

The fines shall be paid into and held by the State Treasurer in the "Bituminous Coal Open Pit Mining Reclamation Fund," provided for in section eighteen of this act, and shall be used by the Secretary of Mines *and Mineral Industries* for the sole purpose of foresting or reclaiming land affected by open pit mining of bituminous coal upon lands situated in the county in which the violation occurred.

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

DAVID L. LAWRENCE

No. 400

AN ACT

Providing for the creation, maintenance and operation of an employes' retirement system in cities of the second class A, and imposing certain charges on cities of the second class A and school districts in cities of the second class A.

Cities of second  
class A—pen-  
sions.

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

Section 1. The following words and phrases, as used in this act, shall be construed to have the following meanings:

"Board," the city retirement board created by this act.

"City employe," an officer or employe of the city whose salary or compensation is paid on a yearly or monthly basis, including the collector of taxes and employes of the office of collector of taxes and also any officer or employe regularly employed two hundred or more days per year whose compensation is paid on a per diem basis.

"Fund," the city employes' retirement fund created by this act.

"Accumulated deductions," the total of the amounts deducted from the salary of a contributor and paid into the fund created by this act and standing to the credit of the members' annuity reserve account, together with the regular interest thereon.

"Contributor," any person who has accumulated deductions in the fund created by this act standing to the credit of the members' annuity reserve account.

"Beneficiary," any person in receipt of a retirement allowance under this act.

"Prior service," all service as a city employe served not later than December thirty-first preceding the year a retirement system is established in any city.

“Original member,” a member who was a city employe on the date of establishment of a retirement system under this act.

“New member,” a city employe who shall have become a member of the retirement system subsequent to the date a retirement system is established under this act in any city.

“Superannuation retirement age,” as applied to a contributor, means sixty years of age.

“Final salary,” the average annual salary received by a contributor for the five years of service immediately preceding retirement, or in the event a member has not served five years, the total salary received divided by the number of years served.

“Regular interest,” interest at the rate of three and one-half per centum, compounded annually.

“City annuity,” payments for life or during disability derived from contributions made by the city.

“Member’s annuity,” payments for life or during disability derived from contributions made by the contributor.

“Retirement allowance,” the city annuity plus the member’s annuity.

Section 2. City Retirement System and City Retirement Board Created.—A retirement system may be established for city employes by ordinance in any city of the second class A which system, when established, shall be administered by a city retirement board, which shall consist of the president of the city council, or his representative, who shall be its chairman, the city treasurer, or his representative, and one city employe to be selected, from time to time, by the city employes for a term of two years. Each member of the board shall take an oath of office that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or permit to be violated any of the provisions of this act. Such oath shall be subscribed by the member taking it and shall be filed among the records of the board. The members of the board shall not receive any compensation for their services, but shall be reimbursed for all expenses necessarily incurred in the performance of their duty.

Two members of the board shall constitute a quorum.

The retirement system, herein provided for, shall be established immediately upon final enactment of the ordinance providing for the same.

Section 3. Personnel Administrative Expenses.—The board may appoint and fix the compensation of an actuary. The treasurer, or his appointee approved by

the board, shall be the secretary of the board and shall receive such compensation for his services as may be fixed by the city. The secretary shall keep a record of all of the proceedings of the board, which shall be open to inspection by the public. The expense of the administration of this act, exclusive of the payment of retirement allowances, shall be paid by the city by appropriations made on the basis of estimates submitted by the board.

Section 4. Rules and Regulations; Actuarial Data.—The board shall, from time to time, establish such rules and regulations for meetings of the board and for the administration of the city employes' retirement fund created by this act, and the various accounts thereof, as may be deemed necessary. It shall keep such data as shall be necessary for actuarial valuation purposes. The actuary of the board shall periodically make an actuarial investigation into the mortality and service experience of the contributors to, and beneficiaries of, the fund, and shall adopt for the retirement system one or more mortality tables, and certify to the board annually the amount of appropriation to be made by the city to the fund to build up and maintain adequate reserves for the payment of the city's share of the retirement allowances provided by this act.

Section 5. City Employes' Retirement Fund; Transfer of Member from One Class to Another.—There is hereby created in each city of the second class A, in which a retirement system has been established under this act, a city employes' retirement fund which shall consist of all moneys arising from appropriations made by the city and from contributions made by the members of the city employes' retirement system and all interest earned by the investments or moneys of the fund created by this act. The moneys contributed by the city shall be credited to a city annuity reserve account and those contributed by the members shall be credited to a member's annuity reserve account. Upon the granting of a retirement allowance to any contributor, whether as a superannuation retirement allowance, an involuntary retirement allowance or a total disability retirement allowance, as hereinafter provided, the amount of such contributor's accumulated deductions in the members' annuity reserve account shall lose their status as accumulated contributions and shall be transferred to a retired members' reserve account, and the actuarial equivalent of the city annuity shall be similarly transferred from the city annuity reserve account to the retired members' reserve account. The interest earnings shall be apportioned to the members' annuity and city annuity and retired members' reserve accounts. The actuary shall

determine the present value of the liability on account of all city annuities payable to original members and the percentage of such liability which shall be contributed by the city each year over a period of fifteen years from the time the system is established until the accumulated reserve equals the present value of said liability. All such contributions shall be credited to the city annuity reserve account. The actuary shall also determine the amount which shall be contributed by the city into the fund periodically for credit to the city annuity reserve account on account of service of all new and original members subsequent to the time the retirement system is established.

Each member of the retirement system shall be required to contribute to the fund such per centum of his salary, as shall be computed by the actuary, to be sufficient, with regular interest, to procure for him on superannuation retirement one one-hundred-twentieth of his final salary for each year of service after December thirty-first preceding the year the retirement system is established, which contributions shall be paid into the fund through payroll deductions in such manner as the board may require. All contributions by members shall be credited to the member's annuity reserve account.

The board may, at any time, by rule, authorize members of the retirement system, whether original or new members, to transfer from the one one-hundred-twentieth class or from the one one-hundredth class to the one-eightieth class, and whenever such transfer shall be authorized, salary deductions applicable to such transferred members shall be based upon the same age of the contributor as was used in determining the per centum of salary deduction applicable while in the one one-hundred-twentieth class or the one one-hundredth class, as the case may be.

Section 6. Custody of, and Payments from, Fund.— All moneys and securities in the fund created by this act shall be placed in the custody of the city treasurer for safekeeping, and all payments from said fund on account of retirement allowances, shall be made only on requisition signed by the chairman and secretary of the board.

Section 7. Management and Investment of Fund.— The members of the board shall be trustees of the fund created by this act and shall have exclusive management of said fund, with full power to invest the moneys therein, subject to the terms, conditions, limitations and restrictions imposed by law upon fiduciaries. Subject to like terms, conditions, limitations and restrictions, said trustees shall have power to hold, purchase, sell, assign, transfer or dispose of any of the securities and invest-

ments in said funds, as well as the proceeds of said investments and of the moneys belonging to said fund.

The board shall \*annually allow regular interest on the mean amount for the preceding year to the credit of each of the accounts created in accordance with the provisions of this act. The amount so allowed shall be credited to each contributor's account.

Section 8. Compulsory Membership.—Each city officer may, and each city employe shall, be required to become a member of the retirement system established by this act at the time the ordinance providing for the same becomes effective, and thereafter when first becoming a city employe. Those becoming members who have been at any time city employes prior to the first Monday of January of the year the retirement system is established, shall be known as original members, and those becoming members after said date as new members. Any person who becomes a city employe subsequent to the time the system was established, and who had been an employe of the city at any time theretofore, shall receive credit for the service prior to the time the system was established and be known as an original member, if said employe shall contribute to the fund the amount which he would have contributed if the retirement system had been in effect during such previous employment, in which event, the city shall contribute for each such employe the amount which it would have contributed if the retirement system had been in effect during such previous employment.

Section 9. Officers and Employes of Office of Collector of Taxes.—The collector of taxes may and employes of the office of collector of taxes shall become members of the retirement system, the same as is provided in the case of other city officers and employes. The contributions required to build up the reserves necessary for the payment of city annuities to such officers and employes, shall be made, jointly, one-half each by the city and the school district within the territorial limits of such city. The board of school directors of each such school district are hereby authorized and directed to appropriate moneys for the purpose of making such contributions.

Section 10. City Guarantee; Annual Budgets.—The regular interest charges payable and the creation and maintenance of the necessary reserves for the payment of the city and members' annuities in accordance with this act, are hereby made obligations of the city. The board shall prepare and submit to the city council, on or before the first day of November of each year, an itemized

\* "annually" in original.

estimate of the amounts necessary to be appropriated by the city to complete the payment of the obligations of the city during the next fiscal year.

Section 11. Service Allowance.—In computing the length of service of a contributor for retirement purposes, full credit shall be given to each original member for each year of service rendered to the city prior to January first of the year the retirement system was established. This shall include the service of a city official whose compensation was in the form of fees collected by his office, and shall also include the services of employes paid directly by such city official out of such fees. As soon as practicable, the retirement board shall issue to each original member a certificate, certifying the aggregate length of his service prior to January first of the year retirement system was established. Such certificate shall be final and conclusive as to his prior service, unless thereafter modified by the board upon application of the member. The time during which a member is absent from service without pay shall not be counted in computing the service of a contributor unless allowed by the city council and approved by the board.

Section 12. Credit for Military Service; Payment into Fund; Reimbursement.—Any city employe who, on or after September 16, 1940, has been employed by the city for a period of six months and who, on or subsequent to such date, shall have enlisted or been inducted into the military service of the United States in time of war, armed conflict or national emergency, so proclaimed by the President or the Congress of the United States, shall have credited to his employment record, for retirement benefits, all of the time spent by him in such military service during the continuance of such war, armed conflict, or national emergency, and such payments as were heretofore or shall hereafter be required to be made during such period by such city employe into the city employes' retirement fund shall be paid into such fund by the city. Any employes who have made payments into the city employes' retirement fund, for which payments the city is liable under the provisions of this act, shall be reimbursed by the city to the full extent of such payments or be given credit towards future payments under this act.

Section 13. Superannuation Retirement Allowance.—Any contributor who has reached superannuation retirement age may retire for superannuation by filing with the board a written statement duly signed by the contributor setting forth at which time he desires to be retired. Said application shall retire said contributor at the time so specified.

On retirement for superannuation, a beneficiary shall receive a retirement allowance which shall consist of (1) a member's annuity which shall be the actuarial equivalent of his accumulated deductions standing to his credit in the members' annuity reserve account, and (2) a city annuity equal to one one-hundred-twentieth of his final salary multiplied by each year of total service and in addition thereto in the case of an original member one one-hundred-twentieth of his final salary multiplied by each year of prior service. At any time, the board, by rule, may, by increasing the city annuity, authorize the payment of a minimum retirement allowance of one hundred dollars (\$100) per month to every beneficiary who has retired for superannuation after twenty years' service, but the total city annuity shall never exceed fifty per centum of the final salary.

Whenever the board has, by rule, authorized the members of the retirement system to transfer from the one one-hundred-twentieth class to the one one-hundredth class, or whenever the board shall hereafter, by rule, authorize the transfer to the one-eightieth class, the city annuity shall be calculated as follows:

(1) For service prior to the time of transfer, at the one one-hundred-twentieth rate or the one one-hundredth rate, as the case may be.

(2) For service subsequent to the time of transfer to the time of retirement, or to the time of a subsequent transfer, at the rate applicable during such period.

(3) For all service prior to the time of commencing contribution, as the time he contributed at the one one-hundred-twentieth rate bears to the total time of contribution and as the time he contributed at any other rate herein provided for bears to the total time of contribution.

Section 14. Options on Superannuation Retirement.—At the time of his superannuation retirement, any beneficiary may elect to receive either his retirement allowance payable throughout life, or to receive the full amount of the accumulated deductions standing to his individual credit in the member's annuity reserve account at the time of his voluntary or involuntary retirement, or he may in any event elect to receive the actuarial equivalent of his member's and city annuity in a lesser retirement allowance payable throughout life with provision that—

Option One. If he dies before receiving in payments the present value of his member's annuity and city annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person having an insurable interest in his life, as he shall nominate by written designation, duly acknowl-

edged and filed with the board at the time of his retirement or at any time thereafter.

Option Two. Upon his death his member's annuity and city annuity shall be continued through the life of and paid to such person having an insurable interest in his life as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement.

Option Three. Upon his death one-half of his member's and city annuity shall be continued through the life of and paid to such person having an insurable interest in his life as he shall nominate by written designation duly acknowledged and filed with the board at the time of his retirement.

Section 15. Involuntary Retirement Allowances, Voluntary Retirement Allowances after Twenty-five Years of Service.—Should a contributor be discontinued from service not voluntarily, or an elected city officer complete his term of office and discontinue service after having completed ten years of total service or voluntarily after having completed twenty-five years of total service but before reaching superannuation retirement age, he shall be paid as he may elect, as follows: (1) the full amount of the accumulated deduction standing to his credit in the members' annuity reserve account; or (2) a member's annuity of equivalent actuarial value to his accumulated deductions standing to his credit in the member's annuity reserve account and, in addition, a city annuity having a value equal to the present value of a city annuity beginning at superannuation retirement age, but based on the period of service up to the date of discontinuance from service and not on the period of service required to reach superannuation retirement age. The same options shall be available to beneficiaries in case of involuntary retirement as provided herein in the case of superannuation retirement.

Section 16. Retirement as of Time of Death.—Any contributor who is entitled to retire under the provisions of this act by reason of having completed twenty-five years of total service or by reason of having reached superannuation retirement age may file with the retirement board a written application for retirement in the form required for such application, but requesting that such retirement shall become effective as of the time of his death, electing one of the options provided in section 12 and nominating a beneficiary under said option as required in said section.

In all such cases, the application shall be held by the retirement board until the contributor shall file a later application in the usual manner for retirement or until



the death of the contributor occurring while in city service, at which time his retirement shall become effective with the same benefits to the designated beneficiary as if the contributor had retired on the day immediately preceding his death.

Section 17. Retirement While in City Service.—Any contributor who is or was entitled to retire under the provisions of this act by reason of having completed twenty-five years of total service or by reason of having reached superannuation retirement age, and who shall die while in city service before filing with the retirement board a written application for retirement, as heretofore provided, or has died and whose payments into the fund have not been withdrawn, shall be considered as having elected Option one as provided in section 14 of this act, as of the date of his or her death. In such event, payment under Option one shall be made to the beneficiary designated in the nomination of beneficiary form on file with the retirement board. If said beneficiary has predeceased the contributor, payment under Option one shall be made to the legal representative of said contributor.

Section 18. Total Disability Retirement Allowance.—If a contributor after five years of service as a city employe and before reaching superannuation retirement age is disabled while in service and is unable to continue as a city employe as shown by medical examination, he shall be paid a retirement allowance consisting of the city annuity to which he is entitled as of the date of retirement and an additional annuity equal to twenty-five per centum of his final salary which shall include the member's annuity calculated in accordance with section 13 of this act.

Section 19. Payment of Balances Where Disability Annuitant Dies.—Should a person receiving a disability retirement allowance die before receiving total payments equal to the amount standing to his credit in the member's annuity reserve account at the time of retirement, there shall be paid to his estate or beneficiary the difference between such credit and the total payments received.

Section 20. Monthly Payments of Retirement Allowances.—The retirement allowances granted under the provisions of this act shall be paid in equal monthly installments and shall not be increased, decreased, revoked or repealed, except as otherwise provided in this act.

Section 21. Refunds in Case of Withdrawal or Death.—Where a contributor resigns from service or where a

contributor has died, then the amount standing to the credit of the contributor in the member's annuity reserve account shall be paid to him or his estate or to the person named in any beneficiary certificate filed by the contributor with the board. When a contributor or a beneficiary has died and there shall be due to the estate of such contributor or beneficiary a sum less than one hundred dollars (\$100), and letters testamentary or of administration have not been taken out on the estate of such contributor or beneficiary within six months of death, the board may pay the amount due on the claim of the undertaker or to any person or persons or political subdivision who or which shall have paid the claim of the undertaker.

Section 22. No Simultaneous Payments of Salary and Retirement Allowance.—Should a person receiving a superannuation retirement allowance or an involuntary retirement allowance or a total disability retirement allowance be reemployed by the city, the retirement allowance of such person shall immediately cease. Such person shall thereupon be reinstated as a contributor, and there shall be restored to his credit as accumulated deductions the actuarial value of his member's annuity computed as of the date of his reemployment. Should he refuse to surrender his right to retirement allowance as of the date of his reemployment, then it shall be unlawful for the city to reemploy him.

Section 23. Validation of Certain Contributions.—All employes of the city retirement system who heretofore made contributions to the retirement fund by payroll deductions intending thereby to become members of the retirement system and contributors to the retirement fund are hereby declared to be regular and valid members and contributors as of the time of their first contribution with the same rights and privileges as any other city employes who became members and contributors in the retirement system.

Section 24. Admissions to Retirement System of Those Who Have Heretofore Failed to Join.—Any city officer whose term of office began after the establishment of the retirement system and who did not become a member of the retirement system when his term of office began, shall be permitted to become a member of the retirement system at any time and receive a retirement allowance based upon service as a city employe rendered after such date of membership: Provided, however, That if membership is consummated within one year from the beginning of such term of office and such sums as would have been deducted from his salary had he become a member at the time of the commencement of such term

of office shall have been paid into the retirement system, he shall thereupon become entitled to all the rights and privileges in the retirement system as would have been vested in him had he become a member and contributor at the time his term of office began.

Any city officer who has not become a member of the retirement system but who was employed as an elected officer prior to January first of the year that the retirement system was established and who held such office at the time that the retirement system was established and has continuously held such office, shall be known as an original member and shall receive full credit for each year of service rendered by him prior to January first of the year the retirement system was established and for each year of service rendered by him thereafter, if such city officer shall contribute to the fund the amount which he would have contributed if he had become a member of the retirement system when it was established, in which event, the city shall contribute to his credit in the fund the amount it would have contributed if he had become a member of the retirement system when it was established, and he shall thereupon become entitled to all the rights and privileges in the retirement system as would have vested in him had he become a member and contributor at the time the retirement system was established.

Section 25. Reinstatement on Return to City Employment.—Any contributor separated from city employment by dismissal, resignation, or any other reason, except death or retirement, or any city officer having legally withdrawn from the retirement system, who within five years from the date of such dismissal, resignation or withdrawal returns to city employment and restores to the retirement fund to the credit of the member's annuity reserve account his accumulated deductions as they were at the time of separation, shall have the annuity rights forfeited by him restored. Such payments may be made either in a lump sum or by installments, but in no event shall the installments be less than sufficient to pay such amount by the time the member attains superannuation retirement age.

Section 26. Integration with Social Security Benefits.—Any retirement system established under the provisions of this act, may be integrated with the benefits of Title II of the Federal Social Security Act in accordance with the provisions of the act of January 5, 1952 (P. L. 1833), as reenacted and amended.

Section 27. Exemption from Taxation and Execution, etc.—The right to a member's annuity or a city annuity or to the return of contributions, shall be exempt

from any State or municipal tax and from levy, sale, garnishment, attachment or any other process whatsoever and shall be unassignable.

Section 28. Fraud; Correction of Errors.—Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record or records of the retirement system herein established in any attempt to defraud such system, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000), or suffer imprisonment not exceeding one year, or both, in the discretion of the court.

Should any such change in records fraudulently made or any mistake in records inadvertently made, result in any contributor or beneficiary receiving more or less than he would have been entitled to had the records been correct, then on the discovery of such error the board shall correct such error, and shall adjust the payments which shall be made to the contributor or annuitant in such manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

Section 29. Transfer of Existing Fund.—Whenever any city establishes a retirement system under the provisions of this act, all of the assets and liabilities of any existing pension fund shall be transferred to the fund created under such retirement system.

After such transfer, the fund created under the provisions of this act shall be subject to all of the liabilities of the fund so transferred, including liability for continuing the payment of retirement allowances payable to persons retired prior to such transfer in accordance with the laws and regulations under which such persons were retired.

The moneys in the fund so transferred shall be distributed among the accounts of the fund created under the provisions of this act in such proportion as the actuary shall determine.

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

DAVID L. LAWRENCE

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No. 401

AN ACT

Amending the act of May 5, 1933 (P. L. 457), entitled "An act relating to the business of building and loan associations; providing for the organization and voluntary dissolution of such associations; defining the rights, powers, duties, liabilities, and immunities of such associations, and of their officers, directors,