

No. 247

AN ACT

HB 1166

Amending the act of May 25, 1933 (P.L.1050, No.242), entitled "An act creating and establishing a fund for the care, maintenance, and relief of aged, retired and disabled employes of the bureau of fire in cities of the second class; creating a board for the management thereof; providing the mode and manner of payment to beneficiaries, and for the care and disposition of its funds; and providing for the transfer and payment of all moneys and securities in existing funds in similar boards superseded by the fund and board herein created," further providing for veteran credits and service increments; eliminating references to salary; and providing for cost-of-living increments.

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

Section 1. Section 9, act of May 25, 1933 (P.L.1050, No.242), entitled "An act creating and establishing a fund for the care, maintenance, and relief of aged, retired and disabled employes of the bureau of fire in cities of the second class; creating a board for the management thereof; providing the mode and manner of payment to beneficiaries, and for the care and disposition of its funds; and providing for the transfer and payment of all moneys and securities in existing funds in similar boards superseded by the fund and board herein created," amended May 12, 1939 (P.L.129, No.61) and November 9, 1965 (P.L.679, No.333), is amended to read:

Section 9. Any individual eligible to membership in such fund, as aforesaid, shall be required—

(1) To sign an acceptance of the provisions of this act, which acceptance shall contain an agreement, on the part of the one so signing, that upon resignation or dismissal from the employ of said bureau of fire, he shall thereby relinquish and forfeit all rights to participate in said fund; and no employment shall be granted an applicant to a position which would make him eligible as a member of said fund until such acceptance and agreement is signed by him.

(2) To contribute to said fund six per centum of his rated monthly [salary or] wages, which shall be deducted from his [salary or] wages by the city controller from the payroll for the last pay period of each month, and paid into the fund. All beneficiaries of the fund shall, in addition thereto, pay the sum of one dollar a month into the said fund, and in the case of active members, the city controller shall deduct said contribution from the payroll of the last pay period of each month and the secretary of the fund shall deduct the sum of one dollar from the pension paid each pensioner. The amount so collected shall be paid into the firemen's relief and pension fund and out of the funds of the firemen's relief and pension

fund there shall be paid to the beneficiary of any deceased member of the fund, the sum of one thousand two hundred dollars.

When any member of the fund shall resign or be dismissed from service there shall be paid to him from the fund a sum of money equal to all dues paid by him into the fund, without interest. When any member of the fund shall die in active service there shall be paid from the fund a sum of money equal to all dues paid by him into the fund, without interest, to his widow, if there be such widow, or in the absence of such widow to such person or persons as he shall have designated on a form prepared and approved by the board for such purpose, or in the absence of such widow and such designation to his estate. When any beneficiary shall die before he has received pension payments equal in amount to his total contributions to the fund, there shall be paid a sum of money equal to the difference between the amount of his said contributions and the amount he shall have received as pension payments, without interest, to his widow, if there be such widow or in the absence of such widow to such person or persons as he shall have designated on a form prepared and approved by the board for such purpose, or in the absence of such widow and such designation to his estate.

In addition when any member of the fund shall die as a result of injuries incurred while in the performance of his duties, there shall be paid to his widow from the fund monthly sums in amounts which, together with any payments received under "The Pennsylvania Workmen's Compensation Act" or "The Pennsylvania Occupational Disease Act," will be equal to fifty per centum of his salary at the time of his death. Such monthly payments shall continue for five hundred weeks, or until the widow shall remarry, or until her death, whichever shall first occur.

In the event there are surviving children but no widow, or after the payments herein provided for the widow have been discontinued by reason of the end of the five hundred week period or her remarriage or death, each unmarried child of the deceased member under the age of eighteen years shall thereafter receive payments equal to twenty-five per centum of the payments above provided for the widow, but in no case shall total payments to one family be more than fifty per centum of his salary at the time of his death. Where there is only one child, the minimum monthly payments shall be sixty dollars. Where the maximum amount is payable, it shall be divided equally among the children entitled thereto. The payments for each child shall terminate upon his reaching the age of eighteen years or his marriage or death: Provided, That the board may continue indefinitely payments to a dependent incompetent child. These payments shall consist of any payments received under "The Pennsylvania Workmen's Compensation Act" or "The Pennsylvania Occupational Disease Act," supplemented by the necessary amounts from the pension fund. In the event there are

no surviving children or no widow entitled to receive the payments provided for in this act, any dependent parents of the member shall receive the payments the widow would have received had she survived and not remarried.

Regular employes shall serve at least fifteen days in each month and appear on all payrolls of said bureau of fire in said month in order to be credited for one month's service for pension under this act. In the event, however, that such regular employe served one or more days in any month while serving as a substitute employe prior to becoming a regular employe, such regular employe shall be given a full month's credit for the day or days in every month so served as a substitute: Provided, That the dues for each month so credited are paid in full.

Payments to the widows and children of members killed while on duty shall first be made on and after July 1, 1959.

Section 2. Section 9.1 of the act, amended November 9, 1965 (P.L.679, No.333), is amended to read:

Section 9.1. Each person who shall become an employe of the bureau of fire after having been employed by the city other than in the bureau of fire, and who shall desire to have such previous service counted for eligibility to receive a pension under the provisions of section 11 of this act, shall be required to pay to the fund an amount equal to five per centum of his or her total **[salary or]** wages theretofore received by him or her for each previous month of service for which he receives credit as an employe of the city, with interest at the rate earned by the fund during the period of such prior employment: Provided, That service to be credited which was performed after the effective date of this act shall be paid for at the new rate of contribution. Full payment of such amount shall be a condition precedent to the member receiving credit for all or any part of said period of previous service for eligibility to receive a pension. Such amount shall be collected from the monthly **[salary or]** wages of the member over the period of two years in the manner provided in clause (2) of section 9 of this act, or in such manner and period as the board of managers may determine. If, however, any such member shall be injured in the line of duty before he shall have made such full contribution for past service, so long as the disability continues he or she shall be eligible to pension under this act, but any amount which he or she shall not yet have paid to the fund as a contribution for past services under this section at the date of his or her injury shall be paid if the board in its discretion, shall so determine, in such monthly payments as the board may determine, which amounts shall be deducted from his or her pension as and when monthly payments thereof shall be made.

Section 3. Section 9.5 of the act, added August 27, 1963 (P.L.1297, No.526), is amended to read:

Section 9.5. Each member who elects to be governed under the provisions of this amendment shall agree to contribute one-half of one per centum of his rated monthly [salary or] wages in addition to all other required contributions as set forth in this act.

Section 4. Section 10 of the act, amended November 9, 1965 (P.L.679, No.333), is amended to read:

Section 10. A member of the fund who has severed his connection therewith and has subsequently again become eligible for membership therein shall, in addition to a readmission fee of five dollars, be required to return to the fund such dues as were repaid to him from the fund when his membership in the fund was severed.

Such refund shall be collected from the monthly [salary or] wages of the reinstated member over the period of a year, and full payment thereof shall be a condition precedent to the member being eligible to the benefits of the fund.

Any person previously on retirement who is re-employed and reinstated as a member of the fund shall, at the time of his later retirement, be entitled to any increase in pension which has been provided for by amendments to the law prior to such later retirement.

If, however, any such reinstated member shall be totally and permanently disabled in line of duty before he shall have made such full restitution and before the expiration of the one year period, he shall be eligible to pension under this act; but any amount to which he shall have been indebted to the fund at the date of his injury shall be repaid, if the board, in its discretion, shall so require, in such monthly payments as said board may determine, which amounts shall be deducted from his pension as and when monthly payments thereof shall be made.

Section 5. Section 11, reenacted and amended August 14, 1959 (P.L.715, No.250), is amended to read:

Section 11. Members of the fund shall be eligible to pension under said fund upon written application of such member, stating his desire to withdraw from service in said city, which application shall show that such employe has rendered at least twenty years service to the said city, at least one year of which was immediately prior to his application, but which does not otherwise necessitate continuous service but that such service shall total twenty years and shall include **[and may include]** service in the armed forces of the United States **[in times of war,]** or active service in the Pennsylvania State Militia when said militia has been mobilized for internal police duty *whether such armed forces or militia service occurs prior to or during such city service not to exceed three years. Each member desiring such credit shall be required to pay to the fund an amount equal to five per centum of the salary or wages he or she would have earned had he or she been a member of the bureau of fire during the period of military service, with interest at the rate of five per centum of the amount paid into the fund.*

Section 6. Section 11.1, amended March 21, 1968 (P.L.70, No.26), is amended to read:

Section 11.1. In addition to applicants eligible for pension pursuant to section eleven of this act, any member who has been admitted to membership in this fund, who has become totally and permanently disabled after **[fifteen] ten** years of service, shall be entitled to the said pension. Any person who has become totally and permanently disabled by reason of injury sustained in the actual performance of duty, shall be entitled to such pension. Such service shall include service in the armed forces of the United States **[in times of war or armed conflict,]** or active service in the Pennsylvania State Militia when it has been mobilized for internal police duty ***whether such armed forces or militia service occurs prior to or during such city service.*** Proof of total and permanent disability shall consist of the sworn statement of three practicing physicians designated by the board that the employe is in a permanent condition of health which would totally disable him or her from performing the duties of his or her position or office. If the employe is a patient in a hospital operated by the United States, the Commonwealth of Pennsylvania, or any political subdivision thereof, the board may accept the sworn statement of the administrator of such hospital that the members of the medical staff of such hospital attending said employe are of the opinion that said employe is in a permanent condition of health which would totally disable him or her from performing the duties of his or her position or office. Once a year, or sooner if recommended by a physician, the board of pensions may require a disability pensioner to undergo a medical examination by three physicians appointed by the board, or if the pensioner is a patient in a hospital operated by the United States, the Commonwealth of Pennsylvania, or any political subdivision thereof, the board may require from the administrator of such hospital additional certification as to the continuance of the disability of said employe, and should such physicians or administrator thereupon report and certify to the board that such beneficiary is no longer incapacitated, and should the pension board concur in such report, the pension payments to such beneficiary shall be discontinued when the beneficiary is returned to active duty or has refused to return to active duty.

Payments to disabled members shall be made on or after July 1, 1959.

Section 7. Section 12 of the act, amended December 12, 1968 (P.L.1207, No.379), June 10, 1969 (P.L.71, No.22) and March 3, 1972 (P.L.100, No.36), is amended to read:

Section 12. (a) Beneficiaries under the fund, who retire on or after January one, one thousand nine hundred fifty-six and before the effective date of this amending act, shall be entitled to receive from the fund, per month, an amount equalling fifty per centum of the average monthly **[salary] wages** earned by the contributor as an employe of the

bureau of fire of the city during any five calendar years of service or the last sixty months immediately preceding retirement. Beneficiaries under the fund, who retire on or after the effective date of this amending act shall be entitled to receive from the fund, per month, an amount equalling fifty per centum of the average monthly **[salary] wages** earned by the contributor as an employe of the bureau of fire of the city during any three calendar years of service or the last thirty-six months immediately preceding retirement. If any employe has not been employed in the bureau of fire for at least five years but is otherwise entitled to a pension, such employe's pension shall equal not less than fifty per centum of the amount which would constitute the average monthly **[salary or]** wages received by the beneficiary as an employe of the bureau of fire.

(b) Beneficiaries under the fund in any case shall be entitled to minimum monthly payments in the amounts indicated in the following table:

Classification	Composed of	Monthly Payments
I. Chief	Bureau of Fire	\$247.00
Superintendent	Bureau of Electricity	
II. Deputy Chiefs	Bureau of Fire	\$235.00
Deputy Superintendents	Bureau of Electricity	
III. Battalion Chiefs	Bureau of Fire	\$223.00
Chief of River Patrol	Bureau of Fire	
Chief Inspectors	Division of Fire Prevention	
Chief Wiring Inspectors	Bureau of Electricity	
IV. Training School Instructors	Bureau of Fire	\$217.00
V. Captains	Bureau of Fire	\$217.00
Assistant Engineers	Bureau of Electricity	
Supervisors of Construction	Bureau of Electricity	
Fire Alarm Operators	Bureau of Electricity	
VI. Lieutenants	Bureau of Fire	\$211.00
Engineers	Bureau of Fire	\$199.00
Pumpmen	Bureau of Fire	\$199.00
VII. Drivers	Bureau of Fire	\$199.00
Electric Wiring Inspectors	Bureau of Building Inspection	
VIII. Hose and Laddermen	Bureau of Fire	\$199.00
Aides	Bureau of Fire	
Assistant Engineers	Bureau of Fire	
Fire Alarm Box Inspectors	Bureau of Electricity	
Police Box Inspectors	Bureau of Electricity	
Instrument Repairmen	Bureau of Electricity	
Battery Men	Bureau of Electricity	

Line Foreman	Bureau of Electricity
Linemen	Bureau of Electricity
Inspector	Bureau of Fire
Inspector	Division of Fire Prevention

(c) Beneficiaries under the fund who have retired prior to December 31, 1965, shall be paid an additional sum of fifteen dollars (\$15) per month.

(d) The governing body of a city of the second class may grant to beneficiaries under the fund, regardless of the date of retirement whether prior to or after the effective date of this act, an annual cost-of-living allowance not to exceed the per centum change in the price index from November of the year preceding the most recent cost-of-living adjustment as taken on November one in each year times the beneficiaries pension allowance, excluding cost-of-living adjustments. No pension shall be paid at a lower rate than that which the beneficiary would be entitled to receive excluding the cost-of-living allowance.

The cost-of-living percentage is the average quarterly calendar year change of the Consumer Price Index (all items—United States city average) published monthly by the Federal Bureau of Labor Statistics, using as a base of one hundred the years 1957-1959.

Section 8. Sections 12.2 and 12.3 of the act are repealed.

Section 9. Section 12.4 of the act, added October 21, 1955 (P.L.717, No.202), and amended November 9, 1965 (P.L.679, No.333), May 23, 1961 (P.L.213, No.112) and April 6, 1956 (P.L.1439, No.472), is amended to read:

Section 12.4. In every city of the second class, in addition to the pension which is authorized by law, every contributor who shall have otherwise become entitled to the pension and who has reached the age of fifty years, shall also be entitled to the payment of a service increment in accordance with and subject to the conditions hereinafter set forth:

(1) Service increment shall be the sum obtained by computing the number of whole years after the completion of twenty years' service while a contributor has been employed by the bureau of fire or the city, and paid out of the city treasury, and multiplying the number of years so computed by an amount equal to **[five dollars] ten dollars** for each month of service beyond twenty years of service. This sum shall be divided by twelve to arrive at the monthly increment payment. In computing the service increment, no employment, after the contributor has reached the age of sixty-five years shall be included. **[and no service increment shall be paid in excess of one hundred dollars per month.]**

(2) Each contributor, from and after the effective date of this amendment, shall pay into the retirement fund as the contribution to the increment fund, a monthly sum in addition to his or her retirement contribution which shall be equal to one-half of one per centum of his or her **[salary] wages**. Such payment shall not exceed the sum of one dollar

per month. The service increment contribution shall not be paid after a contributor has reached the age of sixty-five years.

(3) Persons who are contributors on the effective date of this amendment who have already reached the age of sixty-five years shall have his or her service increment computed on the years of employment prior to the date of reaching his or her sixty-fifth birthday. Such person, however, shall be entitled to the increment only by paying in the one dollar per month contribution for the number of months his or her service exceeds twenty years, but such contribution shall not exceed a total of one hundred dollars.

(4) Service increment contributions shall be paid at the same time and in the same manner as pension contributions, and may be withdrawn in full without interest by persons who leave the employment of the bureau of fire subject to the same conditions by which pension contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment. When any person is re-employed by the bureau of fire after withdrawal of pension contributions, his or her prior service shall not be used in the computation of service increment unless the amount of such contributions be repaid into the pension fund subject to the same conditions by which pension fund withdrawals are permitted to be repaid.

(5) All employees of the bureau of fire who are now contributors to the pension fund, and all persons who are employed by the bureau of fire after the effective date of this amendment, who are required to become contributors to the pension fund, shall be subject to the provisions of this section.

Section 10. This act shall take effect immediately.

APPROVED—The 10th day of October, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 247.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style.

Secretary of the Commonwealth.