

## No. 1990-136

## AN ACT

## HB 16

Amending the act of August 31, 1971 (P.L.398, No.96), entitled "An act providing for the creation, maintenance and operation of a county employes' retirement system, and imposing certain charges on counties and providing penalties," regulating administrative expenses; further providing for the definition of "county employe"; adding a definition; further providing for service allowance and simultaneous payments of salary and retirement allowance; authorizing members to reduce their contributions; further providing for credit for military service; and further providing for involuntary retirement allowance.

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

Section 1. Section 2(2) of the act of August 31, 1971 (P.L.398, No.96), known as the County Pension Law, amended December 20, 1983 (P.L.282, No.75), is amended and the section is amended by adding a clause to read:

Section 2. Definitions.—As used in this act:

\* \* \*

(2) "County employe" means any person, whether elected or appointed, who is employed by the county, the county institution district, in the county prison or in any other institution maintained by the county from county moneys, or who is employed by any county or State official and paid by such official from moneys appropriated by the county for such purpose, whose salary or compensation is paid in regular periodic installments or from fees collected by his office, but shall not, except as hereafter provided, include any person [paid on a per diem basis, nor shall it include any person to the extent that the total of the salary and fees exceed the highest salary paid to any elected county official: Provided, however, That after January 1, 1984, the restriction limiting the pensions of employes indexed to the highest salary paid to any elected county official shall be applicable only to any employment occurring and salary earned prior to January 1, 1984, and shall not apply to any employment which occurred and salary earned after January 1, 1984] employed after the effective date of this act on a part-time basis.

(2.1) "Part-time" means employment with the expectation of completing less than 1000 hours of service during the 12-month period beginning on the first day of employment and each succeeding 12-month period thereafter.

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Section 2. Section 5 of the act is amended to read:

Section 5. Personnel; Administrative Expenses.—The board may appoint and fix the compensation of an actuary. The county controller or the chief clerk of the county, as the case may be, shall be the secretary of the board. In counties having an optional form of government, the board shall appoint a secretary. The compensation of the secretary shall be fixed by the salary board or council, as the case may be. The secretary shall keep a record

of all of the proceedings of the board, which record 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 county by appropriations made on the basis of estimates submitted by the board. *However, such administrative expenses may from year to year be paid from the fund unless it is determined by the actuary that such payment will impair the actuarial soundness of the fund.*

Section 3. Section 7(d) of the act, amended December 20, 1983 (P.L.282, No.75), is amended and the section is amended by adding subsections to read:

Section 7. County Employes' Retirement Fund; Transfers Between Classes.—\*\*\*

(d) Each member may elect to contribute an additional amount not exceeding ten per cent more than the percentage herein required. The contributions shall be paid into the fund through payroll deductions in such manner as the board may require.

*(e) The board may at any time, by rule, authorize members of the retirement system, whether original or new members, to individually elect to reduce the contribution to any of the percentages required herein for any class lower than the class otherwise designated by the board as applicable to the retirement system to which the member belongs. Any such election shall in no way affect the calculation of the county annuity portion of the member's retirement allowance as provided in section 14, which county annuity portion shall be calculated as though the member had not made that election.*

(f) All contributions including optional additional payments by members shall be credited to the members' annuity reserve account.

(g) 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, to the one-seventieth class, or to the one-sixtieth class. Whenever such transfers are authorized, salary deductions or pickup contributions applicable to the transferred members shall be based upon the per cent of salary deduction applicable while in each class, *notwithstanding the provisions of subsection (e).*

Section 4. Section 12 of the act, amended December 20, 1983 (P.L.282, No.75), is amended to read:

Section 12. 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 county prior to January first of the year the retirement system was established. This shall include the services of a county 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 county official out of such fees. Full credit shall also be given for each year of service of a contributor who was a per diem employe of the county for a period of at least five years prior to the time the system

became effective and who averaged at least two hundred days of employment in each of such years. As soon as practicable, the board shall issue to each original member a certificate certifying the aggregate length of his service prior to January first of the year the 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 board may also give credit to any person who was a county employe for each year that he was employed for at least two hundred days per year on a per diem basis]** *Any member who had been employed on a part-time basis and had been excluded from membership in the plan and who completed more than 1000 hours of services during the 12-month period beginning on the first day of employment or in any succeeding 12-month period thereafter shall receive service credit for a fractional portion of a year determined by the ratio of the number of hours of service credited in that 12-month period to 1400 hours* for the purpose of the computation of his retirement credit upon payment by the employe of the amount which the board determines should have been the applicable member contribution during such period. Such payment may be made in installments over a period fixed by the board. The time during which a member is absent from service without pay may be counted in computing the service of a contributor, if allowed by the county commissioners and approved by the board and if the employe pays the member contribution, including the pickup contribution, and the county's contribution into the fund based upon the contributions made the year immediately preceding the leave of absence.

Section 5. Section 13(b) of the act, amended July 20, 1979 (P.L.164, No.53), is amended to read:

Section 13. Credit for Military Service; Payments into Fund; Reimbursement.—\* \* \*

(b) With the approval of the county retirement board, all members of the fund who are contributors and who served *actively* in the armed forces of the United States **[subsequent to September 1, 1940, and who were not members of the fund prior to such military service,]** shall be entitled to have full service credit for each year or fraction thereof, not to exceed five years of such service. The amount due for the purchase of credit for military service other than intervening military service shall be determined by applying **[the employe's basic contribution rate plus the county's normal contribution rate for active members at the time of entry, subsequent to such military service, of the employe into county service]** ~~*an employe's contribution rate of five per cent plus a county contribution rate of five per cent*~~ to his average annual rate of compensation over the first three years of **[such subsequent county]** ~~*credited membership*~~ service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with *regular* interest **[during all periods of subsequent county]** ~~*from the commencement of such credited membership*~~ service to date of purchase. Said contributions shall be paid into the fund by the employe: Provided, That the member has three years of county service subsequent to such military service: Provided further, That he is not entitled

to receive, eligible to receive now or in the future, or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency.

Section 6. Section 16 of the act, amended December 20, 1983 (P.L.282, No.75), is amended to read:

Section 16. **Involuntary Retirement Allowance; Voluntary Retirement Allowance after Twenty Years of Service.**—(a) Should a contributor be discontinued from service not voluntarily, or an elected county officer complete his term of office and discontinue service after having completed eight years of total service, or voluntarily after having completed twenty years of total service but before reaching superannuation retirement age, except as herein provided for certain contributors who have completed twenty years of total service, 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 members' annuity reserve account, and, in addition, a county annuity which is the actuarial equivalent of a county 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 retirees in case of involuntary retirement as provided herein in the case of superannuation retirement. In the event a contributor, after having completed eight or more years of total service, heretofore has or hereafter shall be discontinued from service because of appointment or election to *the General Assembly of the Commonwealth* or to a position incompatible with his service as a county employe or officer and such employe or officer has not reached the superannuation retirement age, such withdrawal shall be considered involuntary; the accumulated deductions and the contributions of the county, at the option of the employe or officer, shall remain in the fund until superannuation age has been reached. In the event a refund of accumulated contributions has been made and the county's accumulated contributions have been withdrawn under the above circumstances, the employe or officer shall be permitted to repay into and the county shall be required to reimburse the fund the amounts paid out, with interest to the date of repayment, thereby reestablishing the rights of the contributor in said fund even though superannuation retirement age has been reached and benefits shall be paid as if the original severance had been involuntary.

(b) Any contributor who has completed twenty years of total service and who has reached the superannuation retirement age shall be entitled to the superannuation retirement allowance provided in section 14.

Section 7. Section 24 of the act is amended to read:

Section 24. **Simultaneous Payments of Salary and Retirement Allowance.**—Should a retiree receiving a retirement allowance be reemployed by the county as [a salaried] *an appointed* employe or as an elected official, 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, it shall be unlawful for the county to reemploy him. For the purposes of this section if a person serves as a juror, master, or arbitrator or is employed on a [per diem basis for thirty days or less per year he shall not be deemed reemployed, but if employed on a per diem basis for more than thirty days a year the retirement allowance shall cease during the additional service.] *part-time basis, the retirement allowance shall be reduced by an amount equal to the amount of compensation received by the employe. Such reduction shall not exceed the amount of the retirement allowance. A retiree reemployed on a part-time basis exceeding 1000 hours shall be considered an appointed employe for the purposes of this section.*

Section 8. This act shall take effect January 1, 1991.

APPROVED—The 21st day of November, A. D. 1990.

ROBERT P. CASEY