

Act effective
immediately.

ards, its dominant theme taken as a whole appeals to prurient interest.

Section 2. This act shall take effect immediately.

APPROVED—The 23rd day of September, A. D. 1959.

DAVID L. LAWRENCE

No. 390

AN ACT

Amending the act of June 4, 1943 (P. L. 886), entitled, as amended, "An act creating a Municipal Employees' Retirement System for the payment of retirement allowances to officers and employees of political subdivisions and municipal authorities and of institutions supported and maintained by political subdivisions, and providing for the administration of the same by a board composed of certain state officers and others appointed by the Governor; imposing certain duties on the State Employees' Retirement Board and the actuary thereof; providing the procedure whereby political subdivisions and municipal authorities may join such system, and imposing certain liabilities and obligations on such political subdivisions and municipal authorities in connection therewith, and as to certain existing retirement and pension systems, and upon officers and employees of such political subdivisions; institutions supported and maintained by political subdivisions, and upon municipal authorities; providing certain exemptions from taxation, execution, attachment, levy and sale; and making an appropriation," defining certain words, establishing eligibility requirements for municipal membership in the retirement system, providing for payment of the expenses of administration, and changing the retirement allowances payable to beneficiaries and the administration of the funds and accounts of the system.

Municipal Em-
ployees' Retirement
Law.

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

Section 2, act of
June 4, 1943,
P. L. 886,
amended June 5,
1947, P. L. 434
and June 12,
1947, P. L. 601,
further amended.

Section 1. Section 2, act of June 4, 1943 (P. L. 886), known as the "Municipal Employees' Retirement Law," amended June 5, 1947 (P. L. 434) and June 12, 1947 (P. L. 601), is amended to read:

Section 2. Definitions.—The following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

"Board," the Municipal Employees' Retirement Board.

"Municipality," a city, borough, town, township, county, institution district, or [municipal] an authority created by a city, borough, town, township, county, or county institution district, or jointly by any such political subdivisions.

"Municipal Employee," a person holding an office or position under a municipality, an institution supported and maintained by a municipality, or under [a municipi-

pal] an authority, in any capacity whatever employed, and paid on a yearly or monthly or per diem basis, or employed and paid by the municipality or [municipal] authority with its funds, or through any separate institution supported and maintained through trustees or otherwise by the municipality. The term shall not include officers and employes paid wholly on a fee basis.

“Member,” a municipal employe who has become a member of the Municipal Employes’ Retirement System established by this act.

“Original Member,” a municipal employe who was a municipal employe at the date the municipality by which he is employed joined the retirement system established by this act.

“New Member,” a municipal employe who first becomes a municipal employe after the date the municipality by which he is employed joined the retirement system established by this act.

“Contributor,” a municipal employe *in active service* who has accumulated deductions standing to his credit in the member’s account of the fund created by this act.

“Beneficiary,” a person who was a municipal employe but has retired, and is receiving a retirement allowance as provided in this act.

“Prior Service,” all service as a municipal employe completed at the time the municipality by which he is or was employed elected to join the retirement system established by this act or the same municipality under a prior name or classification, unless the municipality has elected to limit to ten years the period of such service.

“Prior Salary,” the annual salary or compensation earned by a municipal employe and paid by the municipality during the year immediately preceding the date the municipality by which he is employed joined the retirement system established by this act. [In computing prior salary, if the amount thereof shall exceed four thousand dollars (\$4,000) it shall for the purpose of this act, be limited to four thousand dollars (\$4,000).]

“Superannuation Retirement Age,” sixty-five years of age or upwards.

“Final Salary,” the average annual salary or compensation earned by a municipal employe and paid by the municipality during the last five years immediately preceding retirement, or if not so long employed, then the average annual salary or compensation paid during the whole period of such employment. [In computing final salary, if the amount thereof shall exceed four thousand dollars (\$4000), it shall, for the purpose of this act, be limited to four thousand dollars (\$4000).]

“Accumulated Deductions,” the total amount deducted from the salary or compensation of the contributor and paid over by the municipality or paid by the municipal employe or from any existing pension or retirement system directly into the retirement fund and credited to the member’s account, together with regular interest thereon.

“Regular Interest,” [interest at two and one-half per cent per annum compounded annually, and in case of interest earnings in excess of two and one-half per cent, shall mean the interest actually earned on investments in any year.] *shall be the rate fixed by the board, from time to time, on the basis of earnings on investments.*

“Municipal Annuity,” that portion of the retirement allowance derived from contributions made by the municipality.

“Member’s Annuity,” that portion of the retirement allowance derived from the accumulated deductions of the municipal employe.

“Retirement Allowance,” the municipal annuity plus the member’s annuity *plus a disability annuity, if the member is entitled to a disability annuity under provisions of this act.*

“Fund,” the Municipal Employes’ Retirement Fund created by this act.

“Municipal Account,” *the account to which shall be credited the contributions made by municipalities toward the superannuation retirement of employes.*

“Member’s Account,” *the account to which shall be credited the pay roll deductions and other contributions of municipal employes.*

“Retired Member’s Reserve Account,” *the account from which all retirement allowances shall be paid whether for superannuation, involuntary or total disability retirement.*

“Service Connected Disability,” *total and permanent disability of a member prior to eligibility for superannuation retirement resulting from a condition arising out of and incurred in the course of his employment, and which is compensable under the applicable provisions of the act of June 2, 1915 (P. L. 736), known as “The Pennsylvania Workmen’s Compensation Act,” or the act of June 21, 1939 (P. L. 566), known as “The Pennsylvania Occupational Disease Act.”*

“Total Disability Reserve Account,” *the account to which shall be credited the contributions made by municipalities toward the disability retirement of employes.*

Section 2. Section 7 of the act, amended June 12, 1947 (P. L. 601), is amended to read:

Section 7 of the act, amended June 12, 1947, P. L. 601, further amended.

Section 7. Election by Municipalities to Join Retirement System.—Any municipality *which has placed its employes in so far as they are eligible under the Federal Social Security Act*, may elect, by ordinance or resolution adopted by the tax levying body, or in the case of municipal authorities by the board of such municipal authority, to join the retirement system established by this act. In the case of townships of the second class, no such resolution shall be adopted, except by unanimous vote of all three supervisors.

Any municipality, by action of its tax levying body may, and upon petition of electors equal to at least ten per centum of the registered electors of the municipality, shall, submit the question of joining such retirement system to the voters of the municipality at any municipal or general election, in the same manner as other questions are submitted to the electors under the Election Code of the Commonwealth. If the majority of the electors voting on the question vote in favor thereof, the tax levying body shall adopt an ordinance or resolution electing to join such system. If the electors vote against joining the system, then no further action shall be taken in the municipality for a period of two years.

A duly certified copy of any such ordinance or resolution electing to join the retirement system shall be filed with the State Employes' Retirement Board until the board created by this act has been established, and thereafter with the board created by this act: *Provided, That no municipality shall be eligible for membership in such system until its employes have been placed under the Federal Social Security Act in so far as they are eligible.*

Section 3. Sections 9 and 11 of the act are amended to read:

Sections 9 and 11 of the act, amended.

Section 9. Compulsory and Optional Membership.—If a municipality elects to join the retirement system established by this act, then each officer other than elected officers, and each employe thereof, except [such as] *those who are not eligible for Federal social security coverage and except those who are covered by an existing retirement or pension system and are exempted hereafter under section seventeen, paid on a yearly or monthly basis, shall be required to become a member of the retirement system. [Elected officers of the municipality and employes paid on a per diem basis shall have the privilege of becoming members of said system. And] Each municipality shall determine whether membership in said system for elected officials and employes paid on a per diem basis shall be compulsory, optional or prohibited.*

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

Section 11. Retirement Funds and Accounts.—The Municipal Employes' Retirement Fund shall consist of the money received from municipalities arising from contributions by municipalities, and from pay roll deductions from salary or compensation of members, and other contributions made by members through the municipality to the retirement system, from transfers made from municipal retirement or pension systems and credited as provided in this act, and interest earnings thereon.

Contributions made by municipalities *toward superannuation retirement of members* shall be credited to the municipal account of said fund, *contributions made by municipalities toward disability retirement of members shall be credited to the total disability reserve account of said fund*, and pay roll deductions and other contributions of municipal employes shall be credited to the member's account of said fund. Transfers made from municipal retirement or pension systems shall be credited as provided in this act.

The board shall keep separate accounts for each municipality and its municipal employes, *except the total disability reserve account which shall be maintained as a single account*. Each municipality and the municipal employes thereof shall be liable to the board for the amount of contributions required to cover the cost of the retirement allowances and other benefits payable to such employes. *Upon the granting of a superannuation retirement allowance or an involuntary retirement allowance to any contributor, the amount of such contributor's accumulated deductions in the member's account shall lose their status as accumulated deductions and shall be transferred to the retired member's reserve account and the actuarial equivalent of the municipal annuity shall be similarly transferred from the municipal account to the retired member's reserve account. Upon the granting of a disability retirement allowance to any contributor, there shall be transferred to the retired member's reserve account the amount of the contributor's accumulated deductions in the member's account, the amount of the accumulated municipal contributions standing to the credit of the contributor in the municipal account, and such additional amount from the total disability re-*

* "Joint" in original.

serve account as is needed in addition to the municipal and employe contributions to provide the actuarial equivalent of the total disability allowance to which the contributor is entitled.

Section 4. Section 14 of the act, amended June 5, 1947 (P. L. 434), is amended to read:

Section 14 of the act, amended June 5, 1947, P. L. 434, further amended.

Section 14. Determination of Municipal Liability.—The actuary shall, as soon as may be, determine the present value of the liability of each municipality for the prior service credits to its original members, and shall establish an amount payable annually over a period not exceeding thirty years, through which payments such prior service liability may be funded. Each municipality shall have the option to spread the payment of such prior service liability over such period of years, or in lieu thereof, to make payments on account of such liability annually, in amounts sufficient to pay the prior service liability of the municipal annuity of each beneficiary payable during such year.

The municipal liability to be determined by the actuary shall be based upon credit for all years of prior service toward the municipal annuity of each original member, subject to such of the following options as the municipality may elect: (1) The municipality may limit to ten years the credit for prior service toward the municipal annuity of each original member; (2) The municipality may assume the liability for payment of the member's contributions for the prior service or any portion thereof of each original member.

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

The amounts so determined by the actuary may be expressed in a percentage of the pay roll of the municipality covering its contributing members.

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

Section 5. Section 16 of the act is amended to read:

Section 16 of the act, amended

Section 16. Annual Estimates to Municipalities; Administrative Expenses.—The board shall prepare and

submit to each municipality, on or before the first day of the fourth month preceding the commencing of its fiscal year, an itemized estimate of the amounts necessary to be appropriated by the municipality to complete the payments of the obligations of the municipality to the fund during the next fiscal year. It shall also include, in each such estimate, the amount required to be paid by the municipality to pay the costs of administering this act, including the additional compensation of the actuary and the secretary, the salary and compensation of additional employes required, postage, supplies, telephone, telegraph, printing and traveling and incidental expenses. The amounts so paid by municipalities, on account of administration expenses, shall be apportioned by the board on an equitable basis *but shall not exceed the sum of ten dollars (\$10) per member per year.*

The amounts paid by municipalities, on account of administrative expenses, shall be paid into the State Treasury and shall be credited to the current appropriation of the State Employes' Retirement Board, for use and expenditure by the Municipal Employes' Retirement Board in administering the provisions of this act. Any balance of such municipal contributions, on account of administrative expenses remaining unexpended at the end of a fiscal biennium, shall be credited to the appropriation to the State Employes' Retirement Board for the next fiscal biennium, and none of said municipal contributions shall be deemed to have lapsed.

The amounts required to be paid by municipalities under the provisions of this act shall be paid out of moneys raised annually by general taxation, [and] *or* in the case of townships of the second class, out of taxes levied for road, *bridge and general township* purposes *and out of moneys received from the State which are designated for pension purposes.*

Section 18 of the act, amended April 19, 1945, P. L. 265 and amended in part June 5, 1947, P. L. 434, further amended.

Section 6. Section 18 of the act, amended April 19, 1945 (P. L. 265), and amended in part June 5, 1947 (P. L. 434), is amended to read:

Section 18. Contributions by Members; Consolidation of Credits; Change of Employment.—Each member of the retirement system shall be required to contribute to the fund such per centum of his actual salary or compensation, including fees where paid in part on a fee basis, as shall be computed by the actuary to be approximately sufficient to procure for him on a superannuation retirement age, a member's annuity of [one one-hundred-thirtieth] *approximately one two-hundred-fiftieth of that portion of his final salary on which social security benefits are payable and of one one-hundred-twenty-fifth of any portion of his final salary in excess*

of the amount on which social security benefits are payable for each year of service, after the time the municipality by which he is employed joined the retirement system, which contributions shall be paid into the fund by the municipality through pay roll deductions in such manner and at such times as the board may by rule and regulation determine.

In order to increase his member's annuity, each member shall also have the option to make contributions for his prior service. Such contributions for prior service may be anticipated in whole or in part at the time the municipality joins the retirement system, or payment thereof or of such part thereof as is not anticipated, may be spread over a period of time by increasing the pay roll deduction of the member by at least one-third. [Where] *When* a member elects to contribute on account of his prior service, his rate of contribution shall be calculated as of his age at the time he first entered the service of the municipality: Provided, however, That any municipality may, at the time it elects to join the system established by this act, or at any time thereafter, agree with the board to pay into the fund as a part of its liability under and in accordance with section fourteen hereof, the moneys necessary to provide the member's contributions for prior service, and in such case no contributions for prior service shall be made by the members.

[If the rate of contribution so computed shall exceed five per centum of his earnable salary, the member may request the board to be permitted to contribute at a lesser rate, and if the board finds that there are reasons which justify such reduction, then there shall be deducted five per centum of his earnable salary.]

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

Where a contributor leaves the employ of a municipality which is a member of the system, and enters into the employ of another municipality which is also a member of the system, his service credits shall remain unimpaired, but in such cases the unpaid municipal liability for prior service shall be prorated by the board between the municipalities on an equitable basis.

Section 7. Subsection (b) of section 20 of the act, amended June 5, 1947 (P. L. 434), is amended to read:

Subsection (b), section 20 of the act, amended June 5, 1947, P. L. 434, further amended.

Section 20. Retirement for Superannuation.—Retirement for superannuation shall be as follows:

* * * * *

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

(1) A member's annuity which shall be the actuarial equivalent of his accumulated deductions; and

(2) A municipal annuity which shall be equal to (a) for current service, one [one-hundred-thirtieth] *one-hundred-twenty-fifth* of his final salary [(not exceeding, however, in any event, a final salary of four thousand dollars (\$4,000))] for each year of service while a member, and in addition thereto, (b) for prior service in the case of an original member, one [one-hundred-thirtieth] *one-hundred-twenty-fifth* of his prior [service (not exceeding, however, in any event, a final salary of four thousand dollars (\$4,000))] *salary* for each year of prior service [if the municipality has paid, or has obligated itself for the payment of, contributions necessary to provide for such additional one one-hundred-thirtieth] *or for a maximum of ten years if the municipality has so limited the period of prior service, and in addition thereto, one one-hundred-twenty-fifth of his prior salary of each year of prior service for which the municipality has paid or has obligated itself to pay the member's contributions. The municipal annuity related to that portion of a member's compensation on which social security benefits are payable shall in each case be reduced by one-half.*

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Subsections (a) and (d), section 23 of the act amended.

Section 8. Subsections (a) and (d) of section 23 of the act *are amended to read :

Section 23. Disability Retirement.—(a) After a contributor has had [five] *ten* or more years of service as a member, he may, upon application or on the application of one acting in his behalf, or upon application of a head of the department of the municipality by which he is employed, be retired by the board on a disability allowance if he is under superannuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the board, after medical examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the board that the contributor is physically or mentally incapacitated for the performance of duty, and that said contributor ought to be retired. *Where the disability of a contributor is determined to be service-connected, as defined in this act, no minimum period of service shall be required for eligibility.*

* "is" in original.

* * * * *

(d) On retirement for disability, a [contributor] member shall receive a retirement allowance which shall consist of—

(1) A member's annuity which shall be the actuarial equivalent of his accumulated deductions; [and]

(2) A municipal annuity which [, together with the member's annuity, shall be sufficient to produce a retirement allowance of thirty per centum of his final salary] shall be the actuarial equivalent of the municipal contributions to the credit of the member; and

(3) A disability annuity payable from the total disability reserve account which, together with the member's annuity and the municipal annuity, shall be sufficient to produce a retirement allowance of thirty per centum of the final salary. Where the disability of the member is determined to be service-connected, as defined in this act, the retirement allowance shall equal fifty per centum of his final salary. The disability annuity shall be reduced by the amount of any payments for which the member shall be eligible under the act of June 2, 1915 (P. L. 736), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P. L. 566), known as "The Pennsylvania Occupational Disease Act."

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APPROVED—The 23rd day of September, A. D. 1959.

DAVID L. LAWRENCE

—
No. 391

AN ACT

Authorizing counties, cities, boroughs, incorporated towns, townships, school districts, poor districts and county institution districts to file tax and municipal claims not filed within the time specified by law; and to amend such claims when the property affected is not sufficiently described; and to file suggestions of nonpayment and averments of default, or to sue out writs of scire facias on certain tax or municipal claims; and to revive judgments where the lien of such claims or the judgments thereon have been lost; and providing for the reinstatement of the liens of such claims and judgments.

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

Section 1. Whenever, heretofore or hereafter, any county, city, borough, incorporated town, township, school district, poor district or county institution district has failed to file in the office of the prothonotary of the county, any tax claim or municipal claim assessed

Tax and municipal claims.

Filing of such claims in office of prothonotary even though not filed within the time specified by law, etc., authorized.