

Section 8. The first paragraph of section 12.4 of the act, added October 21, 1955 (P. L. 717), is amended to read:

Section 12.4. In every city of the second class, in addition to the pension which is authorized by law [and notwithstanding the limitations therein placed upon pensions and upon contributions], every contributor who shall have otherwise become entitled to the pension and who has reached the age of fifty years, shall also be entitled to the payment of a service increment in accordance with and subject to the conditions hereinafter set forth:

\* \* \*

Section 9. All acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 10. This act shall take effect immediately.

APPROVED—The 9th day of November, A. D. 1965.

WILLIAM W. SCRANTON

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No. 334

AN ACT

HB 2011

Amending the act of May 22, 1935 (P. L. 233), entitled "An act creating and establishing a fund for the care, maintenance, and relief of aged, retired, and disabled employees of the Bureau of Police in cities of the second class; providing a pension fund for said employees; and providing for the payment of certain dues, fees, assessments, fines, and appropriations thereto; regulating membership therein; creating a board for the management thereof; providing the amount, mode, and manner of payment to beneficiaries thereof, and for the care and disposition of said fund; providing for the payment into this fund by cities of the second class of all monies heretofore payable into any other funds, organizations, corporations, or associations having the same or similar purposes, and of such additional monies as may be necessary to carry out the provisions of this act," authorizing additional supplies and employes for the board; providing for additional contributions by employes; further regulating payments to beneficiaries and their spouses and children.

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

Section 1. Section 6, act of May 22, 1935 (P. L. 233), entitled "An act creating and establishing a fund for the care, maintenance, and relief of aged, retired, and disabled employees of the Bureau of Police in cities of the second class; providing a pension fund for said employees; and providing for the payment of certain dues, fees, assessments, fines, and appropriations thereto; regulating membership therein; creating a board for the management thereof; providing the amount, mode, and manner

of payment to beneficiaries thereof, and for the care and disposition of said fund; providing for the payment into this fund by cities of the second class of all monies heretofore payable into any other funds, organizations, corporations, or associations having the same or similar purposes, and of such additional monies as may be necessary to carry out the provisions of this act," is amended by adding at the end thereof a new paragraph to read:

Section 6. \* \* \*

The board may appoint and fix the compensation of such employes necessary to the proper administration of the fund, and provide for equipment, supplies and services necessary to the administration of the fund. The cost thereof shall be payable from the fund.

Section 2. Clause (1) of section 10 of the act, amended June 28, 1955 (P. L. 210), is amended to read:

Section 10. Each member in active service shall be required—

(1) To contribute to said fund [~~five~~] six per centum of his rated monthly salary or wages, [but in no event contributing more than twenty-five dollars per month,] which shall be deducted from his salary or wages, by the city controller from the payroll for the last half of each month, and paid into the fund.

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Section 3. Section 10.1 of the act, added September 17, 1959 (P. L. 909), is amended to read:

Section 10.1. Each person who shall become an employee of the Bureau of Police, after having been employed by the city other than in the Bureau of Police, and who shall desire to have such previous service counted for eligibility to receive a pension under the provisions of section 13 of this act, shall be required to pay to the fund an amount equal to five per centum (5%) of his or her total salary or wages theretofore received by him or her, [but in no event contributing more than twenty-five dollars (\$25) per month] for each previous month of service for which he receives credit as an employee of the city, with interest at the rate earned by the fund during the period of such prior employment: Provided, That service to be credited which was performed after the effective date of this act shall be paid for at the new rate of contribution.

Full payment of such amount shall be a condition precedent to the member receiving credit for all or any part of said period of previous service for eligibility to receive a pension. Such amount shall be collected from the monthly salary or wages of the member over the period of two years

in the manner provided in clause (1) of section 10 of this act, or in such manner and period as the Board of Managers may determine. If, however, any such member shall be injured in the line of duty before he shall have made such full contribution for past service, so long as the disability continues he or she shall be eligible to pension under this act, but any amount which he or she shall not yet have paid to the fund as a contribution for past services under this section at the date of his or her injury, shall be paid, if the board, in its discretion, shall so determine, in such monthly payments as the board may determine, which amounts shall be deducted from his or her pension as and when monthly payments thereof shall be made.

Section 4. Section 11 of the act, amended June 19, 1961 (P. L. 476), is amended to read:

Section 11. When any member of the fund shall resign or be dismissed from service, or shall die while in active service, there shall be paid to him or to his widow, and if no widow survive, to his executor or administrator, if his service has been terminated by death, from the fund, all dues paid by him into the fund without interest, and all monies which the fund may have received under any assignment made by the said member to the fund at the time of his admission to membership, under the provisions of subsection (3) of section 8 hereof.

In addition, when any member of the fund shall die as a result of injuries received while in the performance of his duties, there shall be paid to his widow from the fund, monthly sums in amounts which together with any payments received under "The Pennsylvania Workmen's Compensation Act" or "The Pennsylvania Occupational Disease Act," will be equal to fifty per centum (50%) of his salary at the time of his death. [but such combined payment shall not be less than two hundred dollars (\$200) per month and not more than two hundred fifty dollars (\$250) per month.] Such monthly payments shall continue for [three hundred fifty (350)] five hundred (500) weeks, or until the widow shall remarry, or until her death, whichever shall first occur.

In the event there are surviving children but no widow, or after the payments herein provided for the widow have been discontinued by reason of the end of the [three hundred fifty (350)] five hundred (500) week period or her remarriage or death, each unmarried child of the deceased member under eighteen (18) years of age shall thereafter receive payments equal to twenty-five per centum (25%) of the payments above provided for the widow, but in no case shall total payments to one family be more than [two hundred fifty dollars (\$250)] fifty per centum

of his salary at the time of his death. Where there is only one child, the minimum monthly payments shall be sixty dollars (\$60). Where the maximum amount is payable it shall be divided equally among the children entitled thereto. The payments for each child shall terminate upon his reaching the age of eighteen (18) years, or his marriage or death: Provided, That the board may continue indefinitely payments to a dependent incompetent child. The payments shall consist of any payments received under "The Pennsylvania Workmen's Compensation Act" or "The Pennsylvania Occupational Disease Act," supplemented by the necessary amount from the pension fund.

Payments to the widows and children of members killed while on duty shall be made on and after July 1, 1959.

In the event there are no surviving children or no widow entitled to receive the payments provided for in this act, any dependent parents of the member shall receive the payments the widow would have received had she survived and not remarried.

Section 5. Sections 11.1 and 11.2 of the act, added August 27, 1963 (P. L. 1299), are amended to read:

Section 11.1. Married Persons; Pension to Surviving Spouse and Dependent Children.—

(a) Any married person who elects in writing to be governed by the provisions of this amendment and who retires under the provisions of this act shall, at the time of his retirement, receive the pension provided by this act during his lifetime and a pension after his death, payable to his surviving spouse at the time of [retirement] his death, equal to fifty per centum of his pension: Provided, That such person so retiring shall have been married to his spouse for not less than [five] two years prior to the date of [retirement] death and the spouse [is] was dependent upon such deceased employee at the time of his death.

(b) [The pension to be paid to such surviving spouse shall begin on the first day of the month in which the death of the deceased spouse occurs or the first day of the month following the surviving spouse's attainment of the age of forty-five, whichever is the later, and shall continue to and terminate upon the death of such surviving spouse, unless such surviving spouse shall remarry, in which event the payment of the survivor's pension shall thereupon be terminated.] Such surviving spouse shall be entitled to receive payments commencing the first day of the month in which the death of the deceased spouse occurs, and

shall continue to and terminate upon the death of such surviving spouse, unless such surviving spouse shall remarry, in which event the board may allocate the pension to dependent children or parents as provided in this act: Provided, That in no case shall total payments to a member or his survivors or his estate be less than the deceased member's contribution into the fund.

(c) In the event there is no surviving spouse, or the surviving spouse dies or remarries while receiving payments under this section, and where there are dependent children of the deceased member of the fund, the board may pay to each such dependent child twenty-five per centum of the pension earned by the deceased member until the age of eighteen or marriage or death: Provided, That the board may indefinitely continue payments to a dependent incompetent child.

Where the sums payable to dependent children under this section are equal to the maximum pension to which the widow would be entitled, it shall be divided equally among the children entitled thereto.

In the event there are no surviving children or no widow entitled to receive the payments provided for in this act, any dependent parents of the deceased member shall receive the monthly payments the widow would have received had she survived and not remarried.

[(c)] (d) The word "pension" as used in this section shall be construed to mean the sum of the pension provided by this act plus the amount of service increment, if any, to which the married person retiring shall be entitled.

[(d) When any surviving spouse receives payments under the provisions of this section, such surviving spouse shall not be entitled to any withdrawal or contributions made into the Police Pension Fund by the deceased employee, nor shall the children, parents or estate of the deceased employee be entitled to a refund of said contributions.]

Section 11.2. (a) A surviving spouse of any active member of the Police Pension Fund who:

- (1) at the time of his death was in active service with the city; and
  - (2) had elected to be governed by the provisions of this amendment;
- and

(3) had completed at least twenty years' service; [and] or

(4) had [attained the age of fifty years] otherwise qualified for a pension; shall be entitled to survivorship benefits equal to fifty per centum of the pension which would have been payable to such active member had he retired at the date of his death: Provided, That such employee shall have been married to his spouse for not less than [five] two years prior to the date of his death and that the spouse was dependent upon such deceased employee at the time of his death.

(b) Such surviving spouse shall be entitled to receive payments [commencing the first day of the month next following the death of the deceased spouse or upon the first day of the month when the surviving spouse attains the age of forty-five, whichever is later, and such payment shall continue to and terminate upon the death of such surviving spouse: Provided, however, That in the event that such surviving spouse shall remarry, the payment of the survivorship pension shall thereupon be terminated] as provided in subsections (b) and (c) of section 11.1 of this act.

(c) The word "pension" as used in this section shall be construed to mean the sum of the pension under the terms of this act, including the amount of service increments, if any, to which the deceased member of the Police Pension Fund would have been entitled had he retired upon the date of his death.

[(d) When any surviving spouse receives payments under the provisions of this section, such surviving spouse shall not be entitled to any withdrawal of contributions made into the Police Pension Fund by the deceased employees, nor shall the estate of the deceased be entitled to a refund of said contributions.]

Section 6. Clause (5) of section 13 of the act, amended June 19, 1961 (P. L. 458), is amended to read:

Section 13. Members of the fund shall be eligible to receive pensions from said fund as follows—

\* \* \*

(5) [Any] In addition to applicants eligible for pension pursuant to section 11 of this act, any member, who has been admitted to membership in this fund, who has become totally and permanently disabled after fifteen years of service, shall be entitled to said pension. Any member [having served less than fifteen years,] who has become totally and permanently disabled by reason of injury sustained in the actual per-

formance of duty, shall be entitled to such pension. [payments in amounts which, together with any payments he receives under The Pennsylvania Workmen's Compensation Act or The Pennsylvania Occupational Disease Act will equal fifty percent of his final salary, provided such combined payments shall be not less than two hundred dollars (\$200) per month and not more than two hundred fifty dollars (\$250) per month.] Such service shall include service in the armed forces of the United States in time of war, armed conflict, or active service in the Pennsylvania State Militia, when it has been mobilized for internal police duty. Proof of total and permanent disability shall consist of the sworn statement of three practicing physicians designated by the board that the employe is in a permanent condition of health which would totally disable him or her from performing the duties of his or her position or office. Once a year, the board of pensions may require a disability pensioner to undergo, or the disability pensioner may demand, a medical examination by three physicians appointed by the board and approved by the civil service commissioners, and should such physicians thereupon report and certify to the board that such beneficiary is no longer incapacitated, and should the pension board concur in such report, the pension payments to such beneficiary shall be discontinued, and the beneficiary shall be reinstated to the position he formerly held or be returned to active duty in the next vacancy that occurs: Provided, That the beneficiary has been found to be fully qualified to perform the duties required in the position to which reinstatement or appointment is made.

Payments for disability shall be made on or after July 1, 1959.

Section 7. Section 14 of the act, amended September 17, 1959 (P. L. 909), is amended to read:

Section 14. [Pensions paid under the provisions of this act to beneficiaries who retire on or after January one, one thousand nine hundred fifty-six, shall equal not less than fifty per centum of the amount which would constitute the average monthly salary or wages received by the beneficiary as an employee of the Bureau of Police during the highest paid five years in which time such beneficiary made monthly contributions to the pension fund prior to his or her retirement. In the event that any employee has not been employed in the Bureau of Police for at least five years, but is otherwise entitled to a pension, such employee's pension shall equal not less than fifty per centum of the amount which would constitute the average monthly salary or wages received by the beneficiary as an employee of the Bureau of Police but in no event shall such pension be less than two hundred dollars per month. No pension

paid pursuant to this section shall be computed on a monthly salary or wage in excess of five hundred dollars nor shall a pension be paid for a fraction of a service year. A service year shall be computed from the date of employment of the employee.] Beneficiaries under the fund, who retire or who become eligible to receive a pension allowance on or after the effective date of this amendment, shall be entitled to receive from the fund, per month, an amount equalling fifty per centum of the average monthly salary earned by the contributor as an employe of the Bureau of Police of the city during any five calendar years of service or the last sixty months immediately preceding retirement. If any employe has not been employed in the Bureau of Police at least five years, but is otherwise entitled to a pension, such employe's pension shall equal not less than fifty per centum of the amount which would constitute the average monthly salary or wages received by the beneficiary as an employe of the Bureau of Police. Pension payments shall always be payable on the third working day of each month and shall be for the preceding month.

Section 8. The act is amended by adding after section 14.4, a new section to read:

Section 14.5. Any person previously on retirement pension who is re-employed and reinstated as a member of the fund shall, at the time of his later retirement, be entitled to any increase in pension which has been provided for by amendment to the law prior to such later retirement.

Section 9. All acts and parts of acts inconsistent herewith are repealed.

Section 10. This act shall take effect immediately.

APPROVED—The 9th day of November, A. D. 1965.

WILLIAM W. SCRANTON