

No. 87

AN ACT

HB 1299

Relating to pensions for employees of the City of Pittsburgh.

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

Section 1. Definitions.—The following terms shall have the following respective meanings for the purposes of this act, unless a different meaning is plainly required by the context.

“Accumulated contributions.” The sum of a member’s contributions to the fund.

“Average monthly earnings.” The average of the highest 36 months of contributory earnings during the last 60 months of employment by the city preceding retirement or termination of service.

“Beneficiary.” The person or persons last designated in writing by a member to receive his accumulated contributions upon the death of such member.

“Board.” The pension board consisting of members specified in accordance with the provisions of section 2.

“City.” The City of Pittsburgh and any agency or authority created by the City of Pittsburgh, or created by the City of Pittsburgh jointly with other cities or with another political subdivision or created by another political subdivision and joined by the city, except where such agency or authority has in effect its own pension or retirement plan, maintained without reference to the provisions of this act, in which case such pension or retirement plan shall be exclusive and such agency’s or authority’s employees shall not be entitled to any rights under this act.

“Contribution rate.” Five percent.

“Credited service.” Service of a member to be used in the determination of benefits provided that the required contributions have been made and are credited to his account in the fund.

“Employee.” Any person holding a city office or employed by the city in any capacity whatsoever, for which employment he is receiving regular remuneration as an officer or employee, excluding however any independent contractor or a person compensated on a fee basis.

“Full-time employee.” Any employee serving the city for 200 or more days per year.

“Fund.” The fund created by the city in accordance with the act of May 28, 1915 (P.L.596, No.259), referred to as the Second Class City Employee Pension Law.

“Member.” Any employee or former employee who is making contributions to the fund or any employee whose contributions have been discontinued due to attainment of age 65.

“Member contributions.” The product of the contribution rate and the compensation of the member.

“Normal retirement age.” Age 60, with eight or more years of credited service.

“Pensioner.” Any employee who has terminated city service and is receiving or has filed an application to receive pension benefits pursuant to this act.

“Total and permanent disability.” Permanent incapacity due to bodily injury or disease which for a period of at least six consecutive months has rendered the member unable to perform the duties for which he was employed. Proof of total and permanent disability shall consist of the sworn statement of three practicing physicians who have been designated by the board that the member is in a permanent condition of health which would totally disable him from performing the duties of his position or office.

“Vestee.” Any former member entitled to an early pension who has terminated service and elected to receive a deferred pension.

Section 2. Administration.—(a) The administration of the provisions of this act shall be charged to the board which shall consist of the mayor, the city controller, the president of the city council, and two employees to be chosen by the employees contributing to the fund.

(b) The board shall have the following powers and duties:

(1) To adopt and promulgate rules and regulations for the administration of the fund.

(2) To register all employees who are members of the fund.

(3) To administer the collection and crediting of contributions to the fund.

(4) To grant such pensions and other payments as are herein provided and to pay over by warrant or check such amounts.

(5) To administer the fund and when deemed advisable, to invest the moneys in accordance with the provisions of this act.

(6) To perform such other functions as are required for the execution of the provisions of this act.

(c) Any action taken by the board shall be recorded in writing, approved by the majority of its members and signed either by such majority or by a person authorized by the board to so act.

(d) The board shall prepare annually a report, which shall be submitted to the city council, showing in reasonable summary the assets and liabilities of the fund and giving a brief account of the operation of the fund for the past year.

(e) The members of the board may rely upon tables, valuations and reports furnished by qualified professional consultants.

(f) The heads of every department and office employing persons eligible for membership shall certify each pay period to the board the names of such employees, the amount of salary or wages paid to each employee, together with any dismissals, resignations, leaves of absence

or terminations of service and such other relevant information as the board may require.

(g) Each application for a pension shall be made in writing to the board on a form provided by the board. The board may require any applicant for pension to furnish such reasonable information as may be necessary to process the application.

Section 3. Membership.—(a) Membership shall be mandatory for all full-time employees on the effective date of this act and following a 90-day probationary period for all new full-time employees; except that the following employees shall not be entitled to membership:

(1) Employees protected by other pension systems authorized by the laws of this State.

(2) Employees who did not exercise an option to elect membership in the fund within the times provided.

(3) Any temporary employees who do not have contributions in the fund attributable to former membership in the fund.

(4) Pensioners who were receiving full retirement benefits and returned to service subsequent to January 1, 1975.

(b) Membership shall be mandatory for a temporary employee who was formerly a full-time employee and who has not withdrawn his accumulated contributions from the fund.

(c) Membership may continue for any employee on an approved leave of absence for a period of up to two years during which he makes the required contributions.

(d) Membership shall continue for an employee who has terminated service after eight or more years of credited service, attained age 40, has elected to leave his contributions in the fund, and continues to contribute to the fund until attainment of age 50.

(e) Membership and all rights to benefits provided by this act shall cease at the time an employee terminates city service and withdraws his accumulated contributions.

Section 4. Contributions by Members.—(a) Each member of the fund who is making contributions hereunder on December 31, 1974, and each employee who becomes a member on or after January 1, 1975, shall contribute to the fund 5% of his salary or wages.

(b) Any member who retires subsequent to January 1, 1975 but prior to January 1, 1980 may elect to increase his average monthly earnings by contributing 5% of earnings in excess of \$650 per month for up to 36 months of service rendered prior to the effective date of this act.

(c) The city shall cause to be deducted the required member contributions from each payroll and shall promptly send the amounts deducted to the fund.

(d) Payment of the amount of contribution herein mentioned shall be discontinued at the time the member retires, terminates service, attains age 65 with 20 or more years of credited service, dies or becomes totally and permanently disabled, except that any member who

terminates employment with the city after attaining age 40 and completing eight or more years of credited service may, in order to become eligible for vested benefits under the provisions of section 7 (d) of this act, elect to make monthly payments to the fund continuing until age 50 and in amounts equal to 5% of his monthly salary at the time of termination of service.

(e) Each person who becomes an employee of the city after having been employed by the city in the bureau of fire or the bureau of police, and who is not entitled to retirement benefits for such service under another retirement system and who desires to have such service credited in the fund, shall be required to pay to the fund an amount equal to 5% of the total salary or wages received by him for each month of service for which he wishes to receive credit together with interest at the rate earned by the fund during the period of such employment. Such amount shall be deducted from the monthly salary or wages of the member over a period of two years or in such manner and period as the board may determine. Upon full payment of the amount due the member shall receive credit for said period of service. If any member shall be injured while in the actual performance of duty before he shall have made full contribution for past service, so long as the disability continues, he shall be eligible for pension under this act, but any amount which he shall not yet have paid to the fund as a contribution for past services under this section at the date of his injury shall be paid, if the board, in its discretion, shall so determine, in such monthly amounts as the board may determine, which amounts shall be deducted from his or her pension as and when monthly payments thereof shall be made.

(f) Any member may purchase full credit toward his pension for each year of service with an agency or authority prior to the time such agency or authority joined the fund upon his producing proof satisfactory to the board of the number of years of such service and upon his making back payments as if he had been a member of the fund at the time of such service. The amount due may be paid in a lump sum or by installments, as may be agreed upon by the member and the board. If the employee is retired under this act before the payments have been completed, his pension shall be reduced by an amount equivalent to the unpaid balance of the amount due.

(g) If a member terminates service before he is eligible to receive a pension and is not eligible or does not elect to make further contributions under subsection (d), his accumulated contributions shall be refunded in full.

(h) Any former employee who has received a refund of his accumulated contributions and who shall reenter the service of the city, shall be eligible to receive credit for all previously credited service by restoring to the fund the total accumulated contributions withdrawn.

(i) Any pensioner who had less than 20 years credited service or who had elected to receive an early reduced pension and who returns to

service shall start contributing at 5% of his salary or wages and shall be entitled to have his subsequent retirement pension be determined on the basis of this total service history by restoring to the fund the total of the amount received in pension payments.

Section 5. Contributions by the City.—(a) The public officials of the city charged with the disbursements, expenditures, and appropriations, shall annually set aside, apportion, and appropriate, out of all taxes and income of the city, to the board, a sum sufficient to maintain the pensions due under this act. If the total disbursements from the fund for the payment of pensions, refund of accumulated contributions of members, and administration expenses shall exceed in any year the total revenues of the fund from member contributions and the interest and premiums on investments and bank deposits, then the amount to be set aside, apportioned and appropriated by the public officials of the city to the fund shall not be less than the difference between the total disbursements and receipts of the fund, as aforesaid.

(b) Every authority or agency, whose employees are members of the fund, shall be held liable for the amount due to the fund on account of benefits provided by this act which are paid to employees of such authority or agency: Provided, however, That where an employee of the authority or agency formerly worked for the city, the authority or agency shall be held liable for that proportionate part of the pension or other benefits paid which the authority or agency service bears to the total credited service.

Section 6. Credited Service.—(a) Credited service shall be computed from the time of the first or original employment; said employment shall consist of service to the city, and need not be continuous, provided that contributions have been made in accordance with section 4 (a) and (h) for all periods of service.

(b) Any employee shall receive full credit for each year of service for which credit has been purchased under the provision of section 4 (e) and (f).

(c) Any employee who shall have enlisted or been drafted to serve in the Army or Navy of the United States in time of war or shall have been drafted to serve in the Army or Navy of the United States in time of peace, shall have such service credited in full to his service record as service to the city.

(d) Any person who terminated service prior to January 1, 1975, having at least 20 years of credited service and who upon termination of service continued making contributions, shall upon completion of 25 years of continuous contributions be entitled to receive credited service for all such years of contributions.

Section 7. Eligibility for Benefits.—(a) Upon termination of service and the filing of the proper application with the board the following members shall be entitled to a pension:

(i) any members who on or after January 1, 1975, shall have had at least eight years of credited service as determined in section 6 and shall have attained age 60; and

(ii) employees who were members of the fund prior to January 1, 1975, and who have completed at least 25 years of credited service as determined in section 6 and shall have attained age 50.

(b) Upon termination of service on or after January 1, 1975, any member who has at least eight years of credited service and has attained age 50, shall, upon the filing of the proper application with the board, be entitled to receive a deferred pension commencing upon attainment of age 60, or an early reduced pension.

(c) On or after January 1, 1975, any member who suffers a total and permanent disability shall upon the filing of a proper application with the board, be entitled to receive a disability pension if his disability is sustained in the actual performance of duty regardless of his length of service or if his disability is incurred not in the performance of duty and provided he has at least eight years of credited service. Payments thereof shall be made except under the following conditions:

(1) Once a year the board may require such pensioner to undergo a medical examination by three physicians appointed by the board, and should such physicians thereupon report and certify to the board that the member is no longer incapacitated to perform his duties then¹ his disability annuity shall cease.

(2) Any pensioner, who has been receiving disability benefits for at least two years, and in the opinion of three qualified physicians appointed by the board, is capable of performing gainful alternate employment with the city, may be offered, at the discretion of the board, such gainful alternate employment at a salary equal to his former salary. If the pensioner refuses such gainful alternate employment with the city, the board may discontinue all disability payments to the pensioner.

(d) On or after January 1, 1975, any member who terminates service after having attained age 40 with eight or more years of credited service who continues making contributions until attainment of age 50 as provided in section 4 (d) shall be eligible to receive a pension.

(e) Any member upon attainment of age 50 who has complied with the provisions of section 6 (d) and who files a proper application with the board shall be eligible to receive a pension.

Section 8. Pension Allowance.—(a) The amount of the monthly pension shall be calculated by multiplying the amount determined in paragraph (1) by the fraction determined in paragraph (2) and if applicable, by adding a service increment in accordance with paragraph (3) and where applicable by applying the reduction determined in paragraph (4).

(1) If the average monthly earnings of an employee who became a member prior to January 1, 1975 are less than \$450, 60% of such

¹ "than" in original.

earnings but not less than \$130 per month; if the average monthly earnings of an employee who became a member prior to January 1, 1975 are \$450 or more; then 55% of the first \$650 of such earnings plus 30% of the excess of such earnings but not less than \$270 per month; if the employee became a member on or after January 1, 1975, 50% of the member's average monthly earnings.

(2) The ratio that the member's years of credited service (years and completed months to two decimals) up to a maximum of 20 is to 20.

(3) A service increment which shall be 1% of the member's average monthly earnings for each full year of credited service in excess of 20 and rendered prior to age 65. Such increment shall be limited to a maximum of \$100 per month.

(4) If the member has no credited service prior to January 1, 1975, his pension shall be reduced upon his attainment of age 65 by an amount equal to 50% of the primary insurance amount paid or payable to him and subject to the following provisions:

(i) The eligibility of such member for the old-age insurance benefit and the amount of such benefit upon which the reduction in his pension shall be based shall be determined by the board in accordance with the provisions of the Federal Social Security Act, 42 U.S.C. §§ 301 et seq., in effect at the date his pension payments begin, except that in determining such eligibility and such amount only wages or compensation for services covered by this fund shall be included.

(ii) Whenever the amount of the reduction from the pension shall have been once determined, it shall remain fixed for the duration of the pension except that any decrease in the old-age insurance benefit under the Federal Social Security Act, 42 U.S.C. §§ 301 et seq., shall result in a corresponding decrease in the amount of the reduction from the pension.

(iii) The reduction shall not be more than one-half of the pension to which the member is otherwise entitled under the provisions of this act.

(b) The amount of any monthly pension of a member who terminates service prior to age 60 shall be either of the following as the member may elect at the time of termination of service:

(1) a deferred pension, commencing on attainment of age 60, computed under the provisions of subsection (a) based only on credited service and average monthly earnings to the date of early retirement, or

(2) a reduced pension commencing prior to age 60, equal to the deferred pension to which the member would have been eligible had he so elected, reduced $\frac{1}{2}\%$ for each month that the commencement of the pension precedes the month of the member's attainment of age 60.

(c) The amount of any monthly pension for a 25-year retirement (as described in section 7 (a) and (e)) shall be determined in accordance with subsection (a) and payable immediately upon retirement without reduction on that portion of the member's average monthly earnings up to \$650. The amount of the pension determined in accordance with subsection (a), attributable to the member's average monthly earnings in

excess of \$650 shall be reduced $\frac{1}{2}\%$ for each month that the commencement of the pension precedes the month of the member's attainment of age 60.

(d) The amount of any monthly pension for a disability retirement shall be determined in accordance with subsection (a) based upon his average monthly earnings at the date of disability and determined as though the member had attained age 60 and completed the greater of his actual credited service or 20 years of service.

(e) The amount of any pension granted pursuant to section 7 (d) shall be either of the following as the member may elect in his application for pension:

(1) a deferred pension, after attainment of age 60, computed under the provisions of subsection (a) but based on credited service and average monthly earnings to the date of termination; or

(2) an early pension, commencing prior to age 60 but after attainment of age 50, determined in accordance with the provisions of paragraph (1), reduced $\frac{1}{2}\%$ for each month that the commencement of the regular pension precedes the month of the member's attainment of age 60.

Section 9. Death Benefits.—(a) In the event of the death on or after January 1, 1975 of a member in active service who shall have had at least eight years of credited service and shall have attained age 50, a survivor benefit shall become payable to his surviving spouse, if any, in an amount which shall be equal to 50% of the pension amount determined in section 8 (a) which would have been payable had the deceased member retired on the day before his death. The amount of the survivor's benefits determined above shall be further reduced by 1% for each year in excess of five years that the spouse is younger than the deceased member. The survivor's benefits shall be payable as long as the spouse lives or until remarriage.

(b) In the event of the death of any member in active service before the member has eight years of credited service and attains age 50, the member's accumulated contributions without interest shall be paid to such person or persons as he shall have designated in writing and filed with the board or if he has not so designated, then paid to his estate.

(c) Any married person who retires under the provisions of this act may elect in writing at the time of retirement to reserve in the fund up to \$100 per month from his pension payments which amount shall be payable to his surviving spouse after his death, provided, that such person shall have been married to his spouse for not less than two years. In the event the spouse of a pensioner shall predecease such pensioner, the pensioner shall revert to full pension payments for the remainder of his life. The surviving spouse shall be entitled commencing the first day of the month in which the death of the pensioner occurred to receive monthly payments equal to such monthly amount deducted up to \$100 per month and such payments shall terminate upon the death or remarriage of such surviving spouse.

(d) In no case shall the total of payments made to a member or pensioner and his surviving spouse, if any, or his beneficiary or estate be less than the deceased member's accumulated contributions to the fund.

Section 10. Payment of Benefits.—(a) Monthly payments for immediate pensions shall be payable beginning with the first full calendar month following the month in which retirement occurs or the calendar month in which application for pension is made, whichever is later.

(b) The first of any deferred vested pension shall be paid as follows:

(1) for pensions commencing after attainment of age 60, the later of: (i) the calendar month next following the member's 60th birthday, or (ii) the calendar month in which the application for such payment is made; or

(2) for pensions commencing prior to attainment of age 60, the later of: (i) the calendar month next following the member's 50th birthday, or (ii) the calendar month in which application for such pension is made.

(c) The last payment of any pension shall be payable for the month in which the death of the pensioner shall occur.

(d) A pension payable under this act shall cease when the pensioner returns to city employment. Pension payments shall be resumed upon subsequent discontinuance of service.

Section 11. Supplementary Medical Insurance Premium.—Present and future pensioners and their spouses who are eligible for the supplementary medical insurance coverage under social security shall receive, in addition to their regular pension, an amount per month equal to the supplementary medical insurance premium for the eligible pensioner and his spouse. The first payment of this additional amount shall be for the month in which the pensioner or his spouse attains the age of 65. Disabled pensioners, who are also in receipt of social security disability benefits and are eligible for the supplementary medical insurance coverage shall receive this additional amount beginning with the month that they become first eligible for the supplementary medical insurance coverage.

Section 12. Miscellaneous Provisions.—(a) The right to a benefit, and the moneys in the fund herein mentioned shall not be subject to attachment or execution, and shall be payable only to the pensioner, his spouse or his designated beneficiary and shall not be subject to assignment or transfer.

(b) When a pensioner shall or may hereafter be employed by the Government of the United States or the Commonwealth of Pennsylvania, or the same county in which the city is located, or by any subdivision of such counties, the board shall not have the authority to suspend pension payments to such pensioner during the period of such employment.

Section 13. Effective Date.—This act shall take effect January 1, 1975.

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LAWS OF PENNSYLVANIA

APPROVED—The 1st day of August, A. D. 1975.

MILTON J. SHAPP