

No. 1993-21

## AN ACT

HB 853

Amending the act of June 23, 1931 (P.L.932, No.317), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto," further providing for the sale of real and personal property; providing for fire officers and for appointments to the board of health; permitting interests in firefighters' pension funds to vest after 12 years under certain conditions; providing for the amount of the retirement allowance benefit vested; adding a definition; and making an editorial change.

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

Section 1. The act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, reenacted and amended June 28, 1951 (P.L.662, No.164), is amended by adding sections to read:

**Section 1919. Sales of Real and Personal Property to Certain Entities.—Any provision of this act requiring advertising for bids and sale to the highest bidder shall not apply where city real or personal property is to be sold to a county, city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the city, or municipal authority pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945," or a corporation not for profit engaged in community industrial development. Any provision of this act requiring advertising for bids and sale to the highest bidder shall not apply where real property is to be sold to a corporation not for profit organized as a public library for its exclusive use as a library, to a medical service corporation not for profit, to a housing corporation not for profit, to the Commonwealth or to the Federal Government. When real property is to be sold to a corporation not for profit organized as a public library for its exclusive use as a library or to a medical service corporation not for profit or to a housing corporation not for profit, council may elect to accept a nominal consideration for the sale as it shall deem appropriate. Real property sold pursuant to this section shall be subject to the condition that when the property is not used for the purposes of the conveyance, the property shall revert to the city.**

**Section 2109. Salary of Nonunion City Fire Officers.— Any fire chief or head of a fire department of a city who has been removed from bargaining units under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, by rulings of the Pennsylvania Labor Relations Board shall receive not less than the same dollar increase, including fringe benefits but excluding overtime and**

*festive holiday pay, as received by the highest-ranking fire officer participating in the bargaining unit.*

Section 2. Section 2302 of the act, amended June 6, 1963 (P.L.75, No.50), is amended to read:

Section 2302. Qualifications; Term; Removal.—The members of the board of health shall be residents of the city[, **except in the case of physicians who shall have their main office in the city**]. At least one, and whenever possible two, shall be [**reputable physicians of not less than two years' experience in the practice of their profession.**] *currently licensed or certified by the State Board of Medicine, the State Board of Examiners of Nursing Home Administrators, the State Board of Podiatry, the State Board of Veterinary Medicine, the State Board of Occupational Therapy Education and Licensure, the State Board of Osteopathic Medicine, the State Board of Pharmacy, the State Board of Physical Therapy or the State Board of Nursing to be engaged in a medical, medically related or health care profession or business and shall be a resident or have an office in the city. If a licensed or certified medical or health care professional cannot be identified to serve on the board, council may appoint any individual who has experience or is knowledgeable of public health issues.* Upon the creation of the board, council shall designate for one appointee a term of one year, for another a term of two years, and so on up to five; thereafter, one member of the board shall be appointed annually to serve for a term of five years from the first Monday of April succeeding his appointment. Council may remove members of the board for official misconduct or neglect of duty. All vacancies shall be filled for the unexpired term.

Section 3. The act is amended by adding a section to read:

*Section 4320.1. Limited Vested Benefit for Firefighters.—(a) The ordinance may provide for a limited vested benefit if such would conform to section 305 of the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act." Under the provisions of the benefit, should a member of the firefighters' pension fund before completing the minimum age and minimum period of continuous service requirements but after having completed twelve years of full-time service for any reason cease to be employed as a full-time firefighter, the member shall be entitled to vest his or her retirement benefits subject to the following conditions:*

- (1) the member must file with the management board of the firefighters' pension fund a written notice of his or her intention to vest;*
- (2) the member must include in the notice the date the member intends to terminate his or her service as a full-time firefighter;*
- (3) the termination date shall be at least thirty days later than the date of notice to vest;*
- (4) the member must be in good standing with the fire department on the date of notice to vest; and*
- (5) the board shall indicate on the notice to vest the rate of the monthly*

*pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any five years of service preceding the date, whichever is the higher.*

*(b) Upon reaching the date which would have been the member's retirement date had the member continued his or her full-time employment with the fire department, the member shall notify the board in writing that the member desires to collect his or her pension. The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:*

*(1) the initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest; and*

*(2) the portion of the base retirement benefits due the member shall be determined by applying to the base amount the percentage that his or her years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the department until his or her minimum retirement date.*

Section 4. Section 4322(a) of the act, amended October 4, 1978 (P.L.950, No.188), is amended to read:

Section 4322. Pensions and Service Increments.—(a) Payments of pensions shall not be a charge on any fund in the treasury of the city or under its control save the firemen's pension fund herein provided for. The basis of the pension of a member shall be determined by the monthly salary of the member at the date of *vesting under section 4320.1* or retirement, or the highest average annual salary which he received during any five years of service preceding retirement, whichever is the higher, whether for disability, or by reason of age or service, and except as to service increments provided for in subsection (b) of this section, shall be one-half the annual salary of such member at the time of *vesting under section 4320.1* or retirement computed at such monthly or average annual rate, whichever is the higher. In the case of the payment of pensions to members for permanent injury incurred in service, and to families of members killed or who die in service, the amount and commencement of the payment of pensions shall be fixed by regulations of the board. Such regulations shall not take into consideration the amount and duration of workmen's compensation allowed by law. Payments to surviving spouses of members retired on pension or killed in the service on or after January 1, 1960, or who die in the service on or after January 1, 1968, shall be the amount payable to the member or which would have been payable had he been retired at the time of his death.

\* \* \*

Section 5. The act is amended by adding a section to read:

*Section 4328. Definitions.—As used in this subdivision, the term "salary" is defined as the fixed amount of compensation paid at regular, periodic intervals by the city to the member and from which pension contributions have been deducted.*

Section 6. This act shall take effect in 60 days.

APPROVED—The 16th day of June, A.D. 1993.

MARK S. SINGEL  
ACTING GOVERNOR