulations, the Public Employee Retirement Commission may modify the required contents of the reports.

Required Data. (Cont'd)

The required actuarial data must be prepared and certified by an approved actuary. The act requires that the entry age normal actuarial cost method be used in making the actuarial calculations, and the regulations specify the range of the economic actuarial assumptions to be used in the calculations. The required demographic and financial data must be prepared and certified by qualified persons.

Experience Investigation Reports.

Where the total membership of a municipal retirement plan is 1,000 or more, an experience investigation report prepared by an approved actuary must be filed with the Commission every four years. The experience investigation must cover a five-year period. The first experience investigation report, applicable to the five years ending with the 1985 plan year, was due on March 31, 1986.

Cost of Preparing Report.

The cost of preparing a required actuarial valuation report or experience investigation report is an allowable administrative expense payable from the pension trust fund.

Filing Responsibility.

The chief administrative officer of the municipality is responsible for filing the actuarial valuation and experience investigation reports.

Delinquent Reports.

If a municipality is delinquent in filing a required report, the Commonwealth will withhold the payment of General Municipal Pension System State Aid to the municipality until the delinquent report is filed. If the delinquency continues, the Commission must have the report prepared, and the municipality must reimburse the Commission for the actual cost.

ACTUARIAL FUNDING REQUIREMENTS

Funding Requirements.

Every year a municipality must budget and contribute at least the full amount of its obligation to each of its retirement systems. These obligations include both the ongoing normal cost of the pension plans and, where applicable, the amortization contributions sufficient to amortize the unfunded actuarial accrued liabilities of the plans by the target dates established under the act.

The minimum funding standard for a municipal retirement system is specified in chapter 3 of the act. Section 302 (53 P.S. § 895.302) establishes the minimum funding standard for a municipal pension plan that has defined benefits that are not fully guaranteed through insurance contracts, and section 303 (53 P.S. § 895.303) establishes the minimum funding standard for a municipal pension plan that either has a defined contribution system or has defined benefits that are fully guaranteed through insurance contracts.

The procedure to determine the annual financial requirement of a municipal retirement system is also specified in chapter 3 of the act. The minimum municipal obligation is calculated using the results of the standardized actuarial reports prepared and submitted to the Public Employee Retirement Commission. The chief administrative officer of a municipal retirement system must formally certify the following year's minimum municipal obligation to the governing body of the municipality no later than the last business day in September, for use in the municipal budget process.

The municipality must appropriate the minimum municipal obligation for each of its retirement systems in its budget for the following fiscal year, and the budgeted contributions must be made. If a municipality does not make a required annual contribution to a retirement system by the end of the year, the act requires that the amount of the omitted contribution, plus compounded interest, be added to the minimum municipal obligation for the following year.

More Stringent Funding Standards.

The funding standard under the act is a minimum. A more stringent funding standard imposed by a local government ordinance, resolution, custodial contract, or other instrument remains binding and must be followed.

Enforcement of Funding Standard.

If a municipality fails to comply with the specified funding standard for its retirement system, the Public Employee Retirement Commission must notify the Governor and the General Assembly of this fact through an annual public report. In addition to this public disclosure of noncompliance, the act authorizes the Commission to issue an order compelling the municipality to comply with the funding standard. If the municipality fails to comply with the Commission order, the Commission may initiate legal proceedings for injunction, mandamus, or other appropriate remedy to secure compliance with its order and the funding standard.

Enforcement of Funding Standard. **(Cont'd)**

A person who is beneficially interested in the affairs of the municipal retirement system also may initiate legal action seeking a court order to compel the municipality to satisfy the specified funding standard. A beneficially interested person can be, among other individuals: an active member, a retired member, another beneficiary, a union representative, or a municipal official. The Attorney General or the district attorney of the county in which the municipality is located also may initiate these legal proceedings.

REQUIRED ACTUARIAL COST ESTIMATES FOR BENEFIT CHANGES

The chief administrative officer of a retirement system must provide a cost estimate to the municipal governing body for any proposed benefit modification. The cost estimate must be provided to the governing body prior to the adoption of a benefit modification and must be presented in a manner that is readily understandable by members of the governing body. The cost estimate must include a comparison of annual financial requirements of the retirement plan before and after the proposed benefit modification and disclose the change attributable to the proposed benefit modification. In the case of a defined benefit pension plan using actuarial funding, the cost estimate must also include a comparison of the actuarial status of the pension plan before and after the proposed benefit modification and show the change in the actuarial accrued liability attributable to the proposed benefit modification.

For municipal pension plans that have defined benefits and use actuarial funding, the cost estimate must be prepared by an approved actuary. For municipal pension plans that have defined contributions, the cost estimate must be prepared by a qualified person.

GENERAL MUNICIPAL PENSION SYSTEM STATE AID

The Commonwealth imposes a tax on the premiums of casualty and fire insurance policies sold in Pennsylvania. Act 205 establishes a General Municipal Pension System State Aid Program financed from the proceeds of a portion of the casualty insurance premium tax and a portion of the fire insurance premium tax assessed against out-of-state ("foreign") insurance companies. The act provides for the allocation of this money to municipalities, other than counties and authorities, based on the number and classification of full-time employees participating in municipal retirement systems. For a municipality's employees to be considered in the allocation formula, the municipal retirement system in which they participate must have been established before January 1, 1985, or maintained by the municipality for three plan years. An allocation under the formula may not exceed the total pension cost of the municipality.

RECOVERY PROGRAM

Recovery Program for Financially Distressed Municipal Pension Systems.

The Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) establishes a Recovery Program for Financially Distressed Municipal Pension Systems. The remedies available through the Recovery Program were originally intended for use on a temporary basis to assist municipalities experiencing a degree of financial distress at the time Act 205 was enacted into law; however, certain remedies continue to be available to municipalities under the Act. Within the Recovery Program (found in chapter 6 of the Act), there are remedies available to a municipality that vary depending upon the extent of financial distress.

Chapter 5 of the Act establishes the procedure for determining financial distress for municipalities considering participation in the Recovery Program. The distress determination is based upon a quantified evaluation of both the aggregate actuarial condition of a municipality's retirement systems and the general fiscal condition of the municipality. The financial indicators used to determine distress levels are supplied by the Department of Community and Economic Development and the actuarial indicators are calculated by the Commission. The specific remedies available to municipal pension plans determined to be distressed vary depending upon the level of distress. Level 1 allows for the aggregation of trust funds and specification of total member contributions. Level 2 includes the two remedies available for Level 1, but also allows for the deviation from municipal contribution limitations, the establishment of a revised benefit plan for newly hired municipal employees, and special municipal taxing authority. Level 3 has all of the same remedies available as Level 2, but mandates the aggregation of trust funds, the establishment of a revised benefit plan for newly hired municipal employees, and requires the municipal pension system to prepare and implement a plan for administrative improvement of the pension plan.

The elected remedies pursuant to the Recovery Program Election Form (Form PC-204D) may be utilized by any municipality that has chosen to participate in the program. A municipality that does not now participate in the Recovery Program but wishes to do so must apply for a determination of financial distress by the last business day of June preceding the calendar year in which initial participation is anticipated. The governing body of a municipality must also adopt a resolution electing to participate in the Recovery Program. If the municipality wishes to later modify the recovery program level or specific remedies previously elected, the governing body of the municipality must formally adopt a new resolution amending or replacing the original resolution.

The Commission will transmit an individual notification of distress determination to a municipality applying for a distress determination by August 15 of each calendar year. A Recovery Program Election Form will be enclosed with the notification of distress determination. An affected municipality must file the election form with the Commission by the last business day in October following receipt by the municipality of the notification of distress determination.

REVIEW OF

LOCAL GOVERNMENT

EMPLOYEE RETIREMENT

SYSTEM LAWS

PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM

Legislation.

The Pennsylvania Municipal Retirement System (PMRS) is a statewide retirement program created by Act 15 of 1974, known as the Pennsylvania Municipal Retirement Law (53 P.S. §§ 881.101-881.501). The Pennsylvania Municipal Retirement Law consists of five articles dealing with the following subject matters:

> ***Article I*** *– definitions and administrative provisions.*
>
> ***Article II*** *– provides for the uninterrupted continuation of retirement plans established under the Municipal Employes' Retirement Law and for the enrollment of nonuniformed employees of local governments newly joining the system. The article establishes a combination of a defined contribution and a defined benefit plan for nonuniformed local government employees.*
>
> ***Article III*** *– provides for the uninterrupted continuation of retirement plans established under the Municipal Police Retirement Law and for the enrollment of local government firefighters and police officers of local governments newly joining the system. The article establishes a combination of a defined contribution and a defined benefit plan for local government firefighters and police officers.*

Legislation. (Cont'd)

> ***Article IV*** *– authorizes contracts between local governments and the PMRS board for individually designed retirement plans. Under this article, the contribution rate and the benefit rate depend upon the individual contract.*
>
> ***Article V*** *– repeals the Municipal Employes' Retirement Law and the Municipal Police Retirement Law.*

Administration and Financing.

PMRS is administered by the eleven member Pennsylvania Municipal Retirement Board composed of:

- The State Treasurer,
- The Secretary of the Commonwealth,
- Six elected officials or employees from member local governments,
- One firefighter from a member local government,
- One police officer from a member local government, and
- One PMRS retiree.

The local government and retiree members are appointed by the Governor from nominations submitted by the major Pennsylvania local government associations, including those representing police officers and firefighters.

The board appoints a secretary who is responsible for the appointment of a staff and for directing the day-to-day operations of the system.

Administration and Financing. (Cont'd)

PMRS is maintained by contributions from local governments (which include State aid), payroll deductions and other contributions of employees, and by earnings from the investments of the system. While the monies of individual municipalities are accounted for separately, they are pooled for investment experience. PMRS also pools certain cost experiences. These include the cost of administration, disability experience, and retiree life experience. The Pennsylvania Municipal Retirement Law provides for the payment of administrative expenses of PMRS from the proceeds of an annual assessment that is not to exceed $20 per member. Normally, this amount is insufficient to meet the costs of administering the system, and the General Assembly has dealt with that situation by periodically authorizing the retrospective use of investment income earned in excess of the regular interest rate set by the PMRS Board.

Membership.

Membership is optional for Pennsylvania's local governments. Any borough, city, county, incorporated town, township, municipal authority, or institution supported and maintained by one of these local governments is eligible to join PMRS.

A municipality may elect to join PMRS either on its own authority or following a referendum of the electorate. A referendum on the question of joining PMRS is required if requested by a petition of at least five percent of the registered electors of the municipality.

After a municipality has entered a class of its employees into PMRS, membership by all full-time employees in that class is mandatory. A municipality electing coverage under the

Membership. (Cont'd)

provisions of Article II first must have placed its eligible employees under the Social Security Act of 1935. At the time of entry, a municipality may determine whether membership for elected officials and for employees hired on a temporary or seasonal basis will be compulsory, optional, or prohibited. Officers and employees paid only on a fee basis are not eligible to join PMRS. Employees who are members of a preexisting local government retirement system can, at the time the local government elects to join PMRS or within three years afterwards, elect to be covered by PMRS by a vote of 75 percent of the members of the preexisting system. Enrollment of employees on probationary status may be delayed for up to one year from the date the employee entered the services of the municipality.

Act 169 of 2004 made special provisions to allow existing part-time employees to elect to participate in a municipal pension plan before July 1, 2005. In order to participate they must pay into the system all member contributions plus the regular interest that would have been credited to those contributions had they participated in the plan from their date of hire. If a municipality determined to change membership requirements to prohibit part-time employees from participating in the pension plan, all existing part-time employees would remain members of the plan unless they elect to withdraw from the pension plan by July 1, 2005.

Local Government Contributions.

The amount a local government is required to contribute is based on biennial studies by the consulting actuary. The PMRS board is required to send an itemized estimate to each local government advising it of the amounts necessary to be

Local Government Contributions. (Cont'd)

appropriated by the governing body to pay the local governments' obligations to PMRS during the local governments' next fiscal year. The local governments' contributions to a PMRS pension plan must be at least equal to the amount determined to be the minimum municipal obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Member Contributions.

The amount an employee contributes is based on the contracted plan provisions and is expressed principally as a percentage of compensation or salary.

Summary of Plan Provisions.

PMRS has two standard plans under the statute: one for nonuniformed employees and one for police officers and firefighters. In addition, a local government may design its own pension benefit structure.

> ***Superannuation and Early Retirement*** – Under the standard plans, the minimum normal retirement age is 65 for nonuniformed employees and 55 for police officers and firefighters. An employee may retire early, at any age, after 24 years of service. Under an optional plan design, a local government may choose any age or service requirement permitted under the applicable statutes.

Disability Retirement – An employee who is unable to engage in any form of gainful employment because of serious injury or illness may apply for disability retirement. The application and required medical documentation are reviewed by the board and the PMRS medical examiners to determine whether the individual is eligible for disability retirement.

The PMRS standard plans provide for (1) service connected disability retirement pay of 50% of the disabled individual's final average salary offset by worker's compensation, and (2) nonservice disability retirement pay of 30% of the final average salary after a minimum of ten years of service.

Vesting – An employee who terminates service before retirement may elect to leave accumulated contributions in PMRS and defer receipt of benefits until normal retirement age.

Conditions for vesting are defined in the local government's contract. The standard plans have a 12-year service requirement for vesting.

Benefit Payment Options – Depending upon the local government's contract, employees may choose individual alternatives for the monthly retirement allowance or may select from a list of options.

At the time of retirement, a member may elect to receive a single life annuity (a retirement allowance payable throughout life providing the maximum amount of monthly payments available; but ceasing when the retiree dies). At the time of retirement, a member willing to receive a smaller monthly retirement allowance during the rest of the member's life and wishing to provide financial assistance for dependents who may outlive the member may elect to receive retirement pay in one of the optional manners provided. Under these options, a retiree receives a lesser retirement allowance payable through life with the provision that:

Option 1 – If the retiree dies before receiving, in monthly payments, the present value of the retiree's allowance at the time of retirement, any remaining balance is paid to the retiree's named beneficiary, or to the retiree's estate if no beneficiary has been named. If the balance is less than $5,000, it is paid in a lump sum. If it is $5,000 or more, the beneficiary may elect to receive it in a lump sum, a monthly allowance, or a combination of both. The amount of the monthly allowance is based on the value of the remaining balance less the amount of any lump sum payment specified by the beneficiary.

Option 2 – When the retiree dies, the retirement allowance is continued throughout the life of the named beneficiary. If the beneficiary dies before the retiree, all payments terminate on the retiree's death. A retiree who elects payments under this option and names a beneficiary cannot name another beneficiary later.

Option 3 – When the retiree dies, one half of the retirement allowance is continued throughout the life of the named beneficiary. As with Option 2, if the beneficiary dies before the retiree, payments stop when the retiree dies and another beneficiary cannot be named.

Death Benefit – A death benefit provides some continuation of payment or presentation of benefits to a beneficiary given certain eligibility requirements of the covered individual. If an active member or vestee with minimum years of service dies, the death benefit goes into effect, provided the local government has included this feature in its plan.

Termination of Service – A member always receives that individual's accumulated contributions and interest earned at the regular rate of interest (currently 6%). Depending upon the local government's contract, the employee might also receive excess investment monies upon withdrawal. If a member terminates employment and goes to work for another local government that is a member of PMRS, the employee may transfer service credits unimpaired to the new local government employer.

Other Features.

Other features of PMRS are:

- Receipt of service credits for intervening military service and the opportunity to purchase credit toward a member's share of the pension for intervening military service.

- Receipt of credit for up to five years of certain nonintervening military service, if the member arranges to pay both the member's share and the local government's share, with interest.

- Provisions for the restoration of retirement system rights of a former member who returns to the service of the same local government and restores withdrawn accumulated deductions.

- Restrictions on withdrawal of a local government from PMRS. For withdrawal, a local government must have been enrolled in PMRS for at least five years, met all financial obligations to PMRS, and have approval of at least 75 percent of the affected employees, and the withdrawal must be approved by the board.

COUNTY
RETIREMENT SYSTEM STATUTES

COUNTY PENSION LAW

Legislation.

Under the provisions of Act 96 of 1971, known as the County Pension Law (16 P.S. §§ 11652-11682), every county of the second class A through eighth class must establish a county employee retirement system.

Administration and Financing.

A county retirement system is established by a resolution of the county commissioners. The retirement system is administered by a county retirement board consisting of the three county commissioners, the county controller (or, if the county does not have an elected controller, the chief clerk), and the county treasurer.

The administrative expenses of the system are paid by the county under appropriations made on the basis of estimates submitted by the county retirement board and may be paid from the county pension trust fund unless the consulting actuary determines that the payment will impair the actuarial soundness of the fund. The board is authorized to appoint a consulting actuary and is required to keep the data necessary for actuarial valuation purposes. The consulting actuary must periodically make an actuarial investigation into the mortality and service experience of the contributors to and beneficiaries of the retirement system, adopt for the retirement system one or more mortality tables, and annually certify to the county retirement board the amount of the appropriation the county needs to make to fund its share of the retirement system's reserves.

The monies from county appropriations, contributions made by the members, pickup contributions made by the county on behalf of county employees, and the investment income on these are accounted for through the county pension trust fund, the assets of which are held in the custody of the county treasurer.

The county retirement board has full power to manage and invest the assets of the retirement system. The board may, if it desires, contract with a regulated insurance company, bank, savings and loan association, trust company, investment adviser, or the Pennsylvania Municipal Retirement System to be a deposit administrator and to perform some or all of the duties of the board including administering the retirement system in its entirety.

Membership.

A county officer may, and any other county employee expected to work 1,000 or more hours a year must, be a member of the county employee retirement system.

County Contributions.

The retirement system consulting actuary determines the amount to be contributed by the county for the current service of members.

Member Contributions.

A member of the retirement system must contribute to the pension trust fund a percentage of that individual's salary based on the following schedule:

Class of Service	Member Contribution
Class 1/120	5%
Class 1/100	6%
Class 1/80	7%
Class 1/70	8%
Class 1/60	9%

In addition to the above schedule of membership classes and contributions, Act 43 of 2003 opened a one-year window beginning December 16, 2003, during which a county retirement board subject to the act may, by rule, establish a 1/50th class or 1/40th class with a required member contribution rate of 9% for both membership classes. Act 174 of 2006 reopened and extended to June 30, 2007, the original one-year window created by Act 43 of 2003.

The county may contribute these amounts on behalf of its active members. These contributions are called "pickup contributions." They are treated as the county's contribution in determining tax treatment under the Internal Revenue Code of 1986, but, for all other purposes, are treated as contributions made by a member in the same way as other employee contributions. Where the county makes these pickup contributions, it reduces the compensation of the member by an equal amount.

Member Contributions. (Cont'd)

A member may elect to contribute an additional amount of up to ten percent more than the required percentage. At any time, the county retirement board may authorize a member to transfer from the 1/120 or 1/100 class to the 1/80, 1/70, or 1/60 class. At any time, the board also may authorize a member to elect to reduce the member contribution to one of the lower classes without affecting the calculation of the county annuity portion of the member's retirement allowance.

Superannuation Retirement.

The superannuation retirement age is 60 or, if a member has completed 20 years of total service, 55. A contributor who reaches superannuation retirement age is entitled to a retirement allowance for life upon retirement.

The retirement allowance is made up of two annuities: (1) a member's annuity and (2) a county annuity. The member's annuity is a defined contribution plan annuity that is the actuarial equivalent of the balance in that member's annuity reserve account. The county annuity is a defined benefit plan annuity that is equal to the class of service of that member's final salary multiplied by the period of total service for which the member contributed at the appropriate rate. Final salary is defined as the average annual salary for the three highest years of county service. For a member who has served less than five years, the final salary is calculated by dividing the total salary received by the number of years served.

Voluntary and Involuntary Early Retirement.

A member who is involuntarily discontinued from service (including an elected county officer who completes a term of office and discontinues service) after having completed eight years of total service, or is voluntarily discontinued from service after having completed 20 years of total service, but before reaching superannuation retirement, may elect either to withdraw the balance in that member's annuity reserve account or to receive a retirement allowance. A member who separates from county service, after completing five or more years of credited service, has the right to leave accumulated deductions credited to the member's account in the pension trust fund and upon reaching superannuation retirement age to receive a superannuation retirement allowance. In these cases, the retirement allowance is the county annuity that is the actuarial equivalent of a county annuity, beginning at superannuation retirement age, but based on the period of service up to the date of voluntary discontinuance of service plus a member's annuity calculated in the usual way.

Payment Choices.

At the time of superannuation retirement, voluntary early retirement, or involuntary early retirement, a retiree may elect to receive a retirement allowance payable for life or to receive the actuarial equivalent of both the member's and county annuities in a smaller retirement allowance payable for life under one of three options.

Payment Choices. **(Cont'd)**

Option 1 – If the retiree dies before receiving, in payments, the present value of the member's annuity and county annuity as it was at the time of the retiree's retirement, the county retirement system pays the balance to the retiree's legal representative or named beneficiary.

Option 2 – When the retiree dies, the county retirement system continues to pay the retirement allowance throughout the life of a beneficiary named by the retiree at the time of retirement.

Option 3 – When the retiree dies, the county retirement system continues to pay one-half of the retirement allowance throughout the life of a beneficiary named by the retiree at the time of retirement.

If the county retirement board contracts with an insurance company to be the deposit administrator, the insurance company may provide additional options to members or their beneficiaries.

Total Disability Retirement.

If a member becomes disabled while in county service, has at least five years service, has not reached superannuation retirement age, and is unable to continue as a county employee as shown by a medical examination, the member is paid a retirement allowance totaling 25 percent of the member's final salary consisting of both the county annuity and the member's annuity.

Death Benefits.

A member who is entitled to a retirement allowance and dies while in county service without filing an application for retirement or withdrawing contributions to the pension trust fund is considered to have elected Option 1 as of the time of death.

A contributor who has reached superannuation retirement age, or who has been involuntarily retired after completing ten years of total service, may file an application for retirement requesting that the retirement become effective as of date of the death under Option 1 or Option 2, naming a beneficiary under the option.

Other Features.

Other features of the County Pension Law are:

- Provisions for the payment of accumulated deductions to a contributor or the contributor's estate or designated beneficiary in cases where a contributor terminates service or dies before qualifying for a retirement allowance,

- Provisions relating to the reemployment of a retired member,

- Provisions governing admission of a county officer to the retirement system after the beginning of that officer's term of office,

Other Features. **(Cont'd)**

- Provisions for the restoration of annuity rights of a former contributor who returns to county service and restores that contributor's withdrawn accumulated deductions to the retirement trust fund,

- Receipt of credit for both intervening and nonintervening military service with payment by the county of both employee and employer contributions for the period of intervening military service,

- Provisions for the granting and periodic review of cost-of-living increase allowances, and

- Provisions for withdrawal of accumulated member contributions together with accumulated interest at the time of retirement.

COUNTY ACTUARIAL VALUATION REPORTING

Act 293 of 1972.

Under Act 293 of 1972 (53 P.S. §§ 730.1-730.5), every county must file an actuarial valuation report with the Public Employee Retirement Commission every two years for each of its employee retirement systems. The Commission specifies the actuarial, demographic, and financial data required in the report. The act does not require any particular actuarial cost method, economic actuarial assumptions, or minimum funding standard. However, Governmental Accounting Standards Board (GASB) Statement #50 requires the disclosure of actuarial data based upon the entry age normal cost method for 2009 and all subsequent years. This is a reporting requirement only and not a funding requirement.

CITY OF THE THIRD CLASS EMPLOYEE RETIREMENT SYSTEMS

POLICE OFFICER RETIREMENT SYSTEMS

Legislation.

Under sections 4301 through 4308 of Act 317 of 1931, known as The Third Class City Code (53 P.S. §§ 39301-39308), a city of the third class must establish, by ordinance, a retirement system for its police officers.

Administration and Financing.

The retirement system and police pension trust fund are under the direction and control of the city council, and council may designate city officers, citizens, or corporations located in the city to have custody and manage the pension trust fund. The main sources of revenue for the fund are contributions by police officers, contributions by the city, General Municipal Pension System State Aid, and earnings from the investment of the fund assets.

Membership.

All members of the city police force must be members of the retirement system.

City Contributions.

The city annually must contribute an amount at least equal to the minimum city obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Member Contributions.

A police officer monthly pays into the pension trust fund an amount of up to four percent of pay. An officer or the city may contribute an additional amount of up to one percent of pay to provide for survivors' benefits. An officer also makes a service increment contribution of not more than five dollars (one dollar for each $100 of increment) per month until reaching age 65.

Superannuation Retirement.

A police officer may retire on superannuation retirement after not less than 20 years of service. The ordinance does not have to prescribe a minimum age, but if one is prescribed, it must be age 50. A retiree's retirement pay is computed at one-half the final rate of pay or one-half of the monthly average pay of the police officer during the five highest years; whichever is greater. Act 65 of 2002 amended the Law to permit pension plans of home rule municipalities and cities operating under a home rule charter that provide police and fire pension benefits in excess of 50 percent of pay to continue to do so if the benefit provision of the pension plan was in effect prior to June 19, 2002.

Service Increment.

The city also must include in the retirement benefit a service increment of $100 of the retirement pay for each year of

Service Increment. (Cont'd)

service rendered before age 65 that is in excess of the superannuation service requirement. Additionally, a city may pay a service increment of not more than $500 per month.

Death Benefits.

The city must pay a pension to the surviving spouse of a superannuation retiree or of a member who dies or is killed in service during that surviving spouse's lifetime. If the surviving spouse dies, the pension is paid to any child until the child is age 18. The survivors' benefit is 50 percent of the pension the retiree was receiving, or the member would have been receiving had the member been retired at the time of death. At the city's option, the survivor's benefit may be equal to the member's pension benefit.

If a police officer with less than ten years service dies due to injuries not in line of duty, the officer's survivors may be entitled to a pension of 25 percent of the annual pay of the officer. If a police officer with ten or more years service dies before being eligible for superannuation retirement, the officer's survivors may be entitled to a pension of not more than 50 percent of the annual pay of the officer.

Disability Benefits.

If a police officer with less than ten years service becomes totally disabled due to injuries not in line of duty, the officer may be entitled to a pension of 25 percent of the officer's annual pay. If a police officer with ten or more years service is totally disabled, the officer may be entitled to a pension of 50 percent of the officer's annual pay. If a police officer becomes totally disabled due to injuries sustained in the line

Disability Benefits. (Cont'd)

of duty, the officer is deemed to be fully vested, regardless of the actual number of years of service, and is eligible for immediate retirement benefits. The amount of those benefits is established by ordinance or contract. A disability pension continues for the retiree's lifetime and may be paid to the disability retiree's surviving spouse during that surviving spouse's lifetime. If the surviving spouse dies, the pension may be paid to any child until the child is age 18. The Third Class City Code mandates the offset of any disability benefit by the amount of Workers' Compensation paid.

Cost-of-Living Increase.

At any time, a city may increase the retirement pay of retirees. The increase must be in conformity with a uniform scale and be based on the increase in the cost of living. The total retirement pay after the cost-of-living increase cannot be more than one half of the current salary being paid police officers of the highest pay grade.

Vesting.

In the ordinance that creates the police pension plan, the city may provide for a vested benefit. This vested benefit provides that if a police officer who has completed 12 years of full-time service ceases to be a full-time police officer of the city before reaching the required superannuation retirement age and service, the officer is entitled to vest that officer's retirement system benefits by filing a written notice of intention to vest with the management board of the system. When the vestee reaches what would have been the superannuation retirement date had the vestee continued in full-time police service with the city, the retirement system pays the vestee a partial

Vesting. (Cont'd)

superannuation retirement allowance. The partial superannuation allowance is proportional to the number of years actually worked, as compared to the super-annuation retirement years, and is calculated using the monthly average salary during the appropriate period prior to termination of employment.

Other Features.

Other features of a police retirement system in a city of the third class are:

- Receipt, with the approval of city council, of credit for up to five years of nonintervening military service, if the police officer arranges to pay both the member's contributions and the city's contributions for the period of military service,

- Provisions for the refund of contributions paid into the pension trust fund, without interest, to a member or the member's survivors, or estate, in cases where an officer discontinues employment or dies without being eligible to receive a pension, and

- Provisions for the restoration of retirement system rights of a former member who returns to the police force and restores the accumulated contributions.

FIREFIGHTER RETIREMENT SYSTEMS

Legislation.

Under article 43(b), relating to a retirement system for firefighters, of Act 317 of 1931, known as The Third Class City Code (53 P.S. §§ 39320-39327), a city of the third class must provide annuity contracts or establish, by ordinance, a retirement system for its firefighters.

Administration and Financing.

The firefighters' pension trust fund is under the direction of a board of managers consisting of the mayor, the director of accounts and finance, the director of the department in charge of the fire department (or the director of public safety in cities where the mayor is the director of the department in charge of the fire department), the city controller, the chief of the bureau of fire (ex officio), and two members chosen by the system members. The main sources of revenue for the fund are contributions by firefighters, by the city, General Municipal Pension System State Aid, and earnings from the investment of the fund assets.

Membership.

A full-time paid firefighter must be a member of the retirement system.

City Contributions.

The city annually must contribute an amount at least equal to the minimum city obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Member Contributions.

A firefighter monthly pays into the pension trust fund an amount of up to four percent of pay. If deemed necessary by the city council, the firefighter may contribute an additional amount of up to one-percent of pay to provide for survivor benefits. A firefighter also makes a service increment contribution of not more than five dollars a month until reaching age 65.

Superannuation Retirement.

A firefighter may retire on superannuation retirement after not less than 20 years of service. The ordinance does not have to prescribe a minimum age, but if one is prescribed, it must be age 50. A retiree's retirement pay is computed at one-half the final rate of pay or one-half of the monthly average pay of the firefighter during the five highest years; whichever is greater. Act 65 of 2002 amended the Law to permit pension plans of home rule municipalities and cities operating under a home charter that provide police and fire pension benefits in excess of 50 percent of pay to continue to do so if the benefit provision of the pension plan was in effect prior to June 19, 2002.

Service Increment.

The city also must include in the retirement benefit a service increment of 1/40 of the retirement pay for each year of service rendered before age 65 that is in excess of the superannuation service requirement. This service increment cannot be more than $500 per month.

Death Benefits.

The surviving spouse or child under age 18 of a retiree, or a member who dies while still in service, is entitled to receive the pension payment the retiree was receiving or the member would have been receiving had the member been retired at the time of death. The pension is payable during the lifetime of the surviving spouse. If the surviving spouse dies, the pension is payable to a child under age 18.

Disability Benefits.

By regulation, the board of managers fixes the amount and commencement of the payment of disability pensions for permanent injuries incurred in the fire service. The regulations cannot take into consideration the amount and duration of workers' compensation allowed by law.

Cost-of-Living Increases.

At any time, a city may increase the retirement pay of retirees. The increase must be in conformity with a uniform scale and be based on the increase in the cost of living. The total retirement pay after the cost-of-living increase cannot be more than one-half of the current salary being paid firefighters of the highest pay grade.

Other Features.

Other features of the firefighters retirement system under The Third Class City Code are:

- Provisions for the forfeiture of retirement system rights upon conviction of a felony or misdemeanor, becoming a habitual drunkard, or failing to comply with a regulation of the board of managers, (quite likely pre-empted by the Public Employee Pension Forfeiture Act);

- Receipt, with the approval of the city council, of credit for up to five years of nonintervening military service if the firefighter arranges to pay both the firefighter's contributions and the city's contributions for the period of military service,

- Provisions for the refund of monies paid into the pension trust fund, without interest, to a firefighter or to the firefighter's survivors, or estate, in cases where a firefighter discontinues employment or dies without being eligible to receive a pension, and

- Provisions for the restoration of retirement system rights of a former member who returns to the city's fire service and restores accumulated contributions.

NONUNIFORMED EMPLOYEE RETIREMENT SYSTEMS UNDER THE THIRD CLASS CITY CODE

Legislation.

Under Article 43(c), relating to a retirement system for nonuniformed employees, of Act 317 of 1931, known as The Third Class City Code (53 P.S. §§ 39340-39353), a city of the third class may establish a retirement system for elected and appointed city employees other than police officers and city paid firefighters.

Administration and Financing.

The retirement system is administered by the pension board consisting of the mayor, the city controller, the director of finance, and two employees chosen by employees contributing to the system. If members of council are members of the system, a member of council, chosen by council, also is a member of the board.

The pension trust fund is under the direction of the board. The main sources of revenue for the fund are contributions by the employees, by the city, General Municipal Pension System State Aid, and earnings from the investment of the fund assets.

Membership.

In a city that creates a retirement system under this article, the retirement benefit applies to an individual employed in any capacity by the city with the exception of police officers, city paid firefighters, and per diem laborers.

An individual holding a position as a laborer at per diem wages is not required to contribute toward the retirement system but may elect to do so and become entitled to the retirement benefit.

An individual regularly employed as a driver of firefighting apparatus or ambulances by a volunteer fire company that renders services recognized and accepted by the city, may become a member if the employing fire company makes the employer's contributions to the system.

Employer Contributions.

The employer annually must contribute an amount at least equal to the minimum city obligation under the Municipal Pension Funding Standard and Recovery Act.

Member Contributions.

A member without social security coverage (single coverage member) monthly pays two percent of pay into the pension trust fund. If deemed necessary by the city council to provide for survivor's benefits, a member monthly pays an additional amount of up to one percent of pay into the fund.

A member with social security coverage (joint coverage member) monthly pays three and one-half percent of pay, on which social security contributions are payable and, five percent of any pay in excess of that on which social security allowances are payable.

Superannuation Retirement.

A member may retire at age 60 after 20 years of service. The annual retirement pay is computed as 50 percent of the highest average annual salary or wages during any five years of employment with the city and is paid semimonthly.

After the age at which social security benefits become payable, the retirement pay of a retiree, who was a joint coverage member, is reduced by 40 percent of the primary social security benefit payable to the retiree except that the total sum, including social security benefits, received by the retiree cannot be less than the retirement pay the retiree would receive in the absence of social security coverage.

Superannuation Retirement. (Cont'd)

The board may authorize a joint coverage member to elect to receive retirement pay without the social security reduction. A member electing this option is required to make a lump sum payment or installment payments equal to the amount that would have been paid into the retirement system, if member contributions had been made on that portion of the member's salary or wages on which social security contributions are payable, at the same rate made on the portion of the member's salary or wages in excess of the amount on which social security contributions are payable. A member electing this option before retirement also must pay the system contributions on the member's entire salary or wages at the rate required on salaries or wages in excess of the amount on which social security contributions are payable.

Early Retirement.

A member with at least 20 years of service, but younger than 60 who is dismissed, voluntarily retires, or is in any manner deprived of city employment may continue to make monthly payments into the pension trust fund and be entitled to receive retirement pay upon reaching the age of 60.

Disability Retirement.

A member with at least ten years of service, but younger than 60, who becomes totally and permanently disabled is entitled to retirement pay. The disability must be certified by three practicing physicians designated by the board.

Death Benefits.

The city council may elect, by ordinance, to make payments to the surviving spouse of a retiree, or of a member who dies or is killed in service, during that surviving spouse's lifetime, or as long as the spouse does not remarry. The surviving spouse's benefit is 50 percent of the pension the retiree was receiving or the member would have been receiving had the member been retired at the time of death.

Other Features.

Other features of a nonuniformed employees retirement system under The Third Class City Code are:

- Provisions for the refund of monies paid into the pension trust fund, without interest, to a member or the member's survivors, or estate, in cases where a member discontinues employment or dies without being eligible to receive a pension,

- Provisions for the restoration of retirement system rights of a former member who returns to city employment and restores the accumulated deductions, and

- Provisions against beneficiaries being employed by the city, except in an elective office, and provisions for the benefit to continue during the elected term of a beneficiary provided that the beneficiary does not receive any salary for serving as an elected official.

NONUNIFORMED EMPLOYEES RETIREMENT SYSTEMS UNDER THE OPTIONAL RETIREMENT SYSTEM LAW FOR THIRD CLASS CITIES

Legislation.

Under the provisions of Act 362 of 1945, relating to an optional retirement system for nonuniformed employees (53 P.S. §§ 39371-39384), a city of the third class may establish a retirement system for its officers and employees independently of any existing retirement system in the city.

Administration and Financing.

The retirement system is administered by the Officers and Employes' Retirement Board consisting of the mayor, the city controller, the director of finance, and two employees chosen by employees contributing to the system and a retiree chosen by the retiree association. If members of council participate in the retirement system and are members of the system, a member of council chosen by council also is a member of the board.

The pension trust fund is under the direction of the board. The main sources of revenue for the fund are contributions by employees, contributions by the city, General Municipal Pension System State Aid, and earnings from the investment of the fund assets.

Membership.

In a city that creates a retirement system under this statute, the retirement benefit applies to an individual employed by the city, with certain exceptions.

Membership. **(Cont'd)**

An individual holding a position as a laborer, at per diem wages, is not required to contribute toward the retirement system but may elect to do so and become entitled to the retirement benefit.

Where the city already has a retirement system, when a retirement system is created under this statute, the members of the existing system may vote whether to be covered by the new system. If 75% of the members of the existing system approve, the existing system's assets and liabilities are transferred to the new system. If the members do not accept the new system, the former retirement system remains in effect for its members, and an individual covered by the preexisting retirement system remains a member of the old retirement system and does not become a member of the new one.

City Contributions.

The city annually must contribute an amount at least equal to the minimum city obligation under the Municipal Pension Funding Standard and Recovery Act.

Member Contributions.

A member without social security coverage (single coverage member) monthly pays three percent of pay into the pension trust fund. If deemed necessary by the city council to provide for survivor's benefits, a member monthly pays an additional amount of up to one percent of pay into the fund. If authorized by the city council, a member may contribute an additional one-half percent in order to be eligible for a service increment.

Member Contributions. (Cont'd)

A member with Social Security coverage (joint coverage member) monthly pays three and one-half percent of pay on which Social Security contributions are payable and five percent of any pay in excess of that on which Social Security allowances are payable.

Where a retiree who made contributions to the retirement system for a total of less than 20 years retires and receives retirement pay from the system, the retiree must pay the system three percent of that retiree's retirement pay until a total of 20 years of contributions have been made.

Superannuation Retirement.

A member may retire at age 60 after 20 years of service. The annual retirement pay is computed as 50 percent of the highest average annual salary, or wages, during any five years of employment with the city or 50 percent of the annual salary that would be determined by the rate of monthly pay at the date of retirement; whichever is higher.

The provisions relating to the retirement pay for a joint coverage member are the same as for a nonuniformed retirement system under the Third Class City Code, including the option to buy out of the 40 percent social security offset.

Early Retirement.

A member who is involuntarily retired after 12 or more years of service is entitled to receive, beginning at age 60 (or, immediately, if the involuntary retirement occurs after age 60), a portion of a full pension based on the ratio that the member's period of service up to the date of termination bears

Early Retirement. **(Cont'd)**

to the full 20 year period of service. A member who is involuntarily retired after 20 or more years of service is entitled to receive a full pension after age 55 if the member continues paying contributions to the retirement system until the member is 55 at the same rate the member was paying when the member was involuntarily retired.

A member who retires voluntarily, after at least 20 years of service but before reaching age 60, is entitled to a full pension at age 60, if the member continues to pay into the retirement system until the member is age 55.

Cost-of-Living Adjustments.

Upon the recommendation of the retirement board, after receiving an actuarial cost estimate, the city council, subject to the approval of the mayor, may increase retirees' retirement pay based upon the increase in the Consumer Price Index for all urban consumers.

Disability Benefits.

A member who becomes permanently disabled with at least 15 years of service, but before reaching age 55, is entitled to a pension during the disability. The disability must be certified by three physicians designated by the board.

Death Benefits.

The city council may elect, by ordinance, to make payments to the surviving spouse of a retiree, or of a member who dies or is killed in service, during that surviving spouse's lifetime or as long as the spouse does not remarry. The surviving

Death Benefits. **(Cont'd)**

spouse's benefit is 50 percent of the pension the retiree was receiving or the member would have been receiving had the member been retired at the time of death.

Service Increments.

The city council may authorize, by ordinance, the payment to a retiree of an optional service increment of 1/40 of the retirement pay for each year of service in excess of 20 years until the retiree reaches age 65. A member who wishes to become entitled to the service increment must make, in addition to the regular member's contribution, a service increment contribution equal to one-half percent of salary. The service increment contribution is not paid after the member reaches age 65.

Vesting.

In the ordinance that creates the optional retirement plan for nonuniformed employees, the city may provide for a vesting benefit. This vesting benefit provides that, if a nonuniformed employee who has completed 12 years of full-time service ceases to be a full-time nonuniformed employee of the city before reaching the required superannuation retirement age and service, the employee is entitled to vest that employee's retirement system benefits by filing a written notice of intent to vest with the retirement board of the system. When the vestee reaches what would have been the superannuation retirement date, had the vestee continued in full-time nonuniformed service with the city, the retirement system pays the vestee a partial superannuation retirement pay. The partial superannuation retirement pay is proportional to the number of years actually worked, as compared to the superannuation retirement years, and is calculated using the monthly average salary during the appropriate period prior to termination of employment.

Other Features.

Other features of this statute are:

- Provisions for the refund of contributions paid into the pension trust fund, without interest, to a member who ceases to be employed by the city before becoming entitled to any benefits,

- Provisions for the restoration of retirement system rights of a former member who reenters the service of the city and restores withdrawn contributions,

- Receipt of credit for up to six years of honorable intervening military service if the member pays an amount equal to three percent of the member's last monthly pay prior to entering military service for each month the member was on active duty with the armed forces.

Optional Third Class City Charter Law.

Under the Optional Third Class City Charter Law, Act of July 15, 1957, P.L. 901, a municipality is not required to adhere to the standards for pensions established by the Third Class City Code.

POLICE OFFICER RETIREMENT SYSTEMS IN BOROUGHS, INCORPORATED TOWNS AND TOWNSHIPS WITH THREE OR MORE POLICE OFFICERS, AND REGIONAL POLICE DEPARTMENTS

Legislation.

Act 600 of 1955, referred to as the Municipal Police Pension Law (53 P.S. §§ 767-778), governs the establishment of a police officer retirement system in a borough, incorporated town, or township with three or more police officers or a regional police department. At its option, a borough, incorporated town, or township with fewer than three full-time police officers also may establish a police pension plan under the Municipal Police Pension Law.

Administration and Financing.

A borough, incorporated town, or township with three or more full-time police officers and every regional police department must establish, by ordinance or resolution, a police pension plan.

The local government's police pension trust fund is under the direction of the local government's governing body. The main sources of revenue for the fund are contributions by police officers, contributions by the local government, General Municipal Pension System State Aid, and earnings from the investment of the fund assets.

Membership.

Every police officer must be a member of the police retirement system.

Local Government Contribution.

The local government annually must contribute an amount at least equal to the minimum local government obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Member Contribution.

A police officer must pay into the pension trust fund an amount from five to eight percent of salary. Where the police officer is included in an agreement under the Social Security Act of 1935 (participating in Social Security), the rate is five percent of salary. If the police pension plan provides for a social security offset (a set percentage not to exceed 75% of the primary insurance amount of social security is subtracted from the retirement allowance), the police officer's contribution rate is reduced on the portion of the salary on which social security contributions are payable, by subtracting three percent of the offset percentage from the five percent contribution rate. The local government may, on an annual basis, reduce or eliminate the police officers' contributions.

Superannuation Retirement.

A police officer may retire after a total of 25 years of service with the same local government when the officer reaches age 55. If an actuarial valuation shows it is feasible, this age may be reduced to 50.

Superannuation Retirement. (Cont'd)

The monthly pension or retirement allowance, other than length-of-service increments and cost-of-living adjustments, is one-half of the monthly salary of the officer averaged over the last 36 to 60 months of employment. For a police officer employed after August 30, 1983, the salary is the monthly base salary (plus regular additions such as longevity or shift differential), and does not include overtime or payment for unused annual, personal, or sick leave. For a police officer employed before August 31, 1983, where the local government created an expectation that the calculation would include overtime or payment for unused leave or both, the local government may have to include overtime, or unused leave, or both, in the calculation of monthly salary. Where the local government deducts pension fund contributions from the officer's overtime and extra work pay, that pay must be included in the salary for purposes of calculating the officer's retirement allowance.

Length of Service Increment.

In addition to the monthly pension or retirement allowance, the local government may pay a $100 per month length-of-service increment to a retiree for each completed year of service in excess of 25 years, up to a maximum of $500 per month for retired members who have completed 30 or more years of service.

Early Retirement.

In the ordinance or resolution that establishes the police pension plan, the local government may provide for an early retirement benefit. The early retirement benefit permits a police officer with at least 20 years of service to retire early

Early Retirement. (Cont'd)

(before reaching the superannuation retirement date) and immediately receive a pension or retirement allowance. The early pension or retirement allowance is calculated to reflect both the officer's years of actual service in relation to the years of service required to reach the superannuation retirement date and the actuarial reduction attributable to the early commencement of the retirement benefit.

Cost-of-Living Allowance.

In the ordinance or resolution that establishes the police pension plan, the local government may provide for a cost-of-living allowance for a retiree receiving a pension or retirement allowance. The cost-of-living allowance cannot exceed the percentage increase in the Consumer Price Index from the year in which the retiree retired and cannot cause the total police pension or retirement allowance to exceed 75 percent of the salary used for computing that retiree's retirement benefits. The total cost-of-living allowance may not exceed 30 percent of final average compensation. If the assets of the police pension fund exceed the present value of future benefits, the local government may grant a cost-of-living increase to retirees who have been retired for at least 20 years that exceeds the limits in the Law but, if the total benefits exceed $10,000 a year, the resulting total benefits cannot exceed 100 percent of the salary used for computing the retiree's pension benefits.

Death Benefits.

If a police officer or a retiree dies, that individual's spouse is entitled to a survivor pension benefit equal to no less than 50 percent of the pension the individual was receiving, or would have been receiving, had the individual been retired at the time of death. The pension is payable throughout the surviving spouse's lifetime. If no spouse survives, or if the spouse survives and subsequently dies, the pension is payable to any child or children under the age of 18, or in the case of a child who is attending college, under the age of 24. The ordinance or resolution that governs the police pension plan must provide for the payment of a survivor pension to families of police officers killed in service. The Law requires that the killed-in-service survivor pension benefit be equal to one hundred percent of the member's salary at the time of the member's death.

Disability Benefits.

The Law requires a disability benefit for members permanently injured in service that is equal to at least fifty percent of the member's salary at the time the disability was incurred. An offset for Workers' Compensation benefits may be imposed, but is not required.

Vesting.

In the ordinance or resolution that creates the police pension plan, the local government may provide for a vested benefit. This vested benefit provides that if a police officer who has completed 12 years of total service ceases to be a full-time police officer of the local government before reaching the required superannuation retirement age and service, the officer is entitled to vest that officer's retirement system benefits by filing a written notice of intention to vest with the local government's governing body. When the vestee reaches what would have been the superannuation retirement date

Vesting. (Cont'd)

had the vestee continued in full-time police service with the local government, the retirement system pays the vestee a partial superannuation retirement allowance. The partial superannuation retirement allowance is proportionate to the number of years actually worked, as compared to the super-annuation retirement years, and is calculated using the monthly average salary during the appropriate period prior to termination of employment.

Other Features.

Other features of the Municipal Police Pension Law include:

- Receipt of credit for intervening and nonintervening military service,

- Where a member, for any reason, is ineligible to receive a pension, provisions for the refund to the member, or the designated beneficiary or estate, of contributions paid into the police pension trust fund by the police officer, plus interest, and

- Provisions for the transfer of service credits and assets from a disbanded police force's police pension system to the replacement police force's police pension system if the replacement police force employs police officers from the disbanded police force.

- Under Section 1105 of the Borough Code (53 P.S. § 46105), a borough may provide by ordinance for compensation to an employee who has at least ten years of satisfactory service and is at least 60 years old. This compensation, including benefits under the

Social Security Act of 1935, if any, may not exceed 50% of the compensation last paid to the employee. The intent of Section 1105 is to allow a borough to provide benefits to an employee who is too old to advantageously join another type of retirement system and was saved from repeal by Act 600. No similar provision exists in either township code.

BOROUGH EMPLOYEE RETIREMENT SYSTEMS

POLICE OFFICER RETIREMENT SYSTEMS WITH FEWER THAN THREE POLICE OFFICERS

Legislation.

Sections 1131 through 1137 of The Borough Code (53 P.S. §§ 46131-16137) govern the establishment of a police retirement system in a borough with fewer than three police officers. Act 444 of 1949, relating to payments into a police pension fund by boroughs, towns, and townships (53 P.S. § 766), authorizes a borough to make annual appropriations to the police pension trust fund. At its option, a borough with fewer than three full-time police officers also may establish a police pension plan under the Municipal Police Pension Law.

Administration and Financing.

Except where there is a private organization or association managing an existing pension fund for the boroughs' police officers, a borough with fewer than three police officers may establish a police officers' retirement system by ordinance. Where an existing pension fund is being maintained for the borough's police officers by a private organization or association, a two-thirds vote of the membership of the organization or association is required before the assets and liabilities of that fund may be transferred into the borough's police pension trust fund.

Administration and Financing. **(Cont'd)**

The borough's police pension trust fund is under the direction of the borough council or of a committee designated by the council. The main sources of revenue for the fund are contributions by police officers, contributions by the borough, General Municipal Pension System State Aid, and earnings from the investment of the fund assets.

Instead of establishing a police pension trust fund, a borough may provide annuity contracts for the purpose of paying a pension annuity to a retired police officer or to the family of a police officer injured or killed in service.

Membership.

Where a borough establishes a police retirement system, a police officer must be a member of the retirement system.

Borough Contributions.

The borough annually must contribute an amount at least equal to the minimum borough obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Member Contributions.

A police officer must contribute an amount that is equal and proportionate between the members of the retirement system.

Benefits.

The ordinance that establishes the police retirement system must prescribe a minimum period of total service or minimum age, or both, after which a police officer may be retired from active duty.

The ordinance also prescribes the pension to be paid to a police officer who retires because of age or disability and to the family of a police officer who is injured or killed in the line of duty. This pension must conform to a uniform scale. No normal survivor benefit is provided for the family of a police officer except for officers killed in service.

OTHER BOROUGH CODE PROVISIONS RELATING TO RETIREMENT

Compensation in Lieu of Joining Another Type of Retirement System.

Under section 1105, relating to compensation to aged employees, of The Borough Code (53 P.S. § 46105), a borough may provide by ordinance for compensation to an employee who has at least ten years of satisfactory service and who is at least 60 years old. This compensation, including benefits under the Social Security Act of 1935, if any, may not exceed 50 percent of the compensation last paid the employee. The intent of this section is to allow a borough to provide benefits to an employee who is too old to advantageously join another type of retirement system. The borough annually must contribute an amount equal to the minimum borough obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Group Insurance, Annuity, and Pension Contracts.

Section 1202(37), relating to other insurance, of The Borough Code (53 P.S. § 46202(37)) gives the borough council power to contract with providers for group insurance covering life, health, hospitalization medical service, or accident or for annuities or pensions. The borough council may agree to pay all or part of the premiums or charges for carrying one or more of these contracts and may appropriate money for that purpose.

Tax Levy.

Under section 1302(2), relating to special tax levies for borough pensions, of The Borough Code (53 P.S. § 46302(2)), the borough council has the power annually to levy and collect a tax at a rate of not more than one-half mill to provide for pensions, retirement, or the purchase of annuity contracts for borough employees. The proceeds of the tax must be kept, and accounted for, in a fund for that purpose.

TOWNSHIP OF THE FIRST CLASS EMPLOYEE RETIREMENT SYSTEMS

POLICE OFFICER RETIREMENT SYSTEMS WITH FEWER THAN THREE POLICE OFFICERS

Legislation.

Sections 1409 through 1415 of The First Class Township Code (53 P.S. §§ 56409-56415) govern the establishment of a police retirement system in a township of the first class with fewer than three police officers. Act 444 of 1949, relating to payments into a police pension fund by boroughs, towns, and townships (53 P.S. § 766), authorizes a township of the first class to make annual appropriations to the police officers pension trust fund. At its option, a township of the first class, with fewer than three full-time police officers, also may establish a police pension plan under the Municipal Police Pension Law.

Administration and Financing.

Except where there is a private organization or association managing an existing pension fund for the township's police officers, a township of the first class with fewer than three police officers must establish a police retirement system by ordinance. Where an existing pension fund is being maintained for the township's police officers by a private organization or association, a two-thirds vote of the membership of the organization or association is required before the assets and liabilities of that fund may be transferred into the township's police pension trust fund.

Administration and Financing. (Cont'd)

The township's police pension trust fund is under the direction of the township commissioners or of a committee designated by the commissioners. The main sources of revenue for the fund are contributions by police officers, contributions by the township, General Municipal Pension System State Aid, and earnings from the investment of the fund assets.

Instead of establishing a police pension trust fund, a township of the first class may provide annuity contracts for the purpose of paying a pension to a retired police officer or to the family of a police officer injured or killed in service.

Membership.

Where a township establishes a police retirement system, a police officer must be a member of the retirement system.

Township Contributions.

The township annually must contribute an amount at least equal to the minimum township obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Member Contributions.

A police officer must contribute a percentage that is uniform for all police officers of up to four percent of salary to the police pension trust fund except as provided under section 607(c) of the Municipal Pension Plan Funding Standard and Recovery Act (53 P.S. § 895.607(c)).

Benefits.

The ordinance that establishes the police retirement system may prescribe a minimum period of continuous service of not less than 20 years after which a police officer may be retired from active duty.

The ordinance also prescribes the pension to be paid to a police officer who retires because of age or disability and to the family of a police officer who is injured or killed in the line of duty. This pension must conform to a uniform scale and be based on the pay of the police officer at the date of death, discharge, or retirement. It cannot be more than one-half of a police officer's pay at the date of death, discharge, or retirement. No normal survivor benefit is provided for the family of a police officer except for officers killed in service.

OTHER FIRST CLASS TOWNSHIP CODE PROVISIONS RELATING TO RETIREMENT

Annuities in Lieu of Joining Another Retirement System.

Under section 605, relating to compensation to aged employees, of The First Class Township Code (53 P.S. § 55605), a township of the first class may provide by ordinance for compensation to a nonuniformed employee who has at least ten years of satisfactory service and who is at least 60 years old. This compensation may not exceed 50 percent of the compensation last paid the employee. The intent of this section is to allow a township to provide benefits to an employee who is too old to advantageously join another retirement system and who is not covered under the Social Security Act of 1935. The township annually must contribute an amount equal to the minimum township obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Group Insurance, Annuity, and Pension Contracts.

Section 1502.LXIII, relating to insurance, of The First Class Township Code (53 P.S. § 56563) gives the township commissioners power to contract with providers for group insurance covering life, health, hospitalization, medical service, or accident or for annuities or pensions. The township commissioners may agree to pay all or part of the premiums or charges for carrying one or more of these contracts and may appropriate money for that purpose. The township commissioners also may deduct any part of the premium or charge that is payable by an employee from that employee's pay, provided that the employee authorizes the deduction in writing. A retired township employee may be covered by one or more of these contracts.

A township commissioner and that commissioner's dependents may be covered under one or more of these contracts. The township may pay part or all of the charges for these contracts or may deduct from the commissioner's compensation the part of the charge payable by the commissioner, provided the commissioner otherwise is treated the same as a township employee under the contract.

Tax Levy.

Under section 1709, relating to tax levies, of The First Class Township Code (53 P.S. § 56709), the township commissioners have the power annually to levy and collect a tax at a rate of not more than one-half mill to provide for pensions, retirement, or the purchase of annuity contracts for township employees. The proceeds of that tax must be kept and accounted for in a fund for that purpose.

TOWNSHIP OF THE SECOND CLASS EMPLOYEE RETIREMENT SYSTEMS

POLICE OFFICER RETIREMENT SYSTEMS WITH FEWER THAN THREE POLICE OFFICERS

Legislation.

Sections 1910 of The Second Class Township Code (53 P.S. § 66910) govern the establishment of a police officer retirement system in a township of the second class with fewer than three police officers. Act 444 of 1949, relating to payments into a police pension fund by boroughs, towns, and townships (53 P.S. § 766), authorizes a township of the second class to make annual appropriations to the police pension trust fund. At its option, a township of the second class with fewer than three full-time police officers also may establish a police pension plan under the Municipal Police Pension Law.

Administration and Financing.

A township of the second class with fewer than three police officers may establish a police pension plan. The police pension trust fund is under the direction of the township supervisors. The main sources of revenue for the fund are contributions by police officers, by the township, General Municipal Pension System State Aid, and earnings from the investment of the fund assets.

Township Contributions.

The township annually must contribute an amount at least equal to the minimum township obligation under the Municipal Pension Plan Funding Standard and Recovery Act.

Member Contributions.

A township may require a police officer to pay into the police pension trust fund three percent or less of that police officer's pay except as provided under section 607(c) of the Municipal Pension Plan Funding Standard and Recovery Act (53 P.S. § 895.607 (c)).

Benefits.

The ordinance that establishes the police retirement system may prescribe a minimum period of continuous service of not less than 20 years after which a police officer may be retired from active duty.

The ordinance also prescribes the pension to be paid to a police officer who retires because of age or disability and to the family of a police officer who is injured or killed in the line of duty. This pension must conform to a uniform scale and be based on the rate of monthly pay of the police officer at the date of death, discharge, or retirement. No normal survivor benefit is provided for the family of a police officer except for officers killed in service.

OTHER SECOND CLASS TOWNSHIP CODE PROVISIONS RELATING TO RETIREMENT

Group Insurance Annuity and Pension Contracts.

Section 1512, relating to insurance, of The Second Class Township Code (53 P.S. § 66512) gives the township supervisors power to contract with any insurance company, nonprofit hospitalization corporation, or nonprofit medical service corporation to insure the township's supervisors, employees, and their dependents under a policy or policies of group insurance covering life, health, hospitalization, medical service, or accident insurance. The insurance must be uniformly applicable to those covered and cannot give eligibility preference to or improperly discriminate in favor of supervisors.

Section 1512 also gives the township supervisors power to contract with any insurance company for the pensioning of the township's employees and supervisors employed by the township in any employee capacity, if the township auditors have given approval for the inclusion of these supervisor-employees in township pension plans. The township may pay part or all of the premiums or charges for group pension or annuity plans. Pension plans cannot improperly discriminate in favor of a supervisor-employee.

Second Class Township Code Provisions Related to Nonuniformed Employee Pensions.

Under section 606 of the Second Class Township Code (53 P.S. 65606), the board of supervisors may contract with any insurance company to provide pension benefits for employees and may pay part or all of the premiums or charges for group pension or annuity plans. This provision is subject to the following qualifications:

- The benefit coverage may be provided to supervisor-employees under section 606 of the Code.

- The board of supervisors may deduct from the employee's pay, salary or compensation the part of the premium or charge that is payable by the employee.

- Elected officials, except township supervisors under section 606, and appointed township officials who are not employees of the township are not eligible for participation in any pension or annuity contract paid in whole or in part by the township. No elected official, except under section 606, or appointed township official who is not an employee of the township included in a township-paid pension or annuity plan made by a township between January 1, 1959, and March 31, 1985, is subject to any penalty, assessment, surcharge, forfeiture or disciplinary action of any kind as a result of that participation. Any residual interest, value, refund of premium or benefits payable on or after March 31, 1985, arising out of the township-paid interest of the elected or appointed township officials is the exclusive property of the township.

- If an elected official, except supervisors under section 606, or an appointed official who is not an employee of the township, personally contributed toward a township-sponsored pension plan or annuity, he shall receive a refund of his total contributions thereto plus any interest accumulated thereon. In lieu of a refund of contributions plus accumulated interest, a township official who personally contributed toward a pension or annuity plan in which he participated may elect to purchase that portion of his pension or annuity funded by the township. A qualified actuary, who shall report his determination under the act of December 18, 1984 (P.L. 1005, No. 205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," shall determine the amount the official shall pay to the township to purchase the township-funded portion of the annuity or pension.

MUNICIPAL AUTHORITY EMPLOYEE RETIREMENT SYSTEMS

Annuity Contracts and Pension Plans.

Section 4.B(q) of Act 164 of 1945, known as the Municipality Authorities Act of 1945 (53 Pa. C.S. § 5607(d)(20)), grants a municipality authority power to contract for its employees (but not its appointed officers and officials) with any insurance company, association, or exchange authorized to transact business in the Commonwealth of Pennsylvania granting annuities or to establish, maintain, operate, and administer its own pension plan covering its employees (but not its appointed officers and officials). The authority has the power both to pay a part, or all, of the cost, premium, or charge of one of these, and to deduct from the employee's pay, salary, or compensation any part of the premium or cost that is payable by the employee and has been authorized by the employee in writing.