

No. 2002-30

AN ACT

SB 16

Amending the act of May 29, 1956 (1955 P.L.1804, No.600), entitled, as amended, "An act providing for the establishment of police pension funds or pension annuities in certain boroughs, towns and townships; authorizing the establishment of police pension funds or pension annuities by regional police departments; providing for the regulation and maintenance of police pension funds or pension annuities; providing for an actuary; continuance of existing funds or transfer thereof to funds herein established; prescribing rights of beneficiaries; contributions by members; providing for expenses of administration; continuation of existing authority to provide annuity contracts; credit for military service; refunds; exempting allowances from judicial process; and repealing certain acts," further providing for benefits and for payment into police pension funds by members.

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

Section 1. Section 1 of the act of May 29, 1956 (1955 P.L.1804, No.600), referred to as the Municipal Police Pension Law, amended May 10, 1996 (P.L.162, No.33), is amended to read:

Section 1. (a) (1) Each borough, town and township of this Commonwealth maintaining a police force of three or more full-time members and each regional police department shall, and all other boroughs, towns or townships may, establish, by ordinance or resolution, a police pension fund or pension annuity to be maintained by a charge against each member of the police force, by annual appropriations made by the borough, town, township or regional police department, by payments made by the State Treasurer to the municipal treasurer from the moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension retirement for policemen, and by gifts, grants, devises or bequests granted to the pension fund pursuant to section two of this act.

(2) Such fund shall be under the direction of the governing body of the borough, town, township or regional police department, and applied under such regulations as such governing body, by ordinance or resolution, may prescribe for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age and service, or disability, and may prescribe for the benefit (i) of [widows] *surviving spouses*, and if no [widow] *spouse* survives or if *he* or she survives and subsequently dies [or remarries], then (ii) of child or children under the age of eighteen years or, *if attending college, under or attaining the age of twenty-three years*, of members of the police force or of members retired on pension.

(3) All such pensions as shall be allowed to those who are retired by reason of disabilities shall be in conformity with a uniform scale.

(4) The [widow] *surviving spouse* of a member of the police force or a member who retires on pension who dies or if no [widow] *spouse* survives

or if *he or* she survives and subsequently dies [or remarries], then the child or children under the age of eighteen years *or, if attending college, under or attaining the age of twenty-three years*, of a member of the police force or a member who retires on pension who dies [on or after the effective date of this amendment, may], *shall*, during her lifetime [or so long as she does not remarry] in the case of a [widow] *surviving spouse* or until reaching the age of eighteen years *or, if attending college, under or attaining the age of twenty-three years* in the case of a child or children, be entitled to receive a pension calculated at [the rate of] *no less than* fifty per centum of the pension the member was receiving or would have been receiving had he been retired at the time of his death.

(5) *The surviving spouse of a member of the police force who dies before his pension has vested or if no spouse survives or if he or she survives and subsequently dies, the child or children under the age of eighteen years or, if attending college, under or attaining the age of twenty-three years, of the member of the police force shall be entitled to receive repayment of all money which the member invested in the pension fund plus interest or other increases in value of the member's investment in the pension fund unless the member has designated another beneficiary for this purpose.*

(b) For purposes of this act, *the phrase "attending college" shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of seven credit hours per semester and the term "regional police department" shall mean a municipal police force organized and operated in combination by two or more municipalities through an intermunicipal agreement [under the act of July 12, 1972 (P.L.762, No.180), referred to as the Intergovernmental Cooperation Law] pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).*

Section 2. Section 5(e) of the act, amended February 18, 1998 (P.L.158, No.24), is amended to read:

Section 5. * * *

(e) (1) In the case of the payment of pensions for permanent injuries incurred in service [and to families of members killed in service], the amount and commencement of the payments shall be fixed by regulations of the governing body of the borough, town, township or regional police department[.] *and shall be calculated at a rate no less than fifty per centum of the member's salary at the time the disability was incurred, provided that any member who receives benefits for the same injuries under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) shall have his disability benefits offset or reduced by the amount of such benefits.*

(2) *Pensions for the families of members killed in service shall be calculated at one hundred per centum of the member's salary at the time of death.*

* * *

Section 3. Section 6 of the act, amended June 30, 1995 (P.L.162, No.22) and May 10, 1996 (P.L.162, No.33), is amended to read:

Section 6. (a) Members shall pay into the fund, monthly, an amount equal to not less than five per centum nor more than eight per centum of monthly compensation. Where positions covered by the fund are included in an agreement under the Federal Social Security Act, members shall pay into the fund, monthly, an amount determined as follows: (1) if the pension plan established under the provisions of this act provides for no offset under clause (2) of subsection (c) of section 5, five per centum of total compensation; or (2) if such pension plan provides for an offset under clause (2) of subsection (c) of section 5: (i) on compensation on which social security taxes are payable, at a rate calculated by subtracting from five per centum the product obtained by multiplying three per centum by such offset percentage; and (ii) on compensation in excess of that on which social security taxes are payable, if any, five per centum.

(b) The remainder of the needed annual contributions, as determined by the actuary, shall become the obligation of the borough, town, township or regional police department, and shall be paid by it to the pension fund by annual appropriations.

(c) **[If an actuarial study shows that the condition of the police pension fund of any borough, town, township or regional police department is such that payments into the fund by members may be reduced below the minimum percentages hereinbefore prescribed, or eliminated, and that if such payments are reduced or eliminated contributions by the borough, town, township or regional police department will not be required to keep the fund actuarially sound, the]** *The* governing body of the borough, town, township or regional police department may, on an annual basis, by ordinance or resolution, reduce or eliminate payments into the fund by members. Except as otherwise provided in this subsection, reduction or elimination of member contributions shall not permit the return of contributions or any interest or fund earnings to be made to members while actively employed as a police officer by any borough, town or township subject to this act. Where an agreement, collectively bargained or otherwise, arbitration award or court decision was agreed to, issued or rendered on or prior to February 23, 1994, which provided for a return of contributions, with or without interest, or fund earnings to members, a return of contributions, with or without interest, or fund earnings shall be made to members and any such return of contributions shall reduce or eliminate any entitlement to refunds pursuant to section 9. No borough, town or township making such return or member receiving such return shall be required to restore to the fund any such contributions, interest or fund earnings.

Section 4. The amendment of section 1(a)(2) and (4) insofar as the amendment affects the benefits available to surviving spouses shall apply to

surviving spouses whose spouse died on or before the effective date of this act and who were not remarried as of said date.

Section 5. This act shall take effect immediately.

APPROVED—The 17th day of April, A.D. 2002.

MARK S. SCHWEIKER