

## No. 1980-50

## AN ACT

## HB 373

Amending the act of February 1, 1974 (P.L.34, No.15), entitled "An act creating a Pennsylvania Municipal Retirement System for the payment of retirement allowances to officers, employes, firemen and police of political subdivisions and municipal authorities and of institutions supported and maintained by political subdivisions and municipal government associations and providing for the administration of the same by a board composed of the State Treasurer and others appointed by the Governor; imposing certain duties on the Pennsylvania Municipal Retirement Board and the actuary thereof; providing the procedure whereby political subdivisions and municipal authorities may join such system, and imposing certain liabilities and obligations on such political subdivisions and municipal authorities in connection therewith, and as to certain existing retirement and pension systems, and upon officers, employes, firemen and police of such political subdivisions, institutions supported and maintained by political subdivisions, and upon municipal authorities; providing for the continuation of certain municipal retirement systems now administered by the Commonwealth; providing certain exemptions from taxation, execution, attachment, levy and sale and providing for the repeal of certain related acts," providing that a person receiving a retirement allowance be a member of the Pennsylvania Municipal Retirement Board and further providing for the actuarial soundness of the fund, for excess interest, for payment of administrative funds from excess interest earnings, for member's excess investment account, for excess investment earnings, for joining the fund, for municipal liability, for credit for other governmental service, for contributions, for return to service and for computation of benefits.

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

Section 1. The definition of "actuarially sound" in section 102, act of February 1, 1974 (P.L.34, No.15), known as the "Pennsylvania Municipal Retirement Law," is amended and the section is amended by adding definitions to read:

Section 102. Definitions.—As used in this act:

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"Actuarially sound" means a plan which is being operated under supervision of an actuary and which is being funded annually at a level not lower than the normal cost of the plan plus a contribution towards the unfunded accrued liability sufficient to complete the funding thereof within thirty years of the effective date of the system. If the unfunded accrued liability is increased subsequent to the effective date of the system, such additional liability shall be funded within a period of thirty years from the effective date of the increase. *If deemed advisable by the actuary, the initial liability and any increase thereof, may be combined and amortized over a period of years, not to exceed thirty.*

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*“Excess interest” means the investment earnings on the fund in excess of that required for allocation to regular interest and expenses.*

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*“Member’s excess investment account” means the account maintained for each member, to which shall be credited such excess interest deemed to be earned on member contributions.*

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Section 2. Section 103 of the act, amended January 4, 1978 (P.L.1, No.1), is amended to read:

Section 103. Pennsylvania Municipal Retirement Board.—A Pennsylvania Municipal Retirement Board is hereby created, which shall consist of the State Treasurer, Secretary of the Commonwealth, six municipal elected officials or employes of different classes of municipalities which have joined the system, *one retired member of the system who is receiving a retirement allowance*, one municipal fireman employed by a municipality which has joined the system and one municipal policeman employed by a municipality which has joined the system. The [eight] *nine* latter members shall be appointed by the Governor from among nominations made by the County Commissioners Association, the Pennsylvania League of Cities, the Pennsylvania Association of Township Commissioners, the Pennsylvania State Association of Township Supervisors, the Pennsylvania State Association of Boroughs and the Pennsylvania Municipal Authorities Association, and associations representing municipal firemen and municipal police, to serve for a term of four years each and until their successors are appointed and qualified. Appointments of members made by the Governor shall not require the advice and consent of the Senate. The two municipal employe members of the Municipal Employes’ Retirement Board, appointed by the Governor from among nominations made by various associations of county and municipal officers, who are serving on the effective date of this act, shall continue to serve as members of the Pennsylvania Municipal Retirement Board until the expiration of their respective terms.

A chairman and vice chairman of the board shall be elected by the board every year at the January meeting of the board and the chairman and vice-chairman may succeed themselves for the appointed term of four years.

Vacancies happening from among members appointed from among the nominations made by the associations shall be filled by the appointment of a successor for a full term of four years.

No appointed member shall serve more than two consecutive full terms.

Each member of the board shall take an oath of office that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or wilfully permit to be violated any of the provisions of this act.

A quorum of the board shall consist of six members.

Section 3. Sections 104, 105 and 110 of the act are amended to read:

Section 104. General Powers of the Board.—The board shall:

(1) Appoint a secretary who shall appoint the clerical and other employes of the board, whose positions, including the secretary's, shall be under the classified service provisions of the act of August 5, 1941 (P.L.752, No.286), as amended and the secretary shall fill future vacancies in accordance with such provisions. The compensation of all persons so appointed shall be fixed by the board and shall be consistent with the standards established by the Executive Board of this Commonwealth;

(2) Contract for professional services, including but not limited to actuarial, investment and medical as it deems advisable;

(3) Keep in convenient form such data as shall be deemed necessary for actuarial valuation purposes;

(4) From time to time, through its actuary, make an actuarial investigation into the mortality and service experience of the contributors and annuitants and of the various accounts created by this act;

(5) Adopt for the system one or more mortality tables and such other tables as shall be deemed necessary;

**[(6) Certify the rates of deduction from salary necessary to pay the member's annuities;]**

(7) Certify annually the amount of appropriation which each municipality shall pay into the retirement fund, which amounts shall be based on estimates furnished by the actuary, and shall be credited to the municipal account of the fund;

(8) Prepare and publish annually a financial statement showing the condition of the fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Pennsylvania Municipal Retirement System, and furnish a copy thereof to each municipality which has joined the system, and to such persons as may request copies thereof;

(9) Keep a record of all its proceedings, which will be open to inspection by the public;

(10) From time to time, with the advice of the Attorney General and the actuary, adopt and promulgate such rules and regulations as may be required for the proper administration of the fund created by this act and the several accounts thereof, and for the transaction of the business of the board;

(11) Be authorized to approve any optional retirement plan for municipal employes, municipal firemen or municipal police, with any municipality as long as it is actuarially sound and benefits under the plan are not in excess of or member's minimum contribution rates are not less than those provided in other existing retirement laws pertaining to that class of municipality; *except to the extent that*

*excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law;*

(12) Prepare and distribute annual statements of accounts to each of the active members of the system, showing the contributions made during the year, the interest earned and the total balance standing in the member's account at the end of the year;

*(12.1) From time to time, at the direction of municipalities electing to provide cost-of-living increases from their share of excess investment earnings, the board shall allocate excess investment earnings to provide additional "cost-of-living" pension benefits to those members of such municipalities who have already retired. Such allocations shall be made, with the advice of the actuary, on a fully funded basis employing actuarial assumptions which reflect the nature of the liability.*

*(12.2) From time to time, at the direction of municipalities electing to apply their excess investment earnings to member contributions, the board shall allocate excess investment earnings for active members of such municipalities by applying such allocation to member contributions. To the extent that additional liabilities may accrue as a result of such allocation, the actuary shall employ actuarial assumptions, on a fully funded basis, to accurately reflect the nature of the liability generated therefrom.*

(13) Perform such other functions as are required for the execution of the provisions of this act.

Section 105. Preliminary Actuarial Investigation Tables and Rates.—As soon as may be after the passage of this act, the actuary shall make an investigation of the mortality, service and salary experience of municipal employes, municipal firemen and municipal police as he shall deem necessary, for the purpose of determining upon tentative tables and municipal contributions. On the basis of such investigation and recommendation, the board shall adopt such tentative tables and certify such tentative rates for the purpose of giving municipalities and municipal employes, municipal firemen and municipal police estimates of the cost involved in electing to join the retirement system established by this act. [Such tables may thereafter be accepted or changed by the board, as experience may require.] *The actuary shall make subsequent investigations at least once every five years in order to enable the board to change such tables when necessary.*

Section 110. Management and Investment of Fund; Interest Credits.—The members of the board shall be trustees of the fund, and shall have the exclusive management of said fund, with full power to invest the moneys therein, subject to the terms, conditions, limitations and restrictions imposed by law upon fiduciaries. The said trustees shall have power to hold, purchase, sell, assign, transfer and dispose of any securities and investments in said fund, as well as the proceeds of such investments, and of the money belonging to such fund.

The board shall annually allow regular interest to the credit on each [account, including each contributor's account] *contributor's account, municipal account, the retired members reserve account and the total disability reserve account. In addition, the board shall, after paying expenses, annually allow such excess interest as each municipality deems appropriate to the credit of the municipal accounts, member's accounts, the member's excess investment accounts, retired members reserve accounts and total disability reserve accounts.*

Section 4. Section 112 of the act, amended January 4, 1978 (P.L.1, No.1), is amended to read:

Section 112. Annual Estimates to Municipalities; Administrative Expenses.—The board shall prepare and submit to each municipality, on or before the first day of the third month preceding the commencing of each municipality's fiscal year, an itemized estimate of the amounts necessary to be appropriated by the municipality to complete the payments of the obligations of the municipality to the fund during its next fiscal year.

The board shall annually prepare and approve a budget covering the administrative expenses of this act. Such expenses as approved by the board shall be paid from receipts from assessments made against each municipality for administrative expenses. This assessment shall be based on the number of members in each municipality and shall not exceed the sum of twenty dollars (\$20) per member per year. If, in the calendar years [1974, 1975, 1976, 1977, 1978 and 1979,] *1980 and 1981* the amount received from such assessments, when imposed at the maximum rate, is not sufficient to cover the administrative expenses, then the balance of such expenses shall be paid from interest earnings on the fund in excess of the regular interest credited to the municipal and member's accounts and shall not, in any year, exceed three-quarters of one per cent of the total asset value of the fund as of the beginning of the calendar year. The administration of the Pennsylvania Municipal Retirement System shall be audited annually and a report of this audit shall be made annually to the General Assembly.

Section 5. Sections 113, 203, 204, 205 and 206 of the act are amended to read:

Section 113. Existing Local Retirement Systems.—Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not

thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

*Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or to any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.*

Section 203. Existing Local Retirement Systems and Compulsory and Optional Membership.—Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement

system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to join the system under the provisions of this Article II, then each officer other than elected officers, and each employe thereof other than a municipal fireman and a municipal policeman, employed on a permanent basis, except one who is not eligible for Federal Social Security coverage and except one who is covered by an existing retirement or pension system and is exempted as outlined above, shall be required to become a member of the system. Each municipality shall determine whether membership in said system for elected officials and employes hired on a temporary or seasonal basis shall be compulsory, optional or prohibited. Where

membership may be optional with an elected officer or an employe hired on a temporary or seasonal basis, an election to join the system must be made within one year after the municipality elected to join the system or within one year after the officer or temporary or seasonal employe first entered the service of the municipality. Officers and employes paid only on a fee basis shall not be eligible to join the system.

When a municipality has established a policy of placing new employes on a probationary status it may elect to refrain from enrolling such employes into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment.

*Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.*

Section 204. Service Allowance; Change of Employment; Military Service.—In computing the length of service of a contributor for retirement purposes, full credit shall be given to each original member for each year of service rendered to the municipality prior to the time the municipality joined the system, whether or not such service was continuous.

As soon as practicable, the board shall issue to each original member a certificate certifying the aggregate length of service rendered to the municipality prior to the time it joined the system. Such certificate shall be final and conclusive as to his prior service unless thereafter modified by the board, upon application of the member.

The time during which a member was absent from service without pay shall not be counted in computing the service of a contributor in his certificate, or upon retirement, unless specifically allowed by the municipality, with the approval of the board.

When a contributor leaves the employ of a municipality which has joined the system, and enters into the employ of another municipality which has also joined the system, his service credits shall remain unimpaired, but in such cases the unpaid municipal liability for prior service shall be prorated by the board between the municipalities on an equitable basis. *Such basis will be determined, with the advice of the actuary, according to the number of years of service performed by the contributor for each municipality.*



A contributor who has been employed by a municipality for a period of at least six months and is an active member of the system and who thereafter, heretofore, or hereafter, shall be inducted into the military service of the United States in times of war, armed conflict, or National emergency, so proclaimed by the President of the United States, shall have credited to his employment record, for pension or retirement benefits, all of the time spent by him in such military service during the continuance of such war, armed conflict, or National emergency if such person returns or has heretofore returned to his employment within six months after his separation from the service. The municipality shall, during the period of the member's intervening military service, continue to make current service contributions toward the municipal annuity of the member. An active member may file an application with the board for permission to purchase credit toward his member's share of the annuity for intervening military service. These contributions shall be computed by applying the member's contribution rate to his annual rate of compensation at the time of entry of the member into active military service, and multiplying the result by the number of years and fractional part of a year of creditable intervening military service, together with interest from date of return to employment to date of purchase. The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid by (1) regular monthly payments during active military service, or (2) a lump sum payment within thirty days or (3) it may be amortized with additional interest through salary deductions in amounts agreed upon by the member of the board.

An active member may also purchase credit for other than intervening military service performed for the United States in times of war, armed conflict or National emergency, so proclaimed by the President of the United States, for a period not to exceed five years: Provided, That the member has completed five years of service to the municipality subsequent to such military service. An active member may file an application with the board for permission to purchase credit for nonintervening military service upon completion of five years of subsequent service to the municipality. The type of service credit for such service shall be determined by the date of entry of the municipality into the system. If the date of the member's separation from military service is prior to the date on which the municipality joined the system, then the credit purchased shall be considered as prior service credit. In this case the amount due from the member shall be computed by applying the member's basic contribution rate plus the rate of contribution the municipality paid for current service during its first year of entry into the system to his prior salary and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service, plus interest from the date of the member's employment by the municipality to the date

of purchase. [The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid in a lump sum within thirty days or it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the board.] If, on the other hand, the date of the member's separation from military service is later than the date of entry of the municipality into the system, then the credit purchased shall be considered as current service credit. In this case the amount due from the member shall be computed by applying the member's basic contribution rate plus the municipality's normal contribution rate for current service which was in effect on the date of the member's entry into employment with the municipality to his average annual rate of compensation over the first five years of his subsequent employment and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased, plus interest from the date of employment by the municipality to date of purchase.

The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid in a lump sum within thirty days or it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the board.

The rate of interest to be charged to members on their purchase of credit for intervening or nonintervening military service shall be the rate being credited by the system to member's contribution accounts in effect on the date of the member's application, compounded annually.

A member may purchase credit for intervening or nonintervening military service only if his discharge or separation from the service was granted under other than dishonorable conditions.

A member may not purchase credit for any military service for which he is entitled to receive, [a retirement allowance from the United States Government] *eligible to receive now or in the future, or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency, or private employer.*

Applications for permission to purchase credit for military service must be accompanied by proof of the nature of his discharge or separation from the military service.

Section 205. Determination of Municipal Liability.—The [actuary] *board* shall as soon as may be, determine the present value of the liability of each municipality for the prior service credits to its original members, and shall establish an amount payable annually over a period not exceeding thirty years, through which payments such prior service liability may be funded. Each municipality shall have the option to spread the payment of such prior service liability over such period of years.

The municipal liability [to be determined by the actuary] shall be based upon credit for all years of prior service toward the municipal annuity of each original member, subject to such of the following options as the municipality may elect:

(1) The municipality may limit to ten years the credit for prior service toward the municipal annuity of each original member;

(2) The municipality may assume the liability for payment of the member's contributions for the prior service or any portion thereof of each original member.

The [actuary] board shall also determine, from time to time, the amount which shall be contributed annually by each municipality for service credits of original and new members subsequent to the time the municipality joined the system, and the additional amount which shall be contributed annually by each municipality toward a reserve account for disability allowances payable to original or new members, in order that all future service liability may be fully funded on an actuarial basis.

The amounts so determined by the [actuary] board may be expressed in a percentage of the payroll of the municipality covering its contributing members.

The cost of making the valuations required by this section and in the transfer of any existing pension system of any municipality, shall be part of the costs of administration of this act.

Section 206. Contributions by Members; Consolidation of Credits; Change of Employment.—Each member of the system shall be required to contribute to the fund [such per cent of his actual salary or compensation, including fees where paid in part on a fee basis, as shall be computed by the actuary to be approximately sufficient to procure for him on a superannuation retirement age, a member's annuity of approximately one two-hundred-fiftieth of that portion of his final salary on which social security benefits are payable and of one one-hundred-twenty-fifth of any portion of his final salary in excess of the amount on which social security benefits are payable for each year of service, after the time the municipality by which he is employed joined the system.] *three per cent of that portion of their actual salary or compensation, including fees where paid in part on a fee basis, on which social security benefits are payable, and six per cent of any salary, compensation or fees in excess of the amount on which social security benefits are payable. However, in the event of a contributor who became a member prior to January 1, 1979, the required rate of contribution shall be the lesser of the rate herein provided and the rate applicable to said member upon his entry into the system.*

In order to increase his member's annuity, each member shall also have the option to make contributions for his prior service. Such contributions for prior service may be anticipated in whole or in part at the time the municipality joins the system, or payment thereof or

such part thereof as is not anticipated may be spread over a period of time by increasing the payroll deduction of the member by at least one-third. When a member elects to contribute on account of all of his unpaid prior service, his rate of contribution shall be calculated as of his age at the time he first entered the service of the municipality: Provided, however, That any municipality may, at the time it elects to join the system, or at any time thereafter, agree with the board to pay into the fund as part of its liability under and in accordance with section 205 hereof, the moneys necessary to provide the member's contributions for prior service, and in such case no contributions for prior service shall be made by the members.

Member's contributions shall be paid into the fund by the municipality through payroll deductions in such manner and at such time as the board may by rule and regulation determine.

When a municipal employe is employed by more than one municipality, he shall be required to make contributions on account of his salary paid by each municipality. In such cases the board shall provide for the consolidation of credits of the contributor and, upon his retirement, for a consolidated retirement allowance.

Section 6. Section 207 of the act, amended December 19, 1975 (P.L.520, No.153), is amended to read:

Section 207. **Withdrawal; Return to Service; Death in Service.—**

(a) Should a contributor, before reaching superannuation retirement age, for any reason cease to be a municipal employe, he shall be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account, unless he is entitled to vesting rights or to a retirement allowance for retirement not voluntarily, and elects to exercise such vesting rights or take such retirement allowance. Should such former contributor thereafter return to the service of the same municipality and restore to the fund, in such manner as may be agreed upon by such person and the board, his withdrawn accumulated deductions as they were at the time of his separation from service, his annuity rights as they existed at the time of separation from service shall be restored and his obligations as a member shall begin again. The rate of contribution of such returning member shall be the same as it was at the time he separated from service.

(b) Should a contributor, having attained or passed superannuation age, elect, upon leaving the service of the municipality, not to claim the retirement allowance to which he is entitled, he shall, upon written application, be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account *and the balance in the member's excess investment account.*

(c) Should a person who has been retired on a retirement allowance under this act, return to employment on a regular full-time basis in the same municipality, his retirement allowance shall cease, **[and all his rights as they existed at the time of retirement shall be restored, and such person may by further service and further payroll deductions**

**add to such rights on account of future retirement] and in the case of an annuity, other than a disability annuity, the present value of such annuity shall be frozen as of the date such annuity ceases. Upon subsequent discontinuance of service, such member, other than a former disability annuitant, shall be entitled to an annuity which is actuarially equivalent to the sum of the present value of the annuity previously being paid and the present value of the annuity earned by further service and further deductions added upon reemployment. For the purposes of this section if a person is reemployed on a temporary or seasonal basis and his gross post-retirement earnings from such reemployment during the calendar year are less than two thousand five hundred twenty dollars (\$2,520) or such other maximum as the board may establish, he shall not be deemed reemployed, but if and when his gross post-retirement earnings exceed two thousand five hundred twenty dollars (\$2,520) or such other maximum as the board may establish in any calendar year he shall not be entitled to receive his retirement allowance for that month or any subsequent month in the calendar year in which he continues in service. The municipality is required to notify the board immediately of the reemployment status of any retired former employe and file separate monthly reports of his gross earnings as prescribed by the board.**

**(d) Should a contributor die while in service, prior to becoming eligible for a retirement allowance, his accumulated deductions shall be paid to his estate, or to such person, if living, as he shall have designated in writing, filed with the board as his beneficiary. In case any contributor has failed to designate a beneficiary, or if the named beneficiary has predeceased the member and no such successor beneficiary has been named, and upon the death in service shall have less than one hundred dollars (\$100) in accumulated deductions standing to his credit, the board may, if letters testamentary or of administration have not been taken out on his estate within six months after death, pay such accumulated deductions on the claim of the undertaker, or to any person or municipality which shall have paid the claim of the undertaker.**

**Section 7. Sections 208, 210 and 212 of the act are amended to read:**

**Section 208. Superannuation Retirement.—Retirement for superannuation shall be as follows:**

**(a) Any contributor who has reached superannuation retirement age may retire for superannuation by filing with the board a written statement, duly attested, setting forth on what date he desires to be retired. Said application shall make the superannuation retirement allowance effective on the date so specified, if such application was filed in the office of the board or deposited in the United States mail, addressed to the board, before the date specified in the application and before the death of the contributor, but the date so specified in the application shall not be more than ninety days after the date of filing, or the date the application was deposited in the mail.**

(b) On retirement for superannuation, a contributor shall be entitled to a retirement allowance throughout his life, which shall consist of:

(1) A member's annuity of equivalent actuarial value of his accumulated deductions; and

(2) A municipal annuity which shall be equal to (i) for current service, one two-hundred-fiftieth of that portion of his final salary on which social security benefits are payable plus one one-hundred-twenty-fifth of any portion of his final salary in excess of the amount on which social security benefits are payable for each year of service while a member, and in addition thereto, (ii) for prior service in case of an original member, one two-hundred-fiftieth of that portion of his prior salary on which social security benefits are payable plus one one-hundred-twenty-fifth of any portion of his prior salary in excess of the amount on which social security benefits are payable for each year of prior service or for a maximum of ten years if the municipality has so limited the period of prior service, and in addition thereto, one two-hundred-fiftieth of his prior salary on which social security benefits are payable plus one one-hundred-twenty-fifth of any portion of his prior salary in excess of the amount on which social security benefits are payable for each year of prior service for which the municipality has paid or has obligated itself to pay the member's contributions. *For the purposes of calculating the current service benefit, an average of the social security wage base will be determined for the period of time over which final salary is taken, and this average will be the basis for calculating the amount of salary on which social security benefits are payable. For the purposes of calculating the prior service benefit, the social security wage base in effect on the date of the municipality's entry into the system will be used as the basis for calculating the amount of prior salary on which social security benefits are payable.*

(c) In no event shall the municipal annuity *at the time of retirement* exceed fifty per cent of the final salary.

Section 210. Early Retirement.—Should a contributor be discontinued from service not voluntarily, after having completed eight years of total service, or voluntarily after having completed twenty-four years of total service, but in either event before reaching superannuation retirement age, he shall be paid as he may elect, as follows:

(1) The full amount of the accumulated deductions *plus the balance in the member's excess investment account* standing to his credit in the member's account of the fund; or

(2) Upon the filing of an application in the manner outlined in subsection (a) of section 208, a retirement allowance which shall consist of (i) a member's annuity of equivalent actuarial value to his accumulated deductions *plus the balance in the member's excess investment account*; and (ii) a municipal annuity of equivalent actuarial value to the present value of a municipal annuity, beginning at superannuation retirement age, calculated in accordance with the provisions of section 208; or

(3) If qualified, a deferred retirement allowance as provided in section 213.

Section 212. Disability Retirement.—(a) After a contributor has had ten or more years of total service, he may, upon application or on the application of one acting in his behalf, or upon application of a head of the department of the municipality by which he is employed, be retired by the board on a disability allowance if he is under superannuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the board, after medical examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the board that the contributor is unable to engage in any gainful employment and that said contributor ought to be retired. When the disability of a contributor is determined to be service-connected, as defined in this act, no minimum period of service shall be required for eligibility. Application filing requirements shall be identical to those outlined in subsection (a) of section 208.

(b) On retirement for disability a member shall receive a retirement allowance which shall consist of:

(1) A member's annuity of the equivalent actuarial value to his accumulated deductions, *plus the balance in the member's excess investment account;*

(2) A municipal annuity of the equivalent actuarial value to the present value of a municipal annuity, beginning at superannuation retirement age, calculated in accordance with the provision of section 208; and

(3) A disability annuity payable from the total disability reserve account which, together with the member's annuity and the municipal annuity, shall be sufficient to produce a retirement allowance of thirty per cent of the final salary. Where the disability of the member is determined to be service-connected, as defined in this act, the retirement allowance shall equal fifty per cent of his final salary. The disability annuity shall be reduced by the amount of any payments for which the member shall be eligible under the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P.L.566, No.284), known as "The Pennsylvania Occupational Disease Act."

(c) Once every year the board may require any disability annuitant, while still under superannuation retirement age, to undergo medical examination by a physician designated by the board. Such examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should the physician report and certify to the board that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then his disability retirement allowance shall be discontinued, and in lieu thereof an early involuntary retirement allowance shall at that time be granted as if such person

had been retired not voluntarily, if such person shall have had eight or more years of total service.

(d) Should a disability annuitant, while under superannuation retirement age, refuse to submit to at least one medical examination in any year by a physician designated by the board, his disability retirement allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, then all his rights in and to any disability retirement allowance or for early involuntary retirement allowance provided for by this act, shall be forfeited.

(e) Any contributor entitled to retire for disability may, in lieu of such retirement, if he has eight or more years of total service, elect to retire not voluntarily under the provisions of this act.

(f) Should a disability annuitant die before the total disability retirement allowance received shall be at least equal to the amount of his accumulated deductions *plus the balance in the member's excess investment account* at the time of disability retirement, then the board shall pay to the named beneficiary, if living, or if the beneficiary predeceased the annuitant, or no beneficiary was named, then to the annuitant's estate, an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions *plus excess interest*, and if such difference is less than one hundred dollars (\$100) and no letters have been taken out on the estate within six months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker.

Section 8. Section 213 of the act, amended January 4, 1978 (P.L.1, No.1), is amended to read:

Section 213. Vesting.—(a) Should a contributor, before reaching superannuation retirement age and after having completed twelve years of total service, for any reason cease to be a municipal employe, he shall be entitled to vest his retirement benefits until he attains superannuation retirement age, by filing with the board a written notice of his intentions to vest, within ninety days of the date of his termination of employment. Accumulated deductions will include interest from date of termination until the earlier of the date of the commencement of the annuity or the date of payment of member contributions.

(b) A contributor, who was terminated by the municipality not voluntarily, may elect, after he has vested, to be paid as follows:

(1) The full amount of the accumulated deductions, including interest; or

(2) An early retirement allowance as computed under the provisions of clause (2) of section 210; or

(3) Upon reaching superannuation retirement age, a superannuation retirement allowance as computed under the provisions of section 208.



(c) A contributor, who voluntarily terminated his employment, may elect, after he has vested, to be paid as follows:

(1) The full amount of the accumulated deductions, including interest; or

(2) If the contributor has completed twenty-four years or more of total service, a voluntary withdrawal allowance computed in accordance with the provisions of section 210; or

(3) Upon reaching superannuation retirement age, a superannuation retirement allowance as computed under the provisions of section 208.

(d) Should a contributor, who has vested, die before he becomes eligible for a retirement allowance, the full amount of the accumulated deductions *plus the balance in the member's excess investment account*, including interest to the date of his death, standing to his credit in the member's account of the fund shall be paid to his estate or to his named beneficiary in accordance with the provisions of subsection (d) of section 207.

Section 9. Sections 214, 215, 303, 305, 306, 307, 308, 309, 311 and 313 of the act are amended to read:

Section 214. Withdrawal Provisions.—A municipality which has joined the retirement system created or continued under this Article II may, for good and stated cause, file an application with the board for permission to withdraw from the system if it meets all of the following requirements:

(1) The municipality has been enrolled in the system for a period of at least five years.

(2) The municipality has met all of its financial obligations to the system.

(3) The legislative body of the municipality has passed an ordinance or resolution signifying its intention to withdraw from the system.

(4) The municipality has certified to the board that an affirmative vote approving withdrawal from the system had been obtained from at least seventy-five per cent of all of the municipal employes affected by the ordinance or resolution.

The board shall within ninety days of its receipt, take action on an application filed by a municipality for permission to withdraw from the system. If the application is approved the withdrawing municipality shall be entitled to receive a net refund of the amounts then standing to the credit of the municipality in the member's account, *the member's excess investment account*, the municipal account and the retired member's reserve accounts of the system. In no event shall the total amount of the net refund to the municipality exceed the pro rata interest of the withdrawing municipality in the net assets of the entire fund based on the market value of the investments of the fund as of the date of receipt of the application for permission to withdraw. The liability for the continuation of retirement or disability allowances

being paid from the fund shall attach against the withdrawing municipality and be paid from funds transferred to a retirement system established subsequent to its withdrawal from the system or from moneys appropriated annually from tax revenues sufficient to pay the same. If the board disapproves the application of the municipality for permission to withdraw from the system the board shall promptly notify the municipality of its decision and advise the municipality of the board's reason or reasons for disapproval. The board shall establish rules and regulations, in accordance with the provisions of clause (10) of section 104 of this act, governing the details of the procedures to be followed in the withdrawal of municipalities from the system.

Section 215. Procedures for Amending Contracts.—Any municipality which has joined the system under the provisions of this Article II may, with the approval of the board, enter into a contract with the board as outlined in Article IV of this act, to increase any of the benefits enumerated in Article IV. The board shall not enter into any contract with any municipality which decreases benefits, nor shall it enter into any contract with a municipality which provides for benefits in excess of or minimum member's contribution rates less than those available to it under any other existing law pertaining to the establishment of retirement systems for that class of municipality, *except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law*. Before the board approves any such contract it shall first determine, through its actuary, that the plan outlined in the contract is actuarially sound. Any municipality which elects to enter into a contract for increased benefits which would result in an increase in its employes contribution rates shall first obtain the written consent of at least seventy-five per cent of its then member employes. Additional costs for contracted increases in benefits shall become the responsibility of the municipality and/or the members as specified in the contract.

Section 303. Existing Local Retirement Systems and Compulsory Membership.—Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for

the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to cover its municipal firemen under the provisions of the system created by this Article III, then each municipal fireman shall be required to become a member of the system.

If a municipality elects to cover its municipal police under the provisions of the system created by this Article III, then each municipal policeman shall be required to become a member of the system.

When a municipality has established a policy of placing new employes on a probationary status it may elect to refrain from enrolling such employes into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment. *Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may*

*be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.*

Section 305. Service Allowance; Change of Employment; Military Service.—In computing the length of service of a contributor for retirement purposes, full credit shall be given to each original member for each year of service rendered to the municipality prior to the time the municipality joined the system.

As soon as practicable, the board shall issue to each original member a certificate certifying the aggregate length of service rendered to the municipality prior to the time it joined the system. Such certificate shall be final and conclusive as to his prior service unless thereafter modified by the board, upon application of the member.

The time during which a member was absent from service without pay, except for military service, shall not be counted in computing the service of a contributor in his certificate, or upon retirement unless specially allowed by the municipality, with the approval of the board.

When a contributor leaves the employ of a municipality which has joined the system, and enters into the employ of another municipality which has also joined the system, his service credits shall remain unimpaired, but in such cases the unpaid municipal liability for prior service shall be prorated by the board between the municipalities on an equitable basis. *The basis will be determined, with the advice of the actuary, according to the number of years of service performed by the contributor for each municipality.*

Any municipal fireman or municipal policeman employed by a municipality who has been a regularly appointed fireman or policeman for a period of at least six months and is an active member of the system and who thereafter, heretofore, or hereafter, shall be inducted into the military service of the United States in times of war, armed conflict, or National emergency, so proclaimed by the President of the United States, shall have credited to his employment record, for pension or retirement benefits, all of the time spent by him in such military service during the continuance of such war, armed conflict, or National emergency if such person returns or has heretofore returned to his employment within six months after his separation from the service. The municipality shall, during the period of the member's intervening military service, continue to make current service contributions toward the municipal annuity of the member. An active member may file an application with the board for permission to purchase credit toward his member's share of the annuity for intervening military service. These contributions shall be computed by applying the member's contribution rate to his annual rate of compensation at the time of entry of the member into active military service, and multiplying the result by the number of years and fractional part of a year of creditable intervening military service, together with interest from date of return to employment to date of purchase. The amount due

from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid by (1) regular monthly payments during active military service, or (2) a lump sum payment within thirty days, or (3) it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the board.

An active member may also purchase credit for other than intervening military service performed for the United States in times of war, armed conflict or National emergency, so proclaimed by the President of the United States, for a period not to exceed five years: Provided, That the member has completed five years of service to the municipality subsequent to such military service. An active member may file an application with the board for permission to purchase credit for nonintervening military service upon completion of five years of subsequent service to the municipality. The type of service credit for such service shall be determined by the date of entry of the municipality into the system. If the date of the member's separation from military service is prior to the date on which the municipality joined the system, then the credit purchased shall be considered as prior service credit. In this case the amount due from the member shall be computed by applying the member's basic contribution rate plus the rate of contribution the municipality paid for current service during its first year of entry into the system to his prior salary and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service, plus interest from *the later of the date of entry into the system and* the date of the member's employment by the municipality to the date of purchase. The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid in a lump sum within thirty days or it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the board. If, on the other hand, the date of the member's separation from military service is later than the date of entry of the municipality into the system, then the credit purchased shall be considered as current service credit. In this case the amount due from the member shall be computed by applying the member's basic contribution rate plus the municipality's normal contribution rate for current service which was in effect on the date of the member's entry into employment with the municipality to his average annual rate of compensation over the first five years of his subsequent employment and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased, plus interest from the date of employment by the municipality to date of purchase.

The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid in a lump sum within thirty days or it may be amortized with addi-

tional interest through salary deductions in amounts agreed upon by the member and the board.

The rate of interest to be charged to members on their purchase of credit for intervening or nonintervening military service shall be the rate being credited by the system to member's contribution accounts in effect on the date of the member's application, compounded annually.

A member may purchase credit for intervening or nonintervening military service only if his discharge or separation from the service was granted under other than dishonorable conditions.

A member may not purchase credit for any military service for which he is entitled to receive a retirement allowance from the United States Government.

Applications for permission to purchase credit for military service must be accompanied by proof of the nature of his discharge or separation from the military service.

**Section 306. Determination of Municipal Liability.**—The [actuary] *board* shall, as soon as may be, determine the present value of the liability of each municipality for the prior service credits to its original members, and shall establish an amount payable annually over a period not exceeding thirty years, through which payments such prior service liability may be funded. Each municipality shall have the option to spread the payment of such prior service liability over such period of years.

The municipal liability [to be determined by the actuary] shall be based upon credit for all years of prior service toward the municipal annuity of each original member.

The [actuary] *board* shall also determine, from time to time, the amount which shall be contributed annually by each municipality, for service credits of original and new members subsequent to the time the municipality joined the system, and the additional amount which shall be contributed annually by each municipality toward a reserve account for disability allowances payable to original and new members, in order that all future service liability may be fully funded on an actuarial basis.

The amounts so determined by the [actuary] *board* may be expressed in a percentage of payroll of the municipality covering its contributing members.

The payments made by the State Treasurer to the treasurer of the municipality from moneys received from taxes paid upon premiums by foreign fire insurance companies for purposes of pension, retirement or disability benefits for municipal firemen shall be used as follows: (i) to reduce the unfunded liability or, after such liability has been funded, (ii) to apply against the annual obligation of the municipality for future service and disability reserve costs. It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

The payments made by the State Treasurer to the treasurer of the municipality from the moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension, retirement or disability benefits for municipal policemen shall be used as follows: (i) to reduce the unfunded liability or, after such liability has been funded, (ii) to apply against the annual obligation of the municipality for future service and disability reserve costs. It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

The cost of making the valuations required by this section and in the transfer of any existing pension system of any municipality, shall be part of the costs of administration of this act.

**Section 307. Contributions by Members; Consolidation of Credits.**—Each single coverage member of the system created under this Article III, shall be required to contribute [to the fund such per cent of his actual salary or compensation as shall be computed by the actuary to be approximately sufficient to procure for him on superannuation retirement, a member's annuity of approximately one one-hundredth of his final salary for each year of service after the time the municipality by which he is employed joined the system. The member shall not be required to contribute more than] *no more than* eight per cent of his salary or compensation to the fund *based on a uniform contribution rate as determined by the actuary to provide the benefit under this article.*

The amount of contribution by each joint coverage member shall be computed in the manner described above for a single coverage member, except that the amount of such deductions from salary or compensation shall be reduced with respect to wages (as defined in the Federal Insurance Contributions Act) by forty per cent of the tax on employes prescribed by the Federal Insurance Contributions Act exclusive of that portion of such tax attributable to disability coverage.

Members' contributions shall be paid into the fund by the municipality through payroll deductions in such manner and at such time as the board may by rule and regulation determine.

**Section 308. Withdrawal; Return to Service; Death in Service.**—  
(a) Should a contributor, before reaching superannuation retirement age, for any reason cease to be a municipal fireman or a municipal policeman, he shall be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account, unless he is entitled to vesting rights or to a retirement allowance for retirement not voluntarily, and elects to exercise such vesting rights or take such retirement allowance. Should such former contributor thereafter return to the service of the same municipality and restore to the fund, in such manner as may be agreed upon by such person and the board, his withdrawn accumulated deductions as they were at the time of his separation from service, his annuity rights

as they existed at the time of separation from service shall be restored and his obligations as a member shall begin again.

(b) Should a contributor, having attained or passed superannuation age, elect, upon leaving the service of the municipality, not to claim the retirement allowance to which he is entitled, he shall, upon written application, be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account, *and the balance in the member's excess investment account.*

(c) Should a person who has been retired on a retirement allowance under this act, return to employment on a regular full-time basis in the same municipality, his retirement allowance shall cease, **[and all his rights as they existed at the time of retirement shall be restored, and such person may by further service and further payroll deductions add to such rights on account of future retirement]** *and in the case of an annuity, other than a disability annuity, the present value of such annuity shall be frozen as of the date such annuity ceases. Upon subsequent discontinuance of service, such member, other than a former disability annuitant, shall be entitled to an annuity which is actuarially equivalent to the sum of the present value of the annuity previously being paid and the present value of the annuity earned by further service and further deductions added upon reemployment.* For the purposes of this section if a person is reemployed on a temporary or seasonal basis and his gross post-retirement earnings from such reemployment during the calendar year are less than **[two thousand one hundred dollars (\$2,100)]** *two thousand five hundred twenty dollars (\$2,520)* or such other maximum as the board may establish, he shall not be deemed reemployed, but if and when his gross post-retirement earnings exceed **[two thousand one hundred dollars (\$2,100)]** *two thousand five hundred twenty dollars (\$2,520)* or such other maximum as the board may establish in any calendar year he shall not be entitled to receive his retirement allowance for that month or any subsequent month in the calendar year in which he continues in service. The municipality is required to notify the board immediately of the reemployment status of any retired former employe and file separate monthly reports of his gross earnings as prescribed by the board.

(d) Should a contributor die while in service, prior to becoming eligible for a retirement allowance, his accumulated deductions shall be paid to his estate, or to such person, if living, as he shall have designated, in writing, filed with the board as his beneficiary. In case any contributor has failed to designate a beneficiary, or if the named beneficiary has predeceased the member and no successor beneficiary has been named, and upon the death in service shall have less than one hundred dollars (\$100) in accumulated deductions standing to his credit, the board may, if letters testamentary or of administration have not been taken out on his estate within six months after his death, pay such accumulated deductions on the claim of the under-



taker, or to such person or municipality which shall have paid the claim of the undertaker.

Section 309. Superannuation Retirement.—Retirement for superannuation shall be as follows:

(1) Any contributor who has reached superannuation retirement age may retire for superannuation by filing with the board a written statement, duly attested, setting forth on what date he desires to be retired. Said application shall make the superannuation retirement allowance effective on the date so specified, if such application was filed in the office of the board or deposited in the United States mail, addressed to the board, before the date specified in the application and before the death of the contributor, but the date so specified in the application shall not be more than ninety days after the date of filing, or the date the application was deposited in the mail.

(2) On retirement for superannuation, a contributor shall be entitled to a retirement allowance throughout his life, which shall consist of (i) a member's annuity of equivalent actuarial value to his accumulated deductions, *and the balance in the member's excess investment account*, and (ii) a municipal annuity which shall be equal to, for current service, one one-hundredth of his final salary for each year of service while a member, and, in addition thereto for prior service in the case of an original member, one one-hundredth of his prior salary for each year of prior service.

(3) The superannuation retirement allowance provided in this section or the withdrawal allowance provided in section 311, as the case may be, payable to a joint coverage member after the age at which social security old age insurance benefits become payable shall be reduced by an amount equal to forty per cent of the primary insurance amount of social security paid or payable to him. Such reduction shall be subject to the following provisions: (i) the reduction in benefits in accordance with this clause (3) shall not be applied in the case of an annuitant until age sixty-five, unless such annuitant shall have elected to receive social security benefits prior to age sixty-five, (ii) the eligibility of such member for the old age insurance benefit (primary insurance amount) and the amount of such old age insurance benefit upon which the reduction in his allowance shall be based, shall be determined by the board in accordance with the provisions of the Federal Social Security Act, in effect on the effective date of superannuation retirement, or withdrawal, of the member, except that in determining such eligibility and such amount only wages or compensation for service covered by the system shall be included, (iii) the reduction in benefits in accordance with this clause (3) shall apply only to that portion of benefits based on wages as defined in the Federal Insurance Contribution Act, (iv) the reduction of benefits in accordance with this clause (3) shall be limited to the municipal annuity calculated in accordance with clause (2) of this section, (v) the total sum including social security old age insurance benefits to be

received upon superannuation retirement or withdrawal by a joint coverage member shall not be less than the allowance that he would be paid as a single coverage member, (vi) whenever the amount of the reduction from the superannuation retirement allowance or the withdrawal allowance shall have been once determined, it shall remain fixed for the duration of the allowance, except that any decrease in the old age insurance benefit under the Federal Social Security Act shall result in a corresponding decrease in the amount of the reduction in the allowance, (vii) the reduction provided for in this clause (3) shall not apply to disability allowances payable under section 313 of this act.

(4) In no event shall the municipal annuity *at the time of retirement* exceed fifty per cent of the contributor's final salary.

(5) Other provisions of this act notwithstanding, any member of a police force who was a member of a pension fund created under the provisions of the act of May 29, 1956 (P.L.1804, No.600), and who was entitled to retire at the age of fifty-five or sixty years after twenty years of total service, or at the age of fifty or fifty-five after twenty-five years of service, and to receive the pension provided by that act, shall have the same entitlement under the system created pursuant to this act. The municipal annuity, computed under subclause (ii) of clause (3) above, shall be increased as needed, in addition to the member's annuity, in order to pay any increased retirement allowance resulting from the provisions of the act.

Section 311. Early Retirement.—Should a contributor be discontinued from service not voluntarily after having completed eight years of total service, or voluntarily after having completed twenty-four years of total service, but in either event before reaching superannuation retirement age, he shall be paid as he may elect, as follows:

(1) The full amount of his accumulated deductions *plus the balance in the member's excess investment account* standing to his credit in the member's account of the fund; or

(2) Upon the filing of an application in the manner outlined in section 309 (1) a retirement allowance which shall consist of (i) a member's annuity of equivalent actuarial value to his accumulated deductions, *plus the balance in the member's excess investment account*, and (ii) a municipal annuity of equivalent actuarial value to the present value of a municipal annuity, beginning at superannuation retirement age, calculated in accordance with the provisions of section 309; or

(3) If qualified, a deferred retirement allowance as provided in section 314.

Section 313. Disability Retirement.—(a) After a contributor has had ten or more years of total service, he may, upon application or on application of one acting in his behalf, or upon application of a head of the department of the municipality by which he is employed, be retired by the board on a disability allowance if he is under super-

annuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the board, after medical examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the board that the contributor is unable to engage in any gainful employment and that said contributor ought to be retired. When the disability of a contributor is determined to be service-connected, as defined in this act, no minimum period of service shall be required for eligibility. Application filing requirements shall be identical to those outlined in clause (1) of section 309.

(b) On retirement for disability, a member shall receive a retirement allowance which shall consist of:

(1) A member's annuity of equivalent actuarial value to his accumulated deductions, *plus the balance in the member's excess investment account*;

(2) A municipal annuity of equivalent actuarial value to the present value of a municipal annuity, beginning at superannuation retirement age, calculated in accordance with the provisions of section 309; and

(3) A disability annuity payable from the total disability reserve account which, together with the member's annuity and the municipal annuity, shall be sufficient to produce a retirement allowance of thirty per cent of the contributor's final salary. Where the disability of the member is determined to be service-connected, as defined in this act, the retirement allowance shall equal fifty per cent of his final salary. The disability annuity shall be reduced by the amount of any payments for which the member shall be eligible under the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P.L.566, No.284), known as "The Pennsylvania Occupational Disease Act."

(c) Once every year the board may require any disability annuitant, while still under superannuation retirement age, to undergo medical examination by a physician designated by the board, and such examination shall be made at the place of residence of the annuitant or other place mutually agreed upon. Should the physician report and certify to the board that such disabled annuitant is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then his disability retirement allowance shall be discontinued, and in lieu thereof an early involuntary retirement allowance shall at that time be granted as if such person had been retired not voluntarily, if such person shall have eight or more years of total service.

(d) Should a disability annuitant, while under superannuation retirement age, refuse to submit to at least one medical examination in any year by a physician designated by the board, his disability retirement allowance shall be discontinued until withdrawal of such refusal, and should such refusal continue for one year, then all his rights in

and to any disability retirement allowance or for early involuntary retirement allowance provided by this act shall be forfeited.

(e) Any contributor entitled to retire for disability may, in lieu of such retirement, if he has eight or more years of total service, elect to retire not voluntarily under the provisions of this act.

(f) Should a disability annuitant die before the total disability retirement allowance received shall be at least equal to the amount of his accumulated deductions *plus the balance in the member's excess investment account* at the time of disability retirement, then the board shall pay to the named beneficiary, if living, or if the named beneficiary predeceased the annuitant, or no beneficiary was named, then to the annuitant's estate, an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions, and if such difference is less than one hundred dollars (\$100) and no letters have been taken out on the estate within six months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker.

Section 10. Section 314 of the act, amended January 4, 1978 (P.L.1, No.1), is amended to read:

Section 314. Vesting.—(a) Should a contributor, before reaching superannuation retirement age and after having completed twelve years of total service, for any reason cease to be a municipal fireman or a municipal policeman, he shall be entitled to vest his retirement benefits until he attains superannuation retirement age, by filing with the board a written notice of his intentions to vest, within ninety days of the date of his termination of employment. Accumulated deductions will include interest from date of termination until the earlier of the date of the commencement of the annuity or the date of payment of member contributions.

(b) A contributor, who was terminated by the municipality not voluntarily, may elect, after he has vested, to be paid as follows:

(1) The full amount of the accumulated deductions *plus the balance in the member's excess investment account*, including interest; or

(2) An early retirement allowance as computed under the provisions of clause (2) of section 311; or

(3) Upon reaching superannuation retirement age, a superannuation retirement allowance as computed under the provisions of section 309.

(c) A contributor, who voluntarily terminated his employment, may elect, after he has vested, to be paid as follows:

(1) The full amount of the accumulated deductions *plus the balance in the member's excess investment account*, including interest; or

(2) If the contributor has completed twenty-four years or more of total service, a voluntary withdrawal allowance computed in accordance with the provisions of section 311; or

(3) Upon reaching superannuation retirement age, a superannuation retirement allowance as computed under the provisions of section 309.

(d) Should a contributor, who has vested, die before he becomes eligible for a retirement allowance, the full amount of the accumulated deductions *plus the balance in the member's excess investment account*, including interest to the date of his death, standing to his credit in the member's account of the fund shall be paid to his estate or to his named beneficiary in accordance with the provisions of subsection (d) of section 308.

Section 11. Sections 316, 317, 402, 403, 404, 406, 408, 411, 412 and 413 of the act are amended to read:

Section 316. Withdrawal Provisions.—A municipality which has joined the retirement system created or continued under this Article III may, for good and stated cause, file an application with the board for permission to withdraw from the system if it meets all of the following requirements:

(1) The municipality has been enrolled in the system for a period of at least five years.

(2) The municipality has met all of its financial obligations to the system.

(3) The legislative body of the municipality has passed an ordinance or resolution signifying its intention to withdraw from the system.

(4) The municipality has certified to the board that an affirmative vote approving withdrawal from the system had been obtained from at least seventy-five per cent of all of the municipal employes affected by the ordinance or resolution.

The board shall within ninety days of its receipt, take action on an application filed by a municipality for permission to withdraw from the system. If the application is approved the withdrawing municipality shall be entitled to receive a net refund of the amounts then standing to the credit of the municipality in the member's account, *member's excess investment account*, the municipal account and the retired member's reserve accounts of the system. In no event shall the total amount of the net refund to the municipality exceed the pro rata interest of the withdrawing municipality in the net assets of the entire fund based on the market value of the investments of the fund as of the date of receipt of the application for permission to withdraw. The liability for the continuation of retirement or disability allowances being paid from the fund shall attach against the withdrawing municipality and be paid from funds transferred to a retirement system established subsequent to its withdrawal from the system or from moneys appropriated annually from tax revenues sufficient to pay the same. If the board disapproves the application of the municipality for permission to withdraw from the system the board shall promptly notify the municipality of its decision and advise the municipality of

the board's reason or reasons for disapproval. The board shall establish rules and regulations, in accordance with the provisions of clause (10) of section 104 of this act, governing the details of the procedures to be followed in the withdrawal of municipalities from the system.

**Section 317. Procedures for Amending Contracts.**—Any municipality which has joined the system under the provisions of this Article III may, with the approval of the board, enter into a contract with the board as outlined in Article IV of this act, to increase any of the benefits enumerated in Article IV. The board shall not enter into any contract with any municipality which decreases benefits, nor shall it enter into any contract with a municipality which provides for benefits in excess of or minimum members contribution rates less than those available to it under any other existing law pertaining to the establishment of retirement systems for that class of municipality, *except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law.* Before the board approves any such contract it shall first determine, through its actuary, that the plan outlined in the contract is actuarially sound. Any member municipality which elects to enter into a contract for increased benefits which would result in an increase in its employes contribution rates shall first obtain the written consent of at least seventy-five per cent of its then member employes. Additional costs for contracted increases in benefits shall become the responsibility of the municipality and/or the members as specified in the contract.

**Section 402. Existing Local Retirement Systems and Compulsory and Optional Membership.**—Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or

pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to join the system under the provisions of this Article IV, it shall first negotiate a contract with the board, acceptable to both the municipality and the board, which shall set forth all the specific details of municipal and member contribution rates and benefits. The municipality shall then pass an ordinance or resolution electing to join the system, and confirming the terms of the contract by reference thereto. Separate contracts and separate resolutions shall be executed for each class of employes, namely municipal employes, municipal firemen and municipal police in those cases where the municipality elects to bring more than one class of its employes into the system.

When a municipality elects to enroll its municipal employes into the system, then each officer other than elected officers, and each municipal employe thereof, employed on a permanent basis, shall be required to become a member of the system. Each municipality shall determine whether membership in said system for elected officials and employes hired on a temporary or seasonal basis shall be compulsory, optional or prohibited. Where membership may be optional with an elected officer or an employe hired on a temporary or seasonal basis, an election to join the system must be made within one year after the municipality elected to join the system or within one year after the officer or temporary or seasonal employe first entered the service of the municipality. Officers and employes paid only on a fee basis shall not be eligible to join the system.

When a municipality elects to enroll its municipal firemen or its municipal police into the system, then each municipal fireman or each

municipal policeman, as defined in section 102 of this act, shall be required to become a member of the system.

When a municipality has established a policy of placing new employes on a probationary status it may elect to refrain from enrolling such employes into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment. *Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.*

Section 403. Contract Provisions.—Any contract for an optional retirement plan entered into between a municipality and the board shall not provide for any benefits in excess of or minimum member's contribution rates less than those available to that municipality for that class of employes under any existing law pertaining to the establishment of a retirement or pension system, *except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law.*

The contract shall specifically state the following terms and conditions:

(1) The superannuation retirement age at which a member shall become eligible for a full normal retirement allowance in accordance with the formula specified in the contract.

(2) Length of service requirements which must be met before a member becomes eligible for either a superannuation retirement allowance, an early retirement allowance and the method of determining any reduction factors involved in the computation of the amount of the allowance because of retirement prior to attaining superannuation age.

(3) Provisions for the refunding of accumulated deductions *plus excess interest* to employes who leave the service of the municipality before they become eligible for any type of retirement benefit and whether or not the employe shall be entitled to interest earned on contributions.

(4) Provisions relating to the types and amounts of disability retirement benefits for which a member may become eligible, and the qualifications therefore.

(5) The availability of any vesting or deferred benefits to which a member may become entitled.



(6) A description of the amount and the manner in which a member may qualify for any death benefits, both before and after retirement, including any prescribed payments to widows or children under eighteen years of age.

(7) The formula used to determine the amount of normal retirement benefits, including an explanation of the salary or compensation to be used in the computations, and a statement concerning any social security offset provisions included in the contract.

(8) A description of any optional methods of payment of retirement allowances available to a member.

(9) Any provisions for cost-of-living increases, and limitations thereon, which may be included.

(10) The manner in which the rate or rates of employe contributions shall be determined, together with any provisions for additional voluntary contributions.

(11) The manner in which the rates of contribution from the municipalities shall be determined.

(12) The manner in which costs for prior service for which the municipality is willing to assume liability shall be determined, with respect to both the municipality's share and the member's share, if any.

(13) The manner in which credit for any allowable military service shall be determined and the manner in which costs of service shall be paid.

(14) Any other information which might have a bearing on the costs or benefits of the retirement plan which might be required by the board in the administration of the plan.

**Section 404. Determination of Municipal Liability.—[The actuary] *The board* shall, as soon as may be, determine the present value of the liability of each municipality for any prior service credits it has elected to extend to its original members, and shall establish an amount payable annually over a period not exceeding thirty years, through which payments such prior service liability may be funded. Each municipality shall have the option to spread the payment of such prior service liability over such period of years.**

The municipal liability **[to be determined by the actuary]** shall be based upon credit for those years of prior service toward the municipal annuity of each original member, for which the municipality has agreed to pay, plus any liability for payment of the member's contributions for the prior service or any portion thereof of each original member which the municipality has agreed to pay.

The **[actuary] board** shall also determine, from time to time, the amount which shall be contributed annually by each municipality for service credits of original and new members subsequent to the time the municipality joined the system, and the additional amount which shall be contributed annually by each municipality toward a reserve account for disability allowance payable to original and new members, in order

that all future service liability may be fully funded on an actuarial basis.

The amounts so determined by the [actuary] *board* may be expressed in a percentage of the payroll of the municipality covering its contributing members.

The payments made by the State Treasurer to the treasurer of the municipality from moneys received from taxes paid upon premiums by foreign fire insurance companies for purposes of pension, retirement or disability benefits for municipal firemen shall be used as follows: (i) to reduce the unfunded liability or, after such liability has been funded, (ii) to apply against the annual obligation of the municipality for future service and disability reserve costs, and (iii) to reduce member contributions. It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

The payments made by the State Treasurer to the treasurer of the municipality from the moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension, retirement or disability benefits for municipal policemen shall be used as follows: (i) to reduce the unfunded liability or, after such liability has been funded, (ii) to apply against the annual obligation of the municipality for future service and disability reserve costs, and (iii) to reduce member contributions. It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

The cost of making the valuations required by this section and in the transfer of any existing pension system of any municipality, shall be part of the costs of administration of this act.

Section 406. Withdrawal; Return to Service; Death in Service.—  
(a) Should a contributor, before reaching superannuation retirement age, for any reason terminate his employment with the municipality, he shall receive a refund of his contributions in full, either with or without interest *and excess interest* earned as specified in the contract, unless he may be entitled to a retirement allowance for early retirement, and elects to take such retirement allowance. Should such former contributor thereafter return to the service of the same municipality and restore to the fund in such manner as may be agreed upon by such person and the board, his withdrawn contributions as they were at the time of his separation from service, his annuity rights as they existed at the time of separation from service, shall be restored and his obligations as a member shall begin again. The rate of contribution of such returning member shall be the same as it was at the time he separated from service.

(b) Should a contributor, having attained or passed superannuation age, elect, upon leaving the service of the member municipality, not to claim the retirement allowance to which he is entitled, he shall, upon written application, be paid by the board the full amount of his contributions standing to his credit in the member's account,

either with or without interest earned *and the amount in his excess investment account* as stipulated in the contract.

(c) Should a person who has been retired on a retirement allowance under this act, return to employment on a regular full-time basis in the same municipality, his retirement allowance shall cease, **[and all his rights as they existed at the time of retirement shall be restored, and such person may by further service and further payroll deductions add to such rights on account of future retirement.]** *and in the case of an annuity, other than a disability annuity, the present value of such annuity shall be frozen as of the date such annuity ceases. Upon subsequent discontinuance of service, such member, other than a former disability annuitant, shall be entitled to an annuity which is actuarially equivalent to the sum of the present value of the annuity previously being paid and the present value of the annuity earned by further service and further deductions added upon reemployment.* For the purposes of this section if a person is reemployed on a temporary or seasonal basis and his gross post-retirement earnings from such reemployment during the calendar year are less than **[two thousand one hundred dollars (\$2,100)]** *two thousand five hundred twenty dollars (\$2,520)* or such other maximum as the board may establish, he shall not be deemed reemployed, but if and when his gross post-retirement earnings exceed **[two thousand one hundred dollars (\$2,100)]** *two thousand five hundred twenty dollars (\$2,520)* or such other maximum as the board may establish in any calendar year he shall not be entitled to receive his retirement allowance for that month or any subsequent month in the calendar year in which he continues in service. The municipality is required to notify the board immediately of the reemployment status of any retired former employe and file separate monthly reports of his gross earnings as prescribed by the board.

(d) Should a contributor die while in service, any death or survivor benefits for which he may be eligible under the provisions of the contract shall be paid in accordance with the terms of the contract.

(e) Should a contributor die while in service, and before becoming eligible for any other benefits contained in the contract, the full amount of his contributions, either with or without interest *and excess interest* earned as stipulated in the contract, shall be paid to his estate, or to such person, if living, as he shall have designated in writing, filed with the board as his beneficiary. In case any contributor has failed to designate a beneficiary, or if the named beneficiary has predeceased the member and no such successor beneficiary has been named, and upon the death in service shall have less than one hundred dollars (\$100) in accumulated deductions standing to his credit, the board may, if letters testamentary or of administration have not been taken out on his estate within six months after death, pay such accumulated deductions on the claim of the undertaker, or to any person or municipality which shall have paid the claim of the undertaker.

Section 408. Early Retirement.—Should a member be discontinued from service not voluntarily, after having completed a required number of years of total service, or voluntarily after having completed a required number of years of total service, but in either event before reaching superannuation retirement age, he shall be paid, as he may elect, as follows:

(1) The full amount of the accumulated deductions standing to his credit in the member's account of the fund, *plus the balance in the member's excess investment account*; or

(2) The early retirement allowance, if any, specified in the contract.

Section 411. Disability Retirement.—(a) After a member has had the required number of years of total service as stated in the contract, he may, upon application or on the application of one acting in his behalf, or upon application of a head of the department of the municipality by which he is employed, be retired by the board on a disability allowance if he is under superannuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the board, after medical examination of the member made at the place of residence of the member or at a place mutually agreed upon, shall certify to the board that the member is unable to engage in any gainful employment and that said member ought to be retired. Where the disability of a member is determined to be service-connected, as defined in this act, no minimum period of service shall be required for eligibility. Requirements for filing applications shall be identical to those outlined in clause (1) of section 407.

(b) On retirement for disability a member shall receive a retirement allowance which shall consist of an amount computed in accordance with the formula specified in the contract.

(c) Once every year the board may require any disability annuitant, while still under superannuation retirement age, to undergo medical examination by a physician designated by the board. Such examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should the physician report and certify to the board that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then his disability retirement allowance shall be discontinued, and in lieu thereof an early involuntary retirement allowance shall at that time be granted as if such person had been retired not voluntarily, if such a provision is included in the contract and if such person shall have had the required number of years of total service as stated in the contract.

(d) Should a disability annuitant, while under superannuation retirement age, refuse to submit to at least one medical examination in any year by a physician designated by the board, his disability retirement allowance shall be discontinued until the withdrawal of such

refusal, and should such refusal continue for one year, then all his right in and to any disability retirement allowance or for early involuntary retirement allowance provided for by this act, shall be forfeited.

(e) Any contributor entitled to retire for disability may, in lieu of such retirement, if he has a required number of years of total service, elect to retire not voluntarily under the provisions of this act if such provisions are included in the contract.

(f) Should a disability annuitant die before the total disability retirement allowance received shall be at least equal to the amount of the credit in his member's account *plus the balance in the member's excess investment account* at the time of disability retirement, then the board shall pay to the named beneficiary, if living, or if the beneficiary predeceased the annuitant, or no beneficiary was named, then to the annuitant's estate, an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions *plus excess interest*, and if such difference is less than one hundred dollars (\$100) and no letters have been taken out on the estate within six months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker. If the contract between the municipality and the board provides that upon the death of a disability annuitant payments in a specific amount shall be continued to certain beneficiaries, then the provisions of subsection (f) shall not apply and payments shall be made in accordance with the terms of the contract.

Section 412. **Withdrawal Provisions.**—A municipality which has joined the retirement system created or continued under this Article IV may, for good and stated cause, file an application with the board for permission to withdraw from the system if it meets all of the following requirements:

(1) The municipality has been enrolled in the system for a period of at least five years.

(2) The municipality has met all of its financial obligations to the system.

(3) The legislative body of the municipality has passed an ordinance or resolution signifying its intention to withdraw from the system.

(4) The municipality has certified to the board that an affirmative vote approving withdrawal from the system had been obtained from at least seventy-five per cent of all of the municipal employees affected by the ordinance or resolution.

The board shall within ninety days of its receipt, take action on an application filed by a municipality for permission to withdraw from the system. If the application is approved the withdrawing municipality shall be entitled to receive a net refund of the amounts then standing to the credit of the municipality in the member's account, *the*

*member's excess investment*<sup>1</sup> *account*, the municipal account and the retired member's reserve accounts of the system. In no event shall the total amount of the net refund to the municipality exceed the pro rata interest of the withdrawing municipality in the net assets of the entire fund based on the market value of the investments of the fund as of the date of receipt of the application for permission to withdraw. The liability for the continuation of retirement or disability allowances being paid from the fund shall attach against the withdrawing municipality and be paid from funds transferred to a retirement system established subsequent to its withdrawal from the system or from moneys appropriated annually from tax revenues sufficient to pay the same. If the board disapproves the application of the municipality for permission to withdraw from the system the board shall promptly notify the municipality of its decision and advise the municipality of the board's reason or reasons for disapproval. The board shall establish rules and regulations, in accordance with the provisions of clause (10) of section 104 of this act, governing the details of the procedures to be followed in the withdrawal of municipalities from the system.

Section 413. Procedures for Amending Contracts.—Any municipality which has joined the system under the provisions of this Article IV may, with the approval of the board, amend the contract with the board to increase any of the benefits enumerated in Article IV to its members. The board shall not enter into any amended contract with any municipality which decreases benefits, nor shall it enter into any amended contract with a municipality which provides for benefits in excess of or minimum member's contribution rates less than those available to it under any other existing law pertaining to the establishment of retirement systems for that class of municipality *except to the extent that excess investment earnings are allocated to provide for additional pension benefits or members accruals as otherwise provided in this law*. Before the board approves any such amended contract it shall first determine, through its actuary, that the plan outlined is actuarially sound. Any member municipality which elects to enter into an amended contract for increased benefits which would result in an increase in its employes contribution rates shall first obtain the written consent of at least seventy-five per cent of its then member employes. Additional costs for increases in benefits shall become the responsibility of the municipality and/or the member as specified in the contract.

Section 12. This act shall take effect in 60 days.

APPROVED—The 17th day of May, A. D. 1980.

DICK THORNBURGH

<sup>1</sup>“interest” in original.