

No. 2009-44

AN ACT

HB 1828

Amending the act of December 18, 1984 (P.L.1005, No.205), entitled "An act mandating actuarial funding standards for all municipal pension systems; establishing a recovery program for municipal pension systems determined to be financially distressed; providing for the distribution of the tax on the premiums of foreign fire insurance companies; and making repeals," amending the title of the act; in preliminary provisions, further providing for definitions; in preliminary provisions, providing for methodology; in municipal pension plan actuarial reporting, further providing for contents of actuarial valuation report and providing for actuarial asset valuation and for revised actuarial valuation report; in minimum funding standard for municipal pension plans, further providing for minimum funding standard and defined benefit plans self-insured in whole or in part; in revisions applicable to municipal pension fund financing, further providing for revision of financing from State revenue sources and General Municipal Pension System State Aid Program; in financially distressed municipal pension plan determination procedure, further providing for initiation of distress determination, for pension plans to be included in determination and for determination procedure; in financially distressed municipal pension system recovery program, further providing for application, for election determination procedures, for recovery program level I, for recovery program level II, for recovery program level III, for remedies, for supplemental State Assistance Program and Fund and for regulations; providing for standards for municipal pension systems; in alternative funding mechanisms, making an editorial change, further providing for alternative funding mechanism and providing for cities of the first class and for special taxing authority; providing for deferred retirement option plans; and making a related repeal.

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

Section 1. The title of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, is amended to read:

AN ACT

Mandating actuarial funding standards for all municipal pension systems; establishing a recovery program for municipal pension systems determined to be financially distressed; providing for the distribution of the tax on the premiums of foreign fire insurance companies; ***providing for the establishment and administration of deferred retirement option plans in local governments and for local tax***; and making repeals.

Section 2. The definition of "municipal employee" in section 102 of the act is amended and the section is amended by adding definitions to read:

Section 102. Definitions.

Except as provided in Chapter 7, the following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Benefit plan study.” *A study of an individual benefit plan conducted to identify the effectiveness of the plan that includes an analysis of all of the following:*

- (1) *The cost of each benefit.*
- (2) *The administrative cost of the benefit plan per employee.*
- (3) *The sufficiency of employee contributions.*
- (4) *A comparison of each benefit and proposed benefit and its cost in other jurisdictions, including other municipalities and states of comparable size to this Commonwealth.*
- (5) *The benefit plan’s asset valuation.*
- (6) *Assumed and realized investment earnings during the preceding five years.*
- (7) *Annual cash flow and losses.*
- (8) *Full utilization of earned income tax and other tax revenue sources.*
- (9) *Other existing assets and revenues available to meet pension obligations.*
- (10) *The municipality’s minimum municipal obligation payment history.*

“DROP.” *A deferred retirement option plan created and operated by a local government or the Pennsylvania Municipal Retirement System under Chapter 11 or any deferred retirement option plan or similar program established by a local government that provides for the commencement and accumulation of retirement benefit payments for active employees with disbursement of the accumulated payments and interest earnings as a lump sum upon termination of employment.*

“DROP participant.” *A retired member of a local government-defined benefit pension plan who is eligible to participate in a DROP under section 1112, who has elected to participate in a DROP under section 1113 and who is not an elected official.*

“DROP participant account.” *A pension trust fund ledger account established under section 1121(a).*

“Local government.” *A municipality or any county.*

“Municipal employee.” *Any person [other than an independent contractor] who provides regular services for a municipality in return for compensation from the municipality. The term does not include an independent contractor or a DROP participant.*

Section 2.1. The act is amended by adding a section to read:
Section 103. Methodology.

Notwithstanding any provisions of the act of August 31, 1971 (P.L.398, No.96), known as the County Pension Law, to the contrary, in performing an actuarial study under this act or the act of December 6, 1972 (P.L.1383, No.293), entitled "An act requiring municipal pension systems to have an actuarial investigation of the fund made by an actuary who shall report his findings to the Department of Community Affairs," municipalities and counties may utilize any reasonable actuarial assumptions or methodologies provided for in this act.

Section 3. Section 202(b) introductory paragraph, (4)(i), (ii), (iii), (iv) and (v) of the act, amended July 15, 2004 (P.L.715, No.81), are amended to read:

Section 202. Contents of actuarial valuation report.

* * *

(b) Contents of actuarial exhibits; defined benefit plans self-insured in whole or in part.—For any pension plan which is a defined benefit plan and which is self-insured in whole or in part, all applicable actuarial exhibits shall be prepared in accordance with the entry age normal actuarial cost method with entry age established as the actual entry age for all plan members unless the municipality applies for and is granted authorization by the commission to use an alternative actuarial cost method. Authorization shall be granted if the municipality demonstrates on an individual pension plan basis that there are compelling reasons of an actuarial nature for the use of an alternative actuarial cost method. The commission shall issue rules and regulations specifying the criteria which the commission will use to determine the question of the existence of compelling reasons for the use of an alternative actuarial cost method, the documentation which a municipality seeking the authorization will be required to supply and the acceptable alternative actuarial cost methods which the commission may authorize. The actuarial cost method shall be used to value all aspects of the benefit plan or plans of the pension plan unless the municipality applies for and is granted authorization by the commission to use approximation techniques other than the actuarial cost method for aspects of the benefit plan or plans of the pension plan other than the retirement benefit. Authorization shall be granted if the municipality demonstrates on an individual pension plan basis that there are compelling reasons of an actuarial nature for the use of these approximation techniques. The commission shall issue rules and regulations specifying the criteria which the commission will use to determine the question of the existence of compelling reasons for the use of approximation techniques, the documentation which a municipality seeking the authorization will be required to supply and the acceptable approximation technique which the commission may authorize. The actuarial exhibits shall use actuarial assumptions which are, in the judgment of the actuary and the governing body of the plan, the best available estimate of future occurrences in the case of each assumption. With respect to economic actuarial assumptions, the assumptions shall either be within the range specified in rules and regulations

issued by the commission or documentation explaining and justifying the choice of assumptions outside the range shall accompany the report. The actuarial exhibits shall measure all aspects of the benefit plan or plans of the pension plan in accordance with modifications in the benefit plan or plans, if any, and salaries which as of the valuation date are known or can reasonably be expected to be in force during the ensuing plan year. ***In preparing the actuarial exhibits or any actuarial valuation report, the municipality shall exclude the compensation of all DROP participants from the active member payroll and all DROP participants from active member data.*** The actuarial valuation report shall contain the following actuarial exhibits:

* * *

(4) An exhibit of any additional funding costs associated with the amortization of any unfunded actuarial accrued liability of the pension plan, indicating for each increment of unfunded actuarial accrued liability specified in paragraph (3), the level annual dollar contribution required to pay an amount equal to the actuarial assumption as to investment earnings applied to the principal amount of the remaining balance of the increment of unfunded actuarial accrued liability and to retire by the applicable amortization target date specified in this paragraph the principal amount of the remaining balance of the increment of unfunded actuarial accrued liability. The amortization target date applicable for each type of increment of unfunded actuarial accrued liability shall be as follows:

(i) ***The following apply:***

(A) In the case of a pension plan established on or prior to January 1, 1985 for the unfunded actuarial accrued liability in existence as of the beginning of the plan year occurring in calendar year 1985, at the end of the plan year occurring in calendar year 2015; or

(B) In the case of a pension plan established after January 1, 1985, for the unfunded actuarial accrued liability then or subsequently determined to be or to have been in existence as of the date of the establishment of the plan, at the end of the plan year occurring 30 years after the calendar year in which the pension plan was established.

(ii) ***The following apply:***

(A) Increment or decrement of net unfunded actuarial accrued liability attributable to a change in actuarial assumptions, at the end of the plan year occurring 20 years after the calendar year in which actuarial assumption modification was effective.

(B) Increment or decrement of net unfunded actuarial accrued liability attributable to a change in actuarial assumptions made on or after the effective date of this clause, at the end of the plan year occurring 15 years after the calendar year in which the actuarial assumption modification was effective.

(iii) ***The following apply:***

(A) Increment of net unfunded actuarial accrued liability attributable to a modification in the benefit plan applicable to active members, at the end of the plan year occurring 20 years after the calendar year in which the benefit plan modification was effective.

(B) From and after the effective date of this clause, the increment of net unfunded actuarial accrued liability attributable to a modification in the benefit plan mandated by new legislation, at the end of the plan year occurring 20 years after the calendar year in which the benefit plan modification was effective.

(iv) *The following apply:*

(A) Increment of unfunded actuarial accrued liability attributable to a modification in the benefit plan applicable to retired members and other benefit recipients, at the end of the plan year occurring 10 years after the calendar year in which the benefit plan modification was effective.

(B) Except as provided under clause (C), increment of unfunded actuarial accrued liability attributable to a modification in the benefit plan for active members adopted on or after the effective date of this clause and not mandated by new legislation, at the end of the plan year occurring 10 years after the calendar year in which the benefit plan modification was effective.

(C) An increment of unfunded actuarial accrued liability attributable to a modification in the benefit plan applicable to retired members and other benefit recipients not mandated by new legislation, at the end of the plan year following the year in which the modification was effective.

(v) *The following apply:*

(A) Increment or decrement of net unfunded actuarial accrued liability attributable to an actuarial experience loss or gain, at the end of plan year occurring [15] 20 years after the calendar year in which the actuarial experience loss or gain was recognized.

(B) Notwithstanding any other provision of this act or other law, as of the beginning of the plan year occurring in calendar year 2003, the outstanding balance of the increment of unfunded actuarial accrued liability attributable to the net actuarial investment losses incurred in calendar years 2001 and 2002 may, at the sole discretion of the municipality, be amortized with the amortization target date being the end of the plan year occurring 30 years after January 1, 2003. In order for a municipality to extend the applicable amortization period pursuant to this clause, the municipality must file a revised actuarial valuation report reflecting the amortization period extension provided for under this clause with the executive director of the commission no later than September 30, 2004. Any such revised actuarial valuation report may not be filed in lieu of the actuarial valuation report prepared in compliance with clause (A)

and required to be filed on or before March 31, 2004, and may be used only for the purposes of recalculating the 2004 minimum municipal obligation of the municipality and calculating the 2005 minimum municipal obligation of the municipality to reflect the amortization period extension. Any such revised actuarial valuation report shall not affect distributions under the General Municipal Pension System State Aid Program under Chapter 4.

* * *

Section 4. The act is amended by adding sections to read:

Section 210. Actuarial asset valuation.

(a) General rule.—*A municipality may value the assets in each of its pension plans to equal the greater of:*

(1) the actuarial value of assets from the most recent biennial actuarial valuation report accepted by the commission:

(i) increased by contributions and other deposits except investment income;

(ii) decreased by benefit payments and administrative expenses or other payments; and

(iii) credited with interest at 1% less than the plan's assumed rate, to the date of the actuarial valuation; or

(2) the market value of assets on the valuation date.

(b) Methodology.—

(1) The actuarial value of pension plan assets is the value of cash, investment securities and other property belonging to the municipal pension plan according to a method for valuing assets adopted by the governing body of the municipal pension plan upon the recommendation of the actuary.

(2) The method for valuing assets shall be adequately disclosed in the accompanying documentation or exhibits and, except as set forth in subsection (c) or Chapter 6, may not produce a result that in total is:

(i) greater than 120% of the fair market value of the assets of the municipal pension plan; or

(ii) less than 80% of the fair market value of the assets of the municipal pension plan.

(c) Temporary valuation.—

(1) For the two-year actuarial valuation reporting period beginning in 2009, a municipality may utilize a method for valuing assets which does not produce a result that in total is:

(i) greater than 130% of the fair market value of the assets of the municipal pension plan; or

(ii) less than 70% of the fair market value of the assets of the municipal pension plan.

(2) Upon the expiration of that two-year actuarial valuation reporting period, subsection (b) applies.

Section 211. Revised actuarial valuation report.

Upon enactment of legislation which would alter the actuarial valuation of a pension plan, a revised actuarial valuation report shall be filed with the commission as the commission directs.

Section 5. Section 302(b)(2) of the act, amended December 18, 1990 (P.L.753, No.189), is amended to read:

Section 302. Minimum funding standard; defined benefit plans self-insured in whole or in part.

* * *

(b) Financial requirements of the pension plan.—

* * *

(2) The normal cost and administrative expense requirements for the following plan year shall be expressed as a dollar amount and shall be determined by applying the normal cost of the benefit plan and the administrative expense payable from the assets attributable to the benefit plan, as reported in the actuarial valuation report of the pension plan and expressed as a percentage of payroll, to the payroll of the active membership of the pension plan as of the date the financial requirements of the pension plan are determined. ***In expressing the normal cost and administrative expense requirements as a dollar amount, the municipality shall exclude the compensation of all DROP participants from the payroll of the active membership of the pension plan.***

* * *

Section 6. Sections 402(e)(2), 501 and 502 of the act are amended to read:

Section 402. Revision of financing from State revenue sources; General Municipal Pension System State Aid Program.

* * *

(e) Allocation of general municipal pension system State aid.—

* * *

(2) The applicable number of units shall be attributable to each active employee who was employed on a full-time basis for a minimum of six consecutive months prior to December 31 preceding the date of certification and who was participating in a pension plan maintained by that municipality, provided that the municipality maintains a generally applicable pension plan for that type of employee which was either established on or prior to December 31, 1984, or, if established after December 31, 1984, has been maintained by that municipality for at least three plan years. ***For the purpose of computing and reporting the applicable number of units, a DROP participant shall not be reported to the Auditor General as an active employee.*** The applicable number of units per employee attributable to each eligible recipient county of the second class shall be two units for each police officer. The applicable number of units attributable to each eligible recipient city, borough, incorporated town and township shall be as follows:

(i) Police officer - two units.

(ii) Firefighter - two units.

(iii) Employee other than police officer or firefighter - one unit.

Section 501. Initiation of distress determination.

[Each municipality which wishes to avail itself of any of the provisions of sections 604, 605 and 606 shall apply to the commission for a determination of its status pursuant to this chapter. The application shall be in the form and shall contain the required information as prescribed in rules and regulations issued by the commission. Determinations pursuant to this chapter shall be made annually.] *The commission shall review the biennial actuarial valuation reports filed on behalf of each municipal pension plan to determine the municipality's eligibility to avail itself of sections 604, 605 and 606.*

Section 502. Pension plans for inclusion in determination.

The determination provided for in this chapter shall be made for a municipality taking into account all pension plans which the municipality has established and maintains[.], *except those created after the last biennial actuarial valuation date. The initial actuarial valuation report for any plan shall not be recognized in the determination of a municipality's distress level. If the municipality filed an actuarial valuation report for any pension plan in the prior reporting period, that valuation report shall control the determination of distress without regard to the funding status of any newly established plan. If no other plan was previously maintained by a municipality, the newly established plan shall be assigned a distress score of 0.*

Section 7. Sections 503 and 602 of the act, amended December 10, 1996 (P.L.934, No.150), are amended to read:

Section 503. Determination procedure.

(a) Generally.—The determination provided for in this chapter shall be made by the commission using the actuarial [indicators] *indicator* specified in subsection (b) [and the municipal finance indicators specified in subsection (c), and the scoring system associated with each].

(b) Actuarial [indicators] *indicator*.—The actuarial [indicators] *indicator* shall be based on the most current actuarial valuation report or reports filed by the applicable municipality with the commission pursuant to law and shall be made in aggregate for all pension plans maintained by the applicable municipality. [The actuarial indicators and the associated scoring system for each shall be as follows:

(1) The aggregate amount of current pension plan benefits payable shall be computed as a percentage of the current market value of aggregate plan assets:

Benefits Payable	
as Percentage	
of Assets	Scoring
0 - 5%	0

6 - 10%	10
11 - 15%	20
16 - 20%	30
21 - 30%	40
31 - 40%	50
41 - 50%	60
51 - 60%	70
61 - 70%	80
71 - 80%	90
81% or greater	100

(2) The aggregate actuarial value of plan assets shall be computed as a percentage of the aggregate accrued actuarial liability:

Assets as Percentage of Accrued Actuarial Liability	Scoring
50.0% or greater	0
40.0 - 49.0%	10
30.0 - 39.0%	20
25.0 - 29.0%	30
20.0 - 24.0%	40
15.0 - 19.0%	50
10.0 - 14.0%	60
7.5 - 9.0%	70
5.0 - 7.4%	80
2.5 - 4.9%	90
0 - 2.4%	100

(3) The aggregate amount of normal cost expressed as a percentage of covered payroll reduced by the aggregate amount of any member contributions expressed as a percentage of covered payroll is added to the aggregate amount of any employer contributions to the Federal old age, survivors, disability and health insurance program expressed as a percentage of covered payroll:

Total Employer Retirement Cost	Scoring
0 - 9.99%	0
10.00 - 11.99%	10
12.00 - 12.99%	20
13.00 - 13.99%	30
14.00 - 14.99%	40
15.00 - 15.99%	50
16.00 - 16.99%	60
17.00 - 17.99%	70
18.00 - 18.99%	80
19.00 - 19.99%	90
20.00% or greater	100

(4) The aggregate requirement to amortize the unfunded accrued actuarial liability on a level annual dollar basis according to the applicable amortization schedules specified in section 202(b)(4) is divided by the aggregate normal cost requirement:

Amortization Requirement

Divided by Normal Cost Result	Scoring
0 - 0.39	0
0.40 - 0.79	10
0.80 - 1.19	20
1.20 - 1.39	30
1.40 - 1.59	40
1.60 - 1.79	50
1.80 - 1.99	60
2.00 - 2.19	70
2.20 - 2.39	80
2.40 - 2.59	90
2.60 or over	100

(5) The difference between the aggregate amount of normal cost plus the requirement to amortize the unfunded accrued actuarial liability on a level annual dollar basis according to the applicable amortization schedules specified in section 202(b)(4), and the total aggregate amount of member contributions, State allocations dedicated for pension purposes and municipal contributions received for the previous year is computed and expressed as a percentage of covered payroll:

**Difference Between
Full Actuarial
Requirement and
Current Contributions**

Current Contributions	Scoring
0 - 2.4%	0
2.5 - 4.9%	10
5 - 9.9%	20
10 - 14.9%	30
15 - 19.9%	40
20 - 24.9%	50
25 - 29.9%	60
30 - 34.9%	70
35 - 39.9%	80
40 - 44.9%	90
45% or over	100

(6) The compound annual percentage rate of increase in the aggregate amount of the unfunded accrued actuarial liability over the most recent four-year period is computed, unless the amount of the

unfunded accrued actuarial liability equals less than 10% of the amount of assets in either the first or fourth year:

Compound Rate of Increase in Unfunded Accrued Actuarial Liability		Scoring
0.0 - 9.9%		0
10.0 - 12.4%		10
12.5 - 14.9%		20
15.0 - 17.4%		30
17.5 - 19.9%		40
20.0 - 22.4%		50
22.5 - 24.9%		60
25% or over		70

(7) The compound annual percentage rate of increase in the aggregate amount of municipal contributions over the most recent four-year period is computed:

Compound Rate of Increase in Municipal Contributions		Scoring
20% or over		0
15 - 19.9%		10
10 - 14.9%		20
0 - 9.9%		30]

The actuarial indicator shall be the ratio of the actuarial value of assets to the actuarial accrued liability, expressed as a percentage known as the funding ratio, and shall be applied in accordance with the following actuarial distress scoring system:

Funding Ratio	Score
90% or over	0
70 - 89%	1
50 - 69%	2
Less than 50%	3

(c) **Municipal finance indicators.**—The municipal finance indicators shall be based on the most recent financial report or reports filed by the applicable municipality with the Department of Community Affairs and certified by the secretary or by the designee of the secretary. Before certification for a municipality that has issued bonds or notes to fund an unfunded actuarial accrued liability under the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, or under the laws applicable to the municipality, the municipal finance data extracted from the most recent financial report or reports shall be adjusted as directed by the commission to hold harmless the municipality under section 404(c) by excluding the municipal debt issued to fund an unfunded actuarial accrued liability and the debt service on

that debt. The municipal finance indicators and the associated scoring system for each shall be as follows:

(1) The total amount of taxes collected by the municipality for the current year are divided by the population of the municipality as of the last Federal census, and the percentage increase in the amount of municipal taxes collected per capita in the most recent five-year period:

Taxes Collected		Gross Percentage Increase in Taxes	
Per Capita	Scoring	Per Capita	Scoring
\$ 0.00 - 79.99	0	0.00 - 19.99%	0
80.00 - 84.99	5	20.00 - 29.99%	3
85.00 - 89.99	10	30.00 - 34.99%	6
90.00 - 99.99	15	35.00 - 39.99%	9
100.00 - 109.99	20	40.00 - 44.99%	12
110.00 - 124.99	25	45.00 - 49.99%	15
125.00 - 139.99	30	50.00 - 54.99%	18
140.00 - 159.99	35	55.00 - 59.99%	21
160.00 - 179.99	40	60.00 - 64.99%	24
180.00 - 199.99	45	65.00 - 69.99%	27
200.00 or greater	50	70.00% or greater	30

(2) The municipal tax rate on the market value of real property (adjusted mill rate) in the municipality for the most recent year and the percentage increase in the amount of that adjusted mill rate in the most recent five-year period:

Adjusted Mill Rate		Gross Percentage Increase in Adjusted Mill Rate	
Adjusted Mill Rate	Scoring	Adjusted Mill Rate	Scoring
0.00 - 5.99	0	0.00 - 3.99%	0
6.00 - 7.99	5	4.00 - 6.99%	3
8.00 - 9.99	10	7.00 - 9.99%	6
10.00 - 11.99	15	10.00 - 12.99%	9
12.00 - 12.99	20	13.00 - 15.99%	12
13.00 - 13.99	25	16.00 - 18.99%	15
14.00 - 14.99	30	19.00 - 21.99%	18
15.00 - 15.99	35	22.00 - 24.99%	21
16.00 - 16.99	40	25.00 - 27.99%	24
17.00 - 17.99	45	28.00 - 30.99%	27
18.00 or greater	50	31.00% or greater	30

(3) For the most recent year, the result of the total municipal bonded debt plus the total municipal floating debt less the total municipal credits against municipal debt is divided by the population of the municipality as of the last Federal census:

Net Debt Per Capita	Scoring
\$ 0.00 - 9.99	0
10.00 - 19.99	8
20.00 - 29.99	16
30.00 - 39.99	24
40.00 - 49.99	32
50.00 - 59.99	40
60.00 - 69.99	48
70.00 - 79.99	56
80.00 - 89.99	64
90.00 - 99.99	72
100.00 or greater	80

(4) For the most recent year, the result of the total municipal bonded debt plus the total municipal floating debt less the total municipal credits against municipal debt is computed as a percentage of the assessed value of real property in the municipality:

**Municipal Debt
as Percentage
of Municipal Property**

Tax Base	Scoring
0.00 - 0.49%	0
0.50 - 0.99%	6
1.00 - 1.99%	12
2.00 - 2.99%	18
3.00 - 4.49%	24
4.50 - 5.99%	30
6.00 - 6.99%	36
7.00 - 7.99%	42
8.00 - 8.99%	48
9.00 - 9.99%	54
10.00% or greater	60

(5) For the most recent year, the result of the total municipal bonded debt plus the total municipal floating debt less the total municipal credits against municipal debt is computed as a percentage of the market value of real property in the municipality:

**Municipal Debt as
Percentage of
Potential Municipal
Property Tax Base**

	Scoring
0.00 - 0.24%	0
0.25 - 0.49%	6
0.50 - 0.99%	12
1.00 - 1.49%	18
1.50 - 1.99%	24

2.00 - 2.99%	30
3.00 - 3.49%	36
3.50 - 3.99%	42
4.00 - 4.49%	48
4.50 - 4.99%	54
5.00% or greater	60

(6) For the most recent year, the municipal bonded debt retired during the preceding 12 months plus the interest paid during the preceding 12 months on all municipal debt is computed as a percentage of the total taxes collected by the municipality for the same period:

Debt Service as
Percentage of
Municipal Tax
Revenue

	Scoring
0.00 - 4.49%	0
4.50 - 5.49%	8
4.50 - 5.49%	16
6.50 - 7.49%	24
7.50 - 8.49%	32
8.50 - 9.49%	40
9.50 - 10.49%	48
10.50 - 11.49%	56
11.50 - 12.49%	64
12.50 - 13.49%	72
13.50% or greater	80

(7) The market value of real property in the municipality for the current year is divided by the population of the municipality as of the last Federal census, and the percentage increase in the amount of market value per capita in the most recent year over the amount of market value per capita in the most recent five-year period:

		Gross Percentage Increase in Market Value	
Market Value Per Capita	Scoring	Per Capita	Scoring
\$8,000 or greater	0	41.00% or greater	0
7,500 - 7,999	5	39.00 - 40.99%	3
7,000 - 7,499	10	35.00 - 38.99%	6
6,500 - 6,999	15	31.00 - 34.99%	9
6,000 - 6,499	20	27.00 - 30.99%	12
5,500 - 5,999	25	23.00 - 26.99%	15
5,000 - 5,499	30	19.00 - 22.99%	18
4,500 - 4,999	35	15.00 - 18.99%	21
4,000 - 4,499	40	11.00 - 14.99%	24
3,500 - 3,999	45	7.00 - 10.99%	27

0 - 3,499 50 0.00 - 6.99% 30

(8) For the most recent year, adjusted total municipal expenditures (total municipal expenditures less any municipal urban renewal expenditures and less any municipal enterprise expenditures) divided by the population of the municipality as of the last Federal census and the percentage increase in the amount of adjusted total municipal expenditures per capita in the most recent year over the amount of adjusted total municipal expenditures per capita in the most recent five-year period:

		Gross Percentage Increase in Adjusted Total	
Adjusted Total Municipal Expenditure Per Capita	Scoring	Municipal Expenditures Per Capita	Scoring
\$ 0.00 - 149.99	0	0.00 - 13.99%	0
150.00 - 164.99	5	14.00 - 17.99%	3
165.00 - 179.99	10	18.00 - 21.99%	6
180.00 - 194.99	15	22.00 - 25.99%	9
195.00 - 209.99	20	26.00 - 29.99%	12
210.00 - 224.99	25	30.00 - 33.99%	15
225.00 - 239.99	30	34.00 - 37.99%	18
240.00 - 254.99	35	38.00 - 41.99%	21
255.00 - 269.99	40	42.00 - 45.99%	24
270.00 - 284.99	45	46.00 - 48.99%	27
285.00 or greater	50	49.00% or greater	30

(d) Levels of distress.—The three levels of municipal pension system financial distress shall be as follows:

(1) Minimal **[financial]** distress, which shall include any municipality which has a distress determination scoring **[greater than zero but not greater than 299]** *equal to one*.

(2) Moderate **[financial]** distress, which shall include any municipality which has a distress determination scoring equal to **[or greater than 300 but not greater than 499]** *two*.

(3) Severe **[financial]** distress, which shall include any municipality which has a distress determination scoring equal to **[or greater than 500]** *three*.

Section 602. Application.

(a) Generally.—The various remedies contained in this recovery program shall be available to municipalities based on the extent of financial distress of the municipal pension system determined by the commission, as provided in this section.

(b) Minimally distressed municipal pension systems.—The remedies contained in level I of the recovery program as specified in section 604 shall apply to any municipality which **[seeks to utilize them, whether the municipality]** *is minimally distressed, as that status is defined* based upon

the actuarial considerations **[and municipal finance considerations]** of the determination procedure pursuant to section 503 **[is not determined to be distressed or is determined to be distressed but elects not to participate in level II of section 605 or level III of section 606 of the recovery program, whichever is applicable].**

(c) Moderately distressed municipal pension systems.—The remedies contained in level II of the recovery program as specified in section 605 shall apply to any municipality which is determined to be moderately distressed, as that status is defined based on the actuarial considerations **[and municipal finance considerations]** of the determination procedure in rules and regulations issued by the commission pursuant to section 503**], which complies with any applicable preconditions for participation in this level of the recovery program and which elects to participate in this level of the recovery program].**

(d) Severely distressed municipal pension systems.—The remedies contained in level III of the recovery program as specified in section 606 shall apply to any municipality which is determined to be severely distressed, as that status is defined based on the actuarial considerations **[and municipal finance considerations]** of the determination procedure in rules and regulations issued by the commission pursuant to section 503**], which complies with any applicable preconditions for participation in this level of the recovery program and which elects to participate in this level of the recovery program].**

(e) Continuation of elected remedies.—**[In the event that the extent of financial distress of a municipal pension system determined by the commission subsequent to the initial determination is lower than the minimum prescribed in section 503(d) for a recovery program level previously elected by a municipality, the] A municipality may continue to utilize any of the remedies elected and implemented while it was eligible to participate in [a higher recovery program level, provided that the municipality continues to comply with the preconditions for participation in the higher recovery program level and to utilize the mandatory remedies applicable to the higher recovery program level.] any recovery program authorized by this act at the time of commencement of implementation. Any change or amendment of recovery remedies in this act subsequent to election and implementation shall be deemed to be cumulative and not in lieu of previously adopted remedies.**

Section 8. Section 603 of the act is amended to read:
Section 603. **[Election] Determination** procedure.

The **[election to utilize the various remedies contained in one of the levels of the recovery program shall be made by the governing body of the municipality. The election] determination** process shall be initiated by **[an application filed with]** the commission for the determination of financial distress with respect to the municipal pension system pursuant to section 501. Upon notification of the determination of financial distress by the

commission, the municipality shall elect whether or not to utilize the *voluntary* remedies of any level of the recovery program which may be applicable to the municipality. **[Any election to utilize the remedies contained in a level of the recovery program shall be made on forms prescribed by the commission and shall include any information required by the commission.]**

Section 9. Section 604 of the act, amended February 14, 1986 (P.L.23, No.9), is amended to read:

Section 604. Recovery program level I.

(a) Level I.—Any municipality to which level I of the recovery program applies may utilize the following remedies:

(1) The aggregation of trust funds pursuant to section 607(b).

(2) The establishment of total member contribution pursuant to section 607(c).

(3) *The deviation from municipal contribution limitations pursuant to section 607(d).*

[(b) Implementation.—Any municipality which receives an initial distress determination scoring in 1985 which is equal to or greater than 200, but not greater than 299, and cannot meet the minimum municipal obligation for the year 1986 because the payment of the minimum municipal obligation would result in the municipality exceeding the maximum contribution limitation for that municipality as set forth in the pertinent laws for that class of municipality, may delay the implementation of the full funding of the minimum municipal obligation until 1987. Any municipality electing to delay full implementation of the minimum municipal obligation shall make a municipal contribution for 1986 as set forth in section 607(g). In addition to the one-year delay of the full actuarial funding standard, the municipality may utilize the following additional remedies:

(1) The deviation from municipal contribution limitations pursuant to section 607(d).

(2) The special municipal taxing authority pursuant to section 607(f).]

(c) Reduction for level I municipalities.—

(1) A level I municipality may elect to pay a reduced minimum municipal obligation consisting of the normal cost and administrative expenses of the pension plans plus:

(i) 75% of the amortization contribution requirement, calculated according to section 202(b)(4); minus

(ii) anticipated member contributions.

(2) This reduction of payments to amortize the actuarial accrued liability shall be authorized for a period of one biennial actuarial valuation reporting period (total of two years) under section 607(h.1). At the end of this period, section 302(c) shall apply to the minimum municipal obligation calculation.

(d) Asset valuation.—

(1) Following the expiration of the period applicable to asset valuation under section 210(c), for an additional period of one biennial actuarial valuation reporting period (allowing an additional two years for a total of four years), a level I municipality may utilize a method for valuing assets that may not produce a result that in total is:

(i) greater than 130% of the fair market value of the assets of the municipal pension plan; or

(ii) less than 70% of the fair market value of the assets of the municipal pension plan.

(2) At the end of the additional period under paragraph (1), section 210 shall apply to the actuarial valuation of assets.

Section 10. Sections 605 and 606 of the act are amended to read:

Section 605. Recovery program level II.

(a) Mandatory remedies.—Any municipality to which level II of the recovery program applies shall utilize the following remedies:

(1) The aggregation of trust funds pursuant to section 607(b).

(2) The submission of a plan for administrative improvement pursuant to section 607(i).

(b) Discretionary remedies.—Any municipality to which level II of the recovery program applies may utilize the following remedies:

(1) [The aggregation of trust funds pursuant to section 607(b).

(2)] The establishment of total member contributions pursuant to section 607(c).

[(3)] (2) The deviation from municipal contribution limitations pursuant to section 607(d).

[(4)] (3) The establishment of a revised benefit plan for newly hired municipal employees pursuant to section 607(e).

[(5)] (4) The special municipal taxing authority pursuant to section 607(f).

[(6) The delayed implementation of funding standard over ten years pursuant to section 607(g).

(7) Supplemental State assistance pursuant to section 607(j).]

(8) (i) A level II municipality may elect to pay a reduced minimum municipal obligation consisting of the normal cost and administrative expenses of the pension plan plus:

(A) 75% of the amortization contribution requirement, calculated according to section 202(b)(4); minus

(B) anticipated member contributions.

(ii) This reduction of payments to amortize the actuarial accrued liability shall be authorized for a period of two consecutive actuarial valuation reporting periods (total of four years) under section 607(h.1). At the end of this period, section 302(c) shall apply to the minimum municipal obligation calculation.

(9) (i) Following the expiration of the period applicable to the asset valuation provisions of section 210(c), for an additional period of two biennial actuarial valuation reporting periods (allowing an additional four years for a total of six years), a level II municipality may utilize a method for valuing assets that may not produce a result that in total is:

(A) greater than 130% of a period of two consecutive actuarial valuation reporting periods (total of four years); or

(B) less than 70% of the fair market value of the assets of the municipal pension plan.

(ii) At the end of the additional period under subparagraph (i), section 210 shall apply to the actuarial valuation of assets.

Section 606. Recovery program level III.

(a) Optional remedies.—Any municipality to which level III of the recovery program applies may utilize the following remedies:

(1) The establishment of total member contributions pursuant to section 607(c).

(2) The deviation from municipal contribution limitations pursuant to section 607(d).

(3) The special municipal taxing authority pursuant to section 607(f).

[(4) The delayed implementation of funding standard over ten years pursuant to section 607(g) or the delayed implementation of funding standard over 15 years with 40-year amortization pursuant to section 607(h).

(5) Supplemental State assistance pursuant to section 607(j).]

(b) Mandatory remedies.—Any municipality to which level III of the recovery program applies shall utilize the following remedies:

(1) The aggregation of trust funds pursuant to section 607(b).

(2) The establishment of a revised benefit plan for newly hired municipal employees pursuant to section 607(e). **[The revised benefit plan shall have a normal cost which is less than the normal cost of the benefit plan applicable to current municipal employees as reported in the most recent prior actuarial valuation report for the pension plan. In making this determination, the normal cost for the revised benefit plan shall be calculated by applying the revised benefit plan to the current active membership demographics.]**

(3) The preparation, submission and implementation of a plan for improvement of the administration of the pension plan or plans pursuant to section 607(i).

(c) Reduction for level III municipalities.—

(1) A level III municipality may elect to pay a reduced minimum municipal obligation consisting of the normal cost and administrative expenses of the pension plan, plus 75% of the amortization contribution requirement calculated according to section 202(b)(4) minus anticipated member contributions.

(2) The municipality may utilize the reduction described in paragraph (1) for a period of three consecutive actuarial valuation reporting periods, total of six years, under section 607(h.1). At the end of this period, section 302(c) shall apply to the minimum municipal obligation calculation.

(3) Following the expiration of the period applicable to the asset valuation provisions of section 210(c), a level III municipality may utilize a method for valuing assets that may not produce a result that in total is greater than 130% or less than 70% of the fair market value of the assets of the municipal pension plan, for an additional period of two biennial actuarial valuation reporting periods (allowing an additional four years for a total of six years), at the end of which period the actuarial valuation of assets shall revert to the method provided by section 210.

Section 11. Section 607(b), (f), (g), (h), (j) and (k) of the act, amended February 14, 1986 (P.L.23, No.9), December 10, 1996 (P.L.934, No.150) and June 18, 1998 (P.L.626, No.82), are amended, (e) is carried without amendment and the section is amended by adding subsections to read:

Section 607. Remedies applicable to various recovery program levels.

* * *

(b) Aggregation of trust funds.—If the municipality has established and maintained more than one pension plan for its employees and there are pension funds associated with those pension plans, the municipality may aggregate the assets to the credit of the various pension funds into a single pension trust fund. Subsequent to the aggregation, the pension trust fund shall be the funding mechanism for all pension plans connected with the aggregation.

(1) Each pension plan subject to the aggregation shall have an undivided participation in the assets of the combined pension trust fund. For accounting purposes, the value of the participation by each plan shall be calculated annually. The value for the initial year following aggregation shall be that portion of the total value of the pension trust fund which bears the same relationship that the value of the assets of the pension plan, as of the date of the aggregation plus the contributions received by the pension trust fund with respect to that pension plan since the date of aggregation and reduced by the amount of retirement annuities and benefits paid from the pension trust fund for annuitants and benefit recipients of that pension plan since the date of aggregation, bears to the total value of all assets transferred to the pension trust fund as of the date of aggregation plus the total contributions received by the pension trust fund since the date of aggregation and reduced by the total amount of retirement annuities and benefits paid for all annuitants and benefit recipients since the date of aggregation. The value of the participation for each year subsequent to the initial year following aggregation shall be that portion of the total value of the pension trust fund which bears the same

relationship that the value of the participation of the pension plan, as of the close of the preceding year plus the contributions received by the pension trust fund with respect to that pension plan during the year and reduced by the amount of retirement annuities and benefits paid from the pension trust fund for annuitants and benefit recipients of that pension plan during the year, bears to the total value of all participation in the pension trust fund as of the close of the preceding year plus the total contributions received by the pension trust fund during the year and reduced by the total amount of retirement annuities and benefits paid for all annuitants and benefit recipients during the year.

(2) Legal title to assets in the aggregated pension trust fund shall be in the municipality as trustee, or its nominees as trustees, for any person having a beneficial interest in a particular pension plan which is associated with the pension trust fund.

(3) The assets of the aggregated pension trust fund shall be invested in investment securities which are authorized investments pursuant to any applicable law for any of the associated pension plans.

(4) Investment earnings shall be allocated to each associated pension plan in proportion to the most recently determined participation value.

(5) Valuation of assets shall be pursuant to the provisions of section 202(e)(1) and any applicable rules and regulations issued by the commission.

(6) The aggregated pension trust fund shall be managed by a board of trustees. The board of trustees shall include at least one representative of the active membership of each pension plan included in the aggregated pension trust fund, who shall be elected by the active membership of the applicable pension plan. The remaining members of the board of trustees shall be drawn from the managing boards or entities of the associated pension plans, *in a number equal to the members elected by the employees. If there is a deadlock, the members of the managing boards or entities shall mutually agree upon a member of the general public to cast the deciding vote.*

* * *

(e) Establishment of a revised benefit plan for newly hired municipal employees.—The municipality may establish a revised benefit plan of the pension plan applicable to any employee first hired on or after the effective date of the instrument establishing the revised benefit plan. At the option of the municipality, the revised benefit plan may be extended to include an employee first hired prior to the effective date of the instrument establishing the revised benefit who elects the coverage. Member contributions with respect to the revised benefit plan of the pension plan shall at a minimum be equal to or exceed 30% and at a maximum not to exceed 50%, of the normal cost of the pension plan, expressed as a percentage of covered payroll, as reported in the most recent actuarial valuation report of the pension plan. A revised benefit plan for newly hired municipal employees shall be developed

with consultation with representatives of the collective bargaining unit applicable to the affected type of municipal employee, if any, and shall be within the scope of collective bargaining pursuant to the applicable law subsequent to the establishment of the revised benefit plan.

(e.1) Construction.—Nothing in this act shall be construed to permit or deny the right of a municipality which has, prior to the effective date of this subsection, adopted a benefit plan under section 606 to adopt or implement an additional or successor, revised pension benefit plan affecting future employees of the municipality.

(f) Special municipal taxing authority.—

(1) If the tax rates set by the municipality on earned income or on real property are at the maximum provided by applicable law, the municipality may increase its tax on either earned income or real property above those maximum rates. The proceeds of this special municipal tax increase shall be used solely to defray the additional costs required to be paid pursuant to this act which are directly related to the pension plans of the municipality. The municipality utilizing this special municipal taxing authority shall not reduce the level of municipal contributions to the pension plans prior to the implementation of the special municipal taxing authority.

(2) The average level of municipal contributions to the pension plans from all revenue sources for the three years immediately prior to the implementation of the special municipal taxing authority shall be expressed as a percentage of the average covered payroll for that same three-year period: Provided, however, That any supplemental contributions made to the plans pursuant to any pension recovery legislation enacted by the municipalities shall be excluded for purposes of determining the level of municipal contribution to the pension plans prior to the implementation of the special municipal taxing authority. In each year subsequent to the implementation of the special municipal taxing authority, the municipal contributions to the pension plan from all revenue sources existing prior to the implementation of the special existing municipal taxing authority, reduced by any supplemental pension recovery contributions, shall equal or exceed this average percentage of the current covered payroll. A municipality utilizing the provisions of section 404 may levy or continue to levy the special municipal tax increase under this subsection provided that the municipality does not reduce the level of municipal contributions to the pension plans prior to the implementation of the special municipal taxing authority. In executing the procedure prescribed in this subsection to determine the level of municipal contributions, the debt service payments for bonds or notes issued under section 404 shall be considered municipal contributions.

(f.1) Limitation on special municipal taxing authority.—Beginning January 1, 2010, and continuing for each year thereafter, the special municipal tax authorized in subsection (f) may no longer be assessed or

used for any purpose other than to defray the additional costs required to be paid pursuant to this act and which are directly related to the pension plans of the municipality and which are included in the calculation of the financial requirements of the pension plan and the minimum municipal obligation. If the municipality assesses or utilizes the special municipal tax increase to fund other post-employment benefits, the cost of those benefits shall be subject to the actuarial funding and reporting standards of this act.

(g) Delayed implementation of funding standard over ten years.—The municipality may delay full implementation of the actuarial funding standard specified in section 302 or 303, whichever is applicable, over a period not to exceed ten years in duration, and may calculate that actuarial funding standard on the basis of a 30-year amortization period for the increment of unfunded actuarial accrued liability in existence as of the beginning of the plan year occurring in calendar year 1985. During the delayed implementation period, the municipality shall make a municipal contribution to each municipal pension plan of an amount equal to not less than the municipal contribution to the municipal pension plan made in the immediate prior year and the following percentage of the difference between that amount and the full minimum municipal obligation with respect to the pension plan pursuant to section 302 or 303, whichever is applicable:

Year	Percentage of Difference
1985	10%
1986	20%
1987	30%
1988	40%
1989	50%
1990	60%
1991	70%
1992	80%
1993	90%
1994 and thereafter	100%

The municipality may calculate the annual amortization contribution on the basis of a level percentage of future increasing covered payroll amortization contribution rather than on the basis of the level annual dollar amortization contribution specified in section 202.

(h) Delayed implementation of funding standard over 15 years; 40-year amortization period.—The municipality may delay full implementation of the actuarial funding standard specified in section 302 or 303, whichever is applicable, over a period not to exceed 15 years in duration and may calculate that actuarial funding standard on the basis of a 40-year amortization period for the increment of unfunded actuarial accrued liability in existence as of the beginning of the plan year occurring in calendar year 1985. During the delayed

implementation period, the municipality shall make a municipal contribution to each municipal pension plan of an amount equal to not less than the municipal contribution to the municipal pension plan made in the immediate prior year and the following percentage of the difference between that amount and the full minimum municipal obligation with respect to the pension plan pursuant to section 302 or 303, whichever is applicable, calculated using the applicable 40-year amortization period:

Year	Percentage of Difference
1985	6.7%
1986	13.4%
1987	20.1%
1988	26.8%
1989	33.5%
1990	40.2%
1991	46.9%
1992	53.6%
1993	60.3%
1994	67.0%
1995	73.7%
1996	80.4%
1997	87.1%
1998	93.8%
1999	100.0%

The municipality may calculate the annual amortization contribution on the basis of a level percentage of future increasing covered payroll amortization contribution rather than on the basis of the level annual dollar amortization contribution specified in section 202.]

(h.1) Reduced minimum municipal obligation.—

(1) The time period for use of the reduced minimum municipal obligation and reduced amortization payment shall be limited to the period applicable to the municipality's level of distress as last determined by the commission.

(2) If a municipality's distress level becomes worse as of a future filing period, the reduced amortization and minimum municipal obligation remedy shall be extended by the difference between:

- (i) the period allowed for the previous distress level; and*
- (ii) the period applicable to the new level of distress.*

(3) If a municipality's distress level improves, the reduced minimum municipal obligation and reduced amortization period shall continue for the duration of the period applicable to the previous distress level determination.

(j) Supplemental State assistance.—If every pension plan of the municipality which is a defined benefit plan and which is self-insured in

whole or in part has filed an actuarial valuation report utilizing the standardized actuarial cost method and economic actuarial assumptions within the range of actuarial assumptions specified in section 202(b) and if the municipality has implemented the aggregation of trust funds pursuant to subsection (b), the municipality may receive supplemental State assistance from the Supplemental State Assistance Fund established pursuant to section 608. The amount of the supplemental State assistance to which the municipality is entitled shall be determined annually based on the determination scoring which the municipality received from the commission pursuant to section 503, as follows:

(1) The determination score of the municipality shall be reduced by an amount equal to 25% of the maximum possible determination score.

(2) The result calculated pursuant to paragraph (1) shall be expressed as a percentage of the maximum possible determination score.

(2.1) For the supplemental State assistance distributed in December of 1997, the percentage calculated pursuant to paragraph (2) shall be applied to the dollar amount of difference between the greater of the amount of the municipal contribution or the amount of the actual municipal deposit to all municipal pension plans in aggregate and the full minimum municipal obligation with respect to the pension plans pursuant to section 302 or 303, whichever is applicable, to determine the amount of supplemental State assistance for the municipality.

(3) For the supplemental State assistance distributed in December of 1998 and thereafter, the percentage calculated pursuant to paragraph (2) shall be applied to the dollar amount of difference between the amount of the municipal contribution to all municipal pension plans in aggregate and the full minimum municipal obligation with respect to the pension plan pursuant to section 302 or 303, whichever is applicable, to determine the amount of supplemental State assistance for the municipality. For the purposes of this paragraph, the municipal contribution of a municipality that has issued bonds or notes to fund an unfunded actuarial accrued liability under the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, or under other laws applicable to the municipality, shall include debt service on the bonds or notes, or both, issued to fund an unfunded actuarial accrued liability.

In the event that the total amount of supplemental State assistance determined as payable to all municipalities entitled to receive supplemental State assistance exceeds the maximum appropriation provided for in section 608(b), the amount of supplemental State assistance which shall be payable to each municipality shall be proportionately reduced. The supplemental State assistance shall be

distributed annually on the first business day occurring in December. For the purposes of this subsection, the term “municipal contribution” shall mean the sum of the current year’s minimum municipal obligation, the annual interest payable on any current or prior period funding deficiencies and the total amount of any discretionary deposits to the pension fund in the current year.

(k) **Emergency loan procedures.**—The municipality may receive a loan from the Supplemental State Assistance Fund in any year during the existence of the fund in an amount certified by the commission. The loan amount shall be sufficient to eliminate the possibility of imminent default during the next 12 consecutive calendar months in the payment of retirement and other benefits by one or more of the pension plans maintained by the municipality. Terms for the repayment of any loan shall be established by agreement between the municipality and the commission prior to the loan.]

Section 12. Section 608 of the act is amended to read:
[Section 608. Supplemental State Assistance Program and Fund.

(a) **Establishment.**—There is hereby established a Supplemental State Assistance Program and Fund. The Supplemental State Assistance Fund shall be comprised of a Supplemental State Assistance Account. The Supplemental State Assistance Program and Fund shall be administered by the Auditor General.

(b) **Supplemental State Assistance Account.**—Supplemental State assistance payable pursuant to section 607(j) shall be paid from the Supplemental State Assistance Account. The Supplemental State Assistance Account shall be funded from an appropriation by the Commonwealth from the General Fund of the Commonwealth. Annually the commission shall calculate the amount of supplemental State assistance payable to all eligible municipalities and shall certify the required amount to the General Assembly. The amount of any annual certification of an appropriation by the commission shall not exceed \$35,000,000. The General Assembly shall make an appropriation to the Supplemental State Assistance Account sufficient to provide for the amount certified by the commission. The appropriation shall be deposited on the last business day in November annually.

(c) **Preconditions.**—As a precondition for the receipt of any supplemental State assistance, the municipality shall demonstrate prior good faith compliance with any applicable municipal pension plan actuarial funding standard in effect. The municipality shall also implement any mandatory aspects of the applicable recovery program level.

(d) **Warrants.**—Any supplemental State assistance shall be payable on warrants drawn by the Auditor General based on certifications of the commission.

(e) **Expiration.**—The Supplemental State Assistance Program and Fund shall terminate in 2003 or in the first year in which there are no municipalities entitled to receive supplemental State assistance, whichever occurs earlier.]

Section 13. Section 609 of the act is amended to read:
Section 609. Rules and regulations.

The commission may issue any rules [and], regulations, *policies and procedures* necessary for the effective administration and operation of the provisions of this act.

Section 14. (Reserved).

Section 15. The act is amended by adding a chapter to read:

CHAPTER 7-A
STANDARDS FOR MUNICIPAL PENSION SYSTEMS

Section 701-A. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Affiliated entity.” Any of the following:

(1) *A subsidiary or holding company of a lobbying firm or other business entity owned in whole or in part by a lobbying firm.*

(2) *An organization recognized by the Internal Revenue Service as a tax-exempt organization under section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)) established by a lobbyist or lobbying firm or an affiliated entity.*

“Contributions.” *As defined in section 1621 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.*

“Executive level employee.” *An employee of a person or the person’s affiliated entity who:*

(1) *can affect or influence the outcome of the person’s or affiliated entity’s actions, policies or decisions relating to pensions and the conduct of business with a municipality or a municipal pension system;*
or

(2) *is directly involved in the implementation or development of policies relating to pensions, investments, contracts or procurement or to the conduct of business with a municipality or a municipal pension system.*

“Municipal pension system.” *Includes the Pennsylvania Municipal Retirement System.*

“Political committee.” *As defined in section 1621 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.*

“Professional services contract.” *A contract to which the municipal pension system is a party that is:*

(1) *for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and*

(2) *not subject to a requirement that the lowest bid be accepted.*

Section 702-A. Procurement for professional services contracts.

(a) **Procedures.**—*Each municipal pension system, including the Pennsylvania Municipal Retirement System, shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.*

(b) **Advertisement.**—*An advertisement of the availability of a proposal for a professional services contract shall set forth:*

(1) *The services that are the subject of the proposed contract.*

(2) *Specifications relating to the services.*

(3) *Procedures to compete for the contracts.*

(4) *Required disclosures.*

(c) **Review.**—*Procedures to select the most qualified person shall include a review of the person's qualifications, experience and expertise and the compensation to be charged.*

(d) **Personnel.**—

(1) *Prior to entering into a professional services contract with a municipal pension system, the contractor shall disclose the names and titles of each individual who will be providing professional services to the municipal pension system, including advisors or subcontractors of the contractor.*

(2) *Disclosure under this subsection shall include all of the following:*

(i) *Whether the individual is a current or former official or employee of the municipality entering into the contract.*

(ii) *Whether the individual has been a registered Federal or State lobbyist.*

(iii) *A description of the responsibilities of each individual with regard to the contract.*

(3) *The resume of an individual included in the disclosure shall be provided to the municipality upon request.*

(4) *The information under this subsection shall be updated as changes occur.*

(e) **Conflict of interest.**—*The municipal pension system shall adopt policies relating to potential conflicts of interest in the review of a proposal or the negotiation of a contract. The policies shall include a minimum one-year restriction on:*

(1) Participation by a former employee of a contractor or potential contractor in the review of a proposal or negotiation of a contract with that contractor.

(2) Participation by a former employee of the municipal pension system in the submission of a proposal or the performance of a contract.

(f) Public information.—Following the award of a professional services contract, all applications and disclosure forms shall be public except for proprietary information or other information protected by law.

(g) Increase.—A professional services contract shall not be amended to increase the cost of the contract by more than 10% or \$10,000, whichever is greater, unless the increase and a written justification for the increase are public and posted on the municipal pension system's Internet website, if an Internet website is maintained, at least seven days prior to the effective date of the amendment.

(h) Notice and summary.—The relevant factors that resulted in the award of the professional services contract must be summarized in a written statement to be included in or attached to the documents awarding the contract. Within ten days of the award of the professional services contract, the original application, a summary of the basis for the award and all required disclosure forms must be transmitted to all unsuccessful applicants and posted on the municipal pension system's Internet website, if an Internet website is maintained, at least seven days prior to the execution of the professional services contract.

Section 703-A. Agents; solicitation.

(a) Disclosure.—A person or an affiliated entity that intends to enter or that enters into a professional services contract shall disclose the employment or compensation of a third party intermediary, agent or lobbyist to directly or indirectly communicate with a municipal pension system official or employee or a municipal official or employee in connection with any transaction or investment involving the contractor and the municipal pension system. The disclosure shall not apply to an officer or employee of the investment firm who is acting within the scope of the firm's standard professional duties on behalf of the firm, including the actual provision of legal, accounting, engineering, real estate or other professional advice, services or assistance pursuant to a professional services contract with the municipal pension system.

(b) Solicitation.—A person that enters into or has applied for, submitted an offer or bid for, responded to a request for proposal on or otherwise solicited a professional services contract with a municipal pension system or an agent, officer, director or employee of that person may not solicit a contribution to any municipal official or candidate for municipal office in the municipality where the municipal pension system is organized or to the political party or political action committee of that official or candidate.

(c) Limitation on communication.—Upon the advertisement for a professional services contract by the municipal pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the municipal pension system except for requests for technical clarification. Requests for technical clarification shall be made by a designated employee of the municipal pension system. Nothing in this subsection shall preclude a potential contractor from responding to requests for clarification or additional information from the municipal pension system.

Section 704-A. Disqualification.

(a) Contributors.—A person or an affiliated entity that, within the past two years, has made a contribution to a municipal official or candidate for municipal office in the municipality which controls the municipal pension system may not enter into a professional services contract with the municipal pension system, except that the two-year restriction shall not apply to any contribution made prior to the effective date of this subsection.

(b) Relationships.—A person or an affiliated entity that enters into a professional services contract with a municipal pension system may not have a direct financial, commercial or business relationship with any official of the municipal pension system or the municipality which controls the municipal pension system unless the municipal pension system consents in writing to the relationship following full disclosure.

(c) Gifts.—A person with a professional services contract may not offer or confer a gift having more than a nominal value, including money, services, loans, travel, lodging, entertainment, discount or other thing of value, to any official, employee or fiduciary of a municipal pension system.

Section 705-A. Disclosure.

(a) Contractors.—

(1) A person or an affiliated entity that has a professional services contract with a municipal pension system shall disclose all contributions to which all of the following apply:

- (i) The contribution was made within the last five years.*
- (ii) The contribution was made by an officer, director, executive-level employee or owner of at least 5% of the person or affiliated entity.*
- (iii) The amount of the contribution was at least \$500 in the form of:*

(A) A single contribution by a person included in subparagraph (ii).

(B) The aggregate of all contributions by all persons listed in subparagraph (ii).

(iv) The contribution was made to:

(A) A candidate for any public office in the Commonwealth or to an individual who holds that office.

(B) A political committee of a candidate for public office in the Commonwealth or of an individual who holds that office.

(2) The information provided under this subsection shall be updated annually.

(b) Additional disclosure.—A person or an affiliated entity that has a professional services contract with a municipal pension system shall disclose all of the following:

(1) Information relating to individuals making contributions. This paragraph includes:

(i) The name and address of the contributor.

(ii) The contributor's relationship to the contractor.

(iii) The name and office or position of each person receiving a contribution.

(iv) The amount of the contribution.

(v) The date of the contribution.

(2) Gifts to an official or employee of the municipal pension system or the municipality which controls the municipal pension system.

(3) The employment or retention of any third-party intermediary, agent or lobbyist and the duties of that person.

(4) The existence of any financial relationship under section 704-A(b).

(c) Applicability.—The provisions of subsection (a) shall apply to a person and an affiliated entity that has applied for, submitted an offer or bid for, responded to a request for proposal or otherwise solicited a professional services contract with a municipal pension system.

(d) Forms.—Required disclosure shall be made on a form prepared by the municipal pension system. The form shall be attached to the contract and posted on the system's Internet website, if an Internet website is maintained. During the term of the contract, an updated form shall be filed annually in accordance with procedures adopted by the plan.

(e) Penalties.—The following shall apply:

(1) A municipal pension system shall void the professional services contract of a person that knowingly makes a material misstatement or omission in a disclosure form under this chapter and shall prohibit the person from entering into a contract for a period of up to three years.

(2) If a contractor or person that has submitted a proposal or bid in violation of paragraph (1) more than two times in a 36-month period, all contracts between that contractor and the municipal pension plan shall be void and the person shall be debarred for a period of at least three years from the date of the last violation.

Section 706-A. Duty to act.

If a person that enters into or has applied for, submitted an offer or bid for, responded to a request for proposal on or otherwise solicited a contract with a municipal pension system or an officer, director or employee of a municipal pension system is aware or reasonably should be aware of an

apparent, potential or actual conflict of interest, the person shall disclose the conflict and promptly eliminate the conflict.

Section 707-A. No preemption.

If a municipality establishes a code of ethics which is stricter than this chapter, that code is not preempted by this chapter.

Section 15.1. The act is amended by adding a section to read:

Section 902. Second class cities.

(a) Taxing authority.—In taxable years beginning after December 31, 2008, the following apply to a city of the second class which is a home rule municipality:

(1) The city may impose on each parking transaction in the city a tax at a rate not to exceed 37.5% of the cost of the transaction.

(2) If the Department of Community and Economic Development determines that the city has leased or sold all of its parking authority garages and that net proceeds from the lease or sale have been deposited into the Pennsylvania Municipal Retirement System and credited to the municipality's account and transmits notice of the determination to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin, in taxable years beginning after December 31, 2009, the city may impose on each parking transaction in the city an additional tax at a rate not to exceed 2.5% of the cost of the transaction.

(b) Use of revenue.—Notwithstanding any other law to the contrary, 6.75% of the revenue received under subsection (a)(1) and 100% of the revenue received under subsection (a)(2) shall be used to pay the city's minimum municipal obligation required under section 302 and any interest accrued in any plan year.

(c) Mandatory administration by Pennsylvania Municipal Retirement Board.—A city of the second class that is determined to be in level III distress based upon the required actuarial valuation reports for a plan year beginning on January 1, 2011, shall transfer all existing benefit plans established by the city to the Pennsylvania Municipal Retirement Board solely for administration. The biennial actuarial valuation reports for the plan year beginning on January 1, 2011, shall be filed by the city with the commission by September 1, 2011. The transfer, if applicable, shall be accomplished within two years of the effective date of this subsection. Pension benefits and eligibility requirements shall continue to be subject to collective bargaining, if applicable. Such plans shall not be subject to the control or input of the board. No prior determination of level III distress based upon the required actuarial valuation reports for prior plan years shall result in transfer of the administration to the board. From and after a determination of level III distress based upon the required actuarial valuation reports for a plan year beginning on January 1, 2011, the biennial actuarial valuation report filed on behalf of the city shall utilize an actuarial assumption as to investment earnings equal to the regular interest rate fixed by the board plus 1.5%.

Section 16. Chapter 10 heading of the act, added June 18, 1998 (P.L.626, No.82), is amended to read:

CHAPTER 10
[ALTERNATIVE FUNDING MECHANISM]
*PROVISIONS RELATING TO
CITIES OF THE FIRST CLASS*

Section 17. Section 1001(b) of the act, added June 18, 1998 (P.L.626, No.82), is amended and the section is amended by adding a subsection to read:

Section 1001. Alternative funding mechanism.

* * *

(b) Period of payment requirements *prior to July 1, 2009*.—The period of the city's payment requirements under an alternative funding mechanism implemented prior to December 31, 2002, shall be the greater of:

(1) the remaining period not exceeding 30 years during which the city would have amortized the unfunded actuarial accrued liability reported in its last actuarial valuation report filed under Chapter 2 using the total amortization payment and interest assumption, reported in that actuarial valuation report; or

(2) 30 years.

If an alternative funding mechanism is implemented after December 31, 2002, *but before July 1, 2009*, the period described in paragraph (1) shall be the period of the city's payment requirements.

(b.1) Period of payment requirements beginning July 1, 2009.—The period of the city's payment requirements under an alternative funding mechanism implemented or refinanced in whole or in part on or after July 1, 2009, and prior to the beginning of the plan year that commences July 1, 2019, shall be the greater of:

(1) the remaining period not exceeding 30 years during which the city would have amortized the unfunded actuarial accrued liability reported in its latest actuarial valuation report filed under Chapter 2 using the total amortization payment and interest assumption, reported in that actuarial valuation report; or

(2) 30 years.

If an alternative funding mechanism is implemented after July 1, 2019, the period described in paragraph (1) shall be the period of the city's payment requirements.

* * *

Section 18. The act is amended by adding sections to read:
Section 1002. Cities of the first class.

(a) General rule; benefit plan study.—

(1) A city of the first class may elect to use the deferrals of required payments authorized under this section in lieu of the mandatory provisions of the financially distressed Municipal Pension System

Recovery Program contained in section 606 until January 1, 2016. Notwithstanding any other provision of this act or other law, the provisions of Chapters 5 and 6 in effect on July 1, 2009, shall continue in effect for, shall apply to and shall be utilized with respect to cities of the first class until January 1, 2016.

(2) Benefit plan studies of each benefit plan maintained or to be established by a city of the first class shall be conducted by a special commission comprised of the members of the city's pension and retirement board, the mayor of the city, the chair of the commission and the chair of the governing board of the Pennsylvania Intergovernmental Cooperation Authority. The chair of the governing board of the Pennsylvania Intergovernmental Cooperation Authority shall serve as chair of the special commission. The city's pension and retirement board shall provide and pay for actuarial and administrative support to the special commission. The first study shall be completed within two years following the effective date of this section. Subsequent reports shall be completed every two years thereafter until January 1, 2016. Copies of the reports shall be submitted to the chair and minority chair of the Appropriations Committee of the Senate, the chair and minority chair of the Finance Committee of the Senate, the chair and minority chair of the Appropriations Committee of the House of Representatives and the chair and minority chair of the Finance Committee of the House of Representatives and shall be available for inspection by the public.

(b) Amortization.—Notwithstanding any other law to the contrary, the city may amortize its entire unfunded actuarial accrued liability, as measured on a valuation date selected by the city that occurs in the plan year commencing July 1, 2009, as a level dollar amount with the amortization target date being the end of the plan year occurring 30 years after the plan year commencing July 1, 2009, with payments to commence in the next plan year. In order to extend the amortization schedule provided under this subsection, the city must comply with the following:

(1) File a revised actuarial valuation report reflecting the amortization period extension and the actuarial assumed rate in effect on the valuation date with the commission no later than March 31, 2010.

(2) The revised actuarial valuation under paragraph (1) may not be filed in lieu of the actuarial valuation report required under section 202(b)(4)(v)(A) to be filed March 31, 2010, and may be used only for the purposes of recalculating the minimum municipal obligation of the city for the plan year commencing July 1, 2009, and calculating the minimum municipal obligation of the city for the plan year commencing July 1, 2010, to reflect the amortization period extension. The revisions in the revised report shall supersede comparable information in the original report.

(3) A revised actuarial valuation report under this subsection shall not affect distributions under the General Municipal Pension System State Aid Program under Chapter 4.

(c) Revised obligation.—Notwithstanding any other provision of law to the contrary, the city is authorized to defer a portion of the minimum municipal funding obligation required under section 302 in accordance with the following:

(1) For the plan year ending June 30, 2010, deferral may be in an amount not to exceed \$155,000,000.

(2) For the plan year ending June 30, 2011, deferral may be in an amount not to exceed \$80,000,000.

(d) Interest.—Amounts deferred under subsection (c) shall bear interest at the rate of 8.25% which shall be calculated from the beginning of the plan year in which the deferral was made. Accrued interest on amounts deferred shall be paid annually on or before June 30th of the years 2010, 2011 and 2012.

(e) Repayment.—On or before June 30, 2013, the city shall repay the following:

(1) If the amount deferred is equal to or greater than \$90,000,000, at least \$90,000,000, plus interest accrued on all amounts deferred.

(2) If the total amount deferred is less than \$90,000,000, the total amount deferred, plus interest accrued on that amount.

(f) Balance.—The balance of all amounts deferred, including interest accrued and unpaid on amounts deferred, shall be repaid by June 30, 2014.

(g) Unpaid amounts.—Amounts deferred and interest under subsections (c) and (d) which are not repaid under subsection (f) shall be added to the minimum municipal obligation of the city for the following plan year, with interest calculated and due until the date the amounts due are paid.

(h) Requirements.—In order to retain the authority to utilize the deferrals under this section, the city must repay the deferred amount required under subsection (e) by June 30, 2013, and the deferred amount required under subsection (f) by June 30, 2014.

(i) Withholding.—If the city fails to meet any of the requirements of subsection (h), the following apply:

(1) The commission shall notify the Secretary of the Budget and the State Treasurer of the city's failure to comply with subsection (h) and send a copy of the notice to the chair and minority chair of the Appropriations Committee and the Finance Committee of the Senate and the Appropriations Committee and the Finance Committee of the House of Representatives:

(2) The secretary shall assist the State Treasurer in the identification of grants, loans, entitlements and payments made to the city by the Commonwealth.

(3) *Except as set forth in paragraph (4), within 30 days of receipt of the notice, the State Treasurer shall withhold any grant, loan, entitlement, payment or combination of grants, loans, entitlements and payments to the city by the Commonwealth, or any of its agencies, in an amount equal to deferral amounts not repaid under subsections (e) and (f). The amount withheld shall be deposited into the city's pension fund.*

(4) *The State Treasurer shall not withhold the following:*

(i) *Funds for capital projects under contract.*

(ii) *Funds granted from the Federal Government or the Commonwealth relating to a declaration of disaster.*

(iii) *Pension fund payments.*

(iv) *Funds administered by the city's department of human services or department of health.*

(v) *Funds pledged to repay bonds or notes issued under the act of October 18, 1972 (P.L.955, No.234), known as The First Class City Revenue Bond Act.*

(j) *Reports.—During a period in which deferrals of the minimum municipal obligation or interest on the obligation are outstanding, the city shall file actuarial valuation reports annually with the commission.*

(k) *Calculation.—The calculation of the unfunded actuarial accrued liability made and certified by an approved actuary under section 202 shall not include any amounts deferred under this subsection so long as the city is paying interest accrued on the deferred amounts and repaying the deferred amounts in accordance with the terms of this subsection.*

(l) *Binding obligation.—The repayment of amounts deferred, including interest accrued on deferred amounts, as and when required under this subsection shall constitute a binding and absolute commitment on the city. The city shall include all amounts due to be paid under this subsection in the budget of the city and all amounts due to be paid shall be appropriated and paid in order to make timely repayment of any amounts deferred, including interest accrued on deferred amounts. Payment shall be unconditional and without setoff.*

(m) *Standing.—A person who is beneficially interested in the city paying its minimum municipal obligation, including amounts deferred, under this subsection shall have standing to institute a legal proceeding for mandamus to enforce the obligation of the city to make required repayments in the same manner as a proceeding to enforce payment requirements of an alternative funding mechanism under section 1001. A beneficially interested person is a person who meets the qualifications set forth in section 1001(f).*

(n) *Payment.—The city shall be required to pay the balance of its minimum municipal obligation in full when due in each plan year.*

Section 1003. Special taxing authority.

(a) *Imposition of tax.—*

(1) A city of the first class may elect to impose a tax on the “sale at retail” of “tangible personal property” or services or “use” of “tangible personal property” or services “purchased at retail,” as defined in section 201 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(2) The tax imposed under this section shall be in addition to the tax authorized under section 503(a) and (b) of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(3) The tax authorized under this subsection shall not be levied, assessed and collected upon the occupancy of a room in a hotel in the city of the first class.

(4) This subsection shall expire July 1, 2014.

(5) Notwithstanding paragraph (4), all tax imposed under this subsection on sales or uses occurring before July 1, 2014, shall be paid to and received by the Department of Revenue and, along with interest and penalties, less any refunds and credits paid, shall be credited to the local sales and use tax fund created under the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class. Money in the fund shall be disbursed as provided in section 509 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(b) Rate.—The tax authorized under subsection (a) shall be imposed and collected at the rate of 1% and shall be computed as set forth in section 503(e)(2) of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(c) Collection.—The tax authorized under subsection (a) shall be administered, collected, deposited and disbursed in the same manner as the tax imposed under Chapter 5 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class and the situs of the tax shall be determined in accordance with the Pennsylvania Intergovernmental Cooperation Authority Act and Article II-A of the Tax Reform Code of 1971. The Department of Revenue shall use the money received by the Department of Revenue from the tax authorized under Chapter 5 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class to cover costs for the administration of the tax authorized under subsection (a). The Department of Revenue shall not retain any additional amounts for the cost of collecting the tax authorized under subsection (a). No additional fee shall be charged for a license or license renewal other than the license or renewal fee authorized and imposed under Article II of the Tax Reform Code of 1971.

(d) Municipal action.—In order to impose the tax, the governing body of the city shall adopt an ordinance stating the tax rate. The ordinance may be adopted prior to the effective date of this subsection. The ordinance shall be effective no earlier than 20 days after the adoption of the

ordinance or 20 days after the effective date of this section, whichever is later. A certified copy of the city ordinance shall be delivered to the Department of Revenue within ten days prior to or after the effective date of the ordinance. A certified copy of an ordinance to repeal the tax authorized under subsection (a) shall be delivered to the Department of Revenue at least 30 days prior to the effective date of repeal.

(e) Use of tax receipts.—All money received by the city from the levy, assessment and collection of the tax authorized under subsection (a) may only be used for the following purposes:

(1) To pay any amounts of the city's minimum municipal obligation required under section 302, including amounts deferred under section 1002(c) and interest accrued on deferred amounts when the amounts are due in any plan year.

(2) To reimburse the city for payments of the minimum municipal obligation for fiscal year 2009-2010 and any fiscal year during which the tax is imposed made by the city from sources other than the tax authorized under subsection (a). No tax receipts shall be used to reimburse the city of the first class for any contribution to the city minimum municipal obligation made prior to fiscal year 2009-2010.

(f) Certification of continued necessity.—On or before June 30 of each year beginning in 2010 and ending in 2013, the mayor of a city imposing a tax authorized under subsection (a) shall submit a certification to the chair and minority chair of the Appropriations Committee of the Senate, the chair and minority chair of the Finance Committee of the Senate, the chair and minority chair of the Appropriations Committee of the House of Representatives and the chair and minority chair of the Finance Committee of the House of Representatives stating that imposition of the tax imposed under subsection (a) is necessary to implement the financial plan of the city as submitted by the city to the Pennsylvania Intergovernmental Cooperation Authority pursuant to section 209(e) of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class. The certification required by this subsection shall be available for inspection by the public.

Section 19. The act is amended by adding a chapter to read:

**CHAPTER 11
DEFERRED RETIREMENT OPTION PLANS**

**SUBCHAPTER A
PRELIMINARY PROVISIONS**

Section 1101. Scope of chapter.

(a) Applicability.—This chapter shall apply to a local government which does not have a deferred retirement option plan on the effective date of this section.

(b) Elected officials.—

(1) *A deferred retirement option plan established on or after the effective date of this paragraph shall not be available to an elected official.*

(2) *A deferred retirement option plan established prior to the effective date of this paragraph shall be available to an official elected prior to the effective date of this section who runs for reelection.*

Section 1102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Normal retirement benefit.” The retirement benefit payable to a member of a defined benefit pension plan on or after the date on which the member first satisfies the age and service requirements for full, unreduced retirement benefits, including supplemental amounts provided to the member after retirement as cost-of-living increases.

“Subsidiary DROP participant account.” The separate, interest-bearing, subsidiary DROP participant account established for a DROP participant under section 1121.

Section 1103. (Reserved).¹

Section 1104. Employment status.

Participation in a DROP does not guarantee the DROP participant’s employment by the local government during the specified period of the DROP.

SUBCHAPTER B GENERAL PROVISIONS

Section 1111. Establishment of DROP.

(a) *Local governments.—A local government that has established or maintains a defined benefit pension plan for a group of its employees which is self-insured in whole or in part under section 202(b), except for a local government that has joined the Pennsylvania Municipal Retirement System, may establish by ordinance a DROP for those employees as part of the pension plan. The ordinance establishing the DROP shall specify a uniform participation period of not more than five years in duration.*

(b) *Participants.—A local government that has established or maintains a defined benefit plan for a group of its employees which is self-insured in whole or in part under section 202(b) and has joined the Pennsylvania Municipal Retirement System may establish a DROP for those employees as a part of the pension plan only through participation in the DROP established and administered by the Pennsylvania Municipal Retirement System.*

(c) *Standards.—The Pennsylvania Municipal Retirement Board shall establish a DROP for local government-defined benefit pension plans that*

¹“Section 1103. (Reserved).” omitted in enrolled bill.

have joined the Pennsylvania Municipal Retirement System. The DROP shall be uniform, in compliance with the provisions of this chapter, open to any local government and applicable to any of the defined benefit pension plans administered by the Pennsylvania Municipal Retirement System.

Section 1112. Eligibility.

An active member of a local government retirement system that has a DROP as a part of its defined benefit pension plan who is eligible for a normal retirement benefit under the pension plan or will be eligible for a normal retirement benefit under the pension plan prior to participation in the DROP and who is not an elected official is eligible to participate in the DROP by filing a written application with the retirement system at least 30 days before the member's effective date of retirement.

Section 1113. Participation in DROP.

(a) Election.—An eligible active member may elect to participate in a DROP for the period specified in the ordinance under section 1111(a).

(b) DROP participation election.—Upon deciding to participate in a DROP, a member shall submit on forms provided and required by the retirement system:

(1) A binding and irrevocable letter of resignation from regular employment with the local government that discloses the member's intent to retire and specifies the member's retirement date.

(2) An irrevocable written election to participate in the DROP that:

(i) Details a DROP participant's rights and obligations under the DROP.

(ii) Includes an agreement to forgo:

(A) Active membership in the retirement system.

(B) Any growth in the salary base used for calculating the regular retirement benefit.

(C) Any additional benefit accrual for retirement purposes, including length-of-service increments.

(iii) Specifies the effective date of DROP participation that shall be the day after the specified retirement date.

(iv) Specifies the DROP termination date that satisfies the limitation in subsection (a).

(3) Any other information required by the retirement system.

(c) DROP termination.—

(1) A DROP participant may change the DROP termination date to an earlier date within the limitations of subsection (a). No penalty shall be imposed for early termination of DROP participation.

(2) Upon either early or regular termination of DROP participation:

(i) The DROP participant shall be separated from employment by the local government.

(ii) The retirement system shall pay the balance in the DROP participant's subsidiary DROP participant account to the terminating DROP participant as provided in section 1114(d).

(iii) The DROP participant shall be ineligible to reenroll in the DROP thereafter even if the former DROP participant is reemployed by the local government with renewed active membership in the retirement system.

Section 1114. Benefits payable under DROP.

(a) Fixing retirement benefit, retirement date, retirement benefits and DROP dates.—Effective with the date of retirement, which shall be the day before the effective date of DROP participation, the member's monthly, normal retirement benefit under the pension plan, the member's effective date of retirement and the member's effective dates of beginning and terminating employment as a DROP participant shall be fixed.

(b) Effective dates.—

(1) A retired member's effective date of participation in a DROP shall begin the day following the effective date of the member's regular retirement.

(2) A retired member's participation in a DROP shall end on the last day of the participation period specified in the ordinance establishing the DROP that is in effect on the effective date of the retired member's participation in the DROP.

(c) Benefit payments and accruals.—All of the retired member's monthly, normal retirement benefit and interest thereon at the assigned rate shall be credited to the DROP participant's subsidiary DROP participant account in the pension trust fund and a separate accounting of the DROP participant's accrued benefit accumulation under the DROP shall be calculated annually and provided to the DROP participant.

(d) Payment.—On the effective date of a DROP participant's termination of employment with the local government as a DROP participant, participation in the DROP shall cease and the retirement system shall calculate and pay to the participant the participant's total accumulated DROP benefits in the DROP participant's subsidiary DROP participant account subject to the following provisions:

(1) Except as provided in paragraph (2), the terminating DROP participant or, if deceased, the participant's survivor as provided by the enabling pension statute applicable to the appropriate class of employees of the municipality or, in lieu thereof, the participant's named beneficiary, shall elect on a form provided by the retirement system to receive payment of the DROP benefits in accordance with one of the following options:

(i) The balance in the DROP participant's subsidiary DROP participant account less withholding taxes, if any, remitted to the Internal Revenue Service shall be paid within 45 days by the retirement system from the account to the DROP participant or surviving beneficiary.

(ii) The balance in the DROP participant's subsidiary DROP participant account shall be paid within 45 days by the retirement

system from the account directly to the custodian of an eligible retirement plan as defined in section 402(c)(8)(B) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 402(c)(8)(B)), or, in the case of an eligible rollover distribution to the surviving spouse of a deceased DROP participant, an eligible retirement plan that is an individual retirement account or an individual retirement annuity as described in section 402(c)(9) of the Internal Revenue Code of 1986.

(2) If the DROP participant or beneficiary fails to elect a method of payment within 60 days after the participant's termination date, the retirement system shall pay the balance as a lump sum as provided in paragraph (1).

(3) The form of payment selected by the DROP participant or surviving beneficiary shall comply with the minimum distribution requirements of the Internal Revenue Code of 1986.

(e) Taxation, attachment and assignment.—

(1) Except as provided in paragraphs (2), (3) and (4), the right of a DROP participant to any benefit or right accrued or accruing under the provisions of this chapter and the moneys in the DROP participant's subsidiary DROP participant account are exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election or any other process whatsoever.

(2) Rights under this chapter shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any DROP participant otherwise would receive under this chapter.

(3) Rights under this chapter shall be subject to attachment in favor of an alternate payee as set forth in a qualified domestic relations order.

(4) (i) Under subsection (d)(1)(ii), a distributee may elect to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover.

(ii) For purposes of this paragraph, a "distributee" includes a DROP participant, a DROP participant's survivor as provided by the enabling pension statute applicable to the appropriate class of employees of the municipality or, in lieu thereof, the participant's designated beneficiary and a DROP participant's former spouse who is an alternate payee under a qualified domestic relations order.

(iii) For purposes of this paragraph, "eligible rollover distribution" has the meaning given the term by section 402(f)(2)(A) of the Internal Revenue Code of 1986, except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution and, in the case of an eligible rollover distribution to a surviving spouse, an eligible

retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in section 408(a) and (b) of the Internal Revenue Code of 1986.

(f) *Disability.*—If a DROP participant becomes eligible for a disability pension benefit and terminates employment, the monthly normal retirement benefit of the DROP participant shall terminate.

(g) *Eligibility.*—Except for those benefits specified under section 1113(b)(2)(ii) as forgone by the member, a DROP participant shall be eligible for any employee benefits provided to active employees before retirement as set forth in the ordinance instituting the DROP.

(h) *Eligibility for other benefits.*—A DROP participant shall be eligible for all preretirement benefits for employees otherwise provided by law including, but not limited to, benefits under:

(1) the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act;

(2) the act of June 28, 1935 (P.L.477, No.193), referred to as the Enforcement Officer Disability Benefits Law;

(3) the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No.1), known as the Unemployment Compensation Law;

(4) the act of June 24, 1976 (P.L.424, No.101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act; and

(5) the Public Safety Officers' Benefit Act of 1976 (Public Law 94-430, 42 U.S.C. § 90 Stat. 1347).

Section 1115. Death benefits under DROP.

(a) *Named beneficiary.*—If a DROP participant dies, the DROP participant's named beneficiary shall be entitled to apply for and receive the benefits accrued in the DROP participant's subsidiary DROP participant account as provided in section 1114(d).

(b) *Final benefit.*—The monthly retirement system benefit accrued in the DROP participant's subsidiary DROP participant account during the month of a DROP participant's death shall be the final monthly retirement system benefit credited for DROP participation.

(c) *Termination of eligibility.*—A DROP participant's eligibility to participate in the DROP terminates upon the death of the DROP participant. If a DROP participant dies on or after the effective date of participation in the DROP but before the monthly retirement system benefit of the participant accruable for the month has accrued in the DROP participant's subsidiary DROP participant account, the local government shall pay the monthly retirement system benefits as though the participant had not elected DROP participation and had died after the member's effective date of retirement but before receipt of the retired member's first regular retirement benefit.

(d) *Survivors ineligible for death benefit.*—Except for those benefits specifically payable as a result of death incurred in the course of performing a hazardous public duty, the survivors of a DROP participant

who dies shall not be eligible to receive retirement system death benefits payable in the event of the death of an active member.

(e) *Survivors eligible for retired member's death benefit.*—The DROP participant's survivor shall be eligible to receive retirement system death benefits normally payable in the event of the death of a retired employee.

Section 1116. Subsequent employment.

After both the termination of a DROP participant's employment as a DROP participant by the local government and the expiration of the DROP participation period, a former DROP participant shall be subject to such reemployment limitations as other retired members and shall be eligible for renewed membership as an active member in the local government employees' retirement system.

SUBCHAPTER C ADMINISTRATIVE PROVISIONS

Section 1121. DROP participant account.

(a) *General rule.*—If a local government creates a DROP, it shall establish a DROP participant account as an interest-bearing ledger account in its pension trust fund. The account balance shall be accounted for separately but need not be physically segregated from other pension trust fund assets.

(b) *Subsidiary DROP participant accounts.*—A separate interest-bearing subsidiary DROP participant account shall be established for each DROP participant. While a retired member is employed as a DROP participant, the member's monthly, normal retirement benefit and interest thereon shall be credited to the DROP participant's subsidiary DROP participant account under section 1114(c). The interest shall be compounded and credited monthly at the actuarial rate earned by the DROP participant account that shall not be less than 0% nor more than 4 1/2%.

(c) *Termination of employment.*—When a DROP participant terminates employment with the local government as a DROP participant, the DROP participant's total accumulated benefits shall be calculated, charged to the DROP participant account and paid out of the pension trust fund under section 1114(d)(2).

(d) *Account held in trust.*—A DROP participant account shall be held in trust for the exclusive benefit of DROP retired members who are or were DROP participants and for the beneficiaries of the members.

Section 1122. Audit.

The DROP established by the Pennsylvania Municipal Retirement Board shall be subject to financial and compliance audits conducted by the Auditor General with the initial audit conducted within one year of establishment of the DROP.

Section 1123. Existing DROPs.

A local government that established a DROP prior to or on the effective date of this section that does not conform to the provisions of this chapter relating to elected officials shall amend its plan within 180 days of the effective date of this section or when the current labor-management contract creating the plan expires, whichever is later, to conform with the provisions of this chapter with respect to future DROP participants who are elected officials.

Section 1124. Noncompliance.

(a) General rule.—If a local government that established a DROP under section 1111(a) or the Pennsylvania Municipal Retirement Board that established a DROP under section 1111(c) fails to comply within 90 days with a finding by the Auditor General of noncompliance with this chapter or if the finding is appealed within 90 days of conclusion of the appeal process, the failure to comply shall be deemed sufficient refusal by the local government or the Pennsylvania Municipal Retirement Board to comply with its duty antecedent to the commencement of a mandamus action and the Auditor General shall refer the finding to the Attorney General.

(b) Mandamus action.—Upon receipt of the finding from the Auditor General, the Attorney General shall proceed in the name of the Commonwealth to institute a legal proceeding for mandamus and no other remedy at law shall be deemed to be sufficiently adequate and appropriate to bar the commencement of this action.

SUBCHAPTER D DESIGNATIONS

Section 1131. Spouse.

(a) Authorization.—Notwithstanding any ordinance or any rule, regulation, procedure or policy of a municipal pension system to the contrary, an active member of a municipal pension system may designate the member's spouse to be the beneficiary of the member's pension, regardless of the date of the marriage.

(b) Applicability.—The authorization under subsection (a) shall apply retroactively to designations made after December 31, 2006.

Section 19.1. The provisions of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Commission Act, are hereby waived and shall not apply to this act.

Section 20. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of section 902 of the act.

(2) Section 308 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, is repealed.

Section 21. This act shall take effect as follows:

(1) The addition of Chapter 7-A of the act shall take effect in 90 days.

(2) The remainder of this act shall take effect immediately.

SESSION OF 2009

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APPROVED—The 18th day of September, A.D. 2009.

EDWARD G. RENDELL