

No. 1994-168

AN ACT

SB 1686

Amending the act of December 18, 1984 (P.L.1005, No.205), entitled "An act mandating actuarial funding standards for all municipal pension systems; establishing a recovery program for municipal pension systems determined to be financially distressed; providing for the distribution of the tax on the premiums of foreign fire insurance companies; and making repeals," providing for certain additions to the actuarial valuation reports of municipalities that have issued bonds or notes to fund an unfunded actuarial accrued liability, for the determination of general municipal pension system State aid and supplemental State assistance allocable to the municipalities and for the application of State aid or assistance or both to the payment of debt service on bonds or notes issued by municipalities to fund an unfunded actuarial accrued liability; authorizing the pledge of State aid or assistance or both as security for bonds or notes; and authorizing the payment of State aid or assistance to the trustee or paying agent for bonds or notes in certain circumstances.

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

Section 1. The act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, is amended by adding a section to read:

Section 404. Municipalities issuing bonds or notes for pension plan funding.

(a) Application.—This section applies to a municipality that has issued bonds or notes to fund an unfunded actuarial accrued liability under the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, or under other laws applicable to the municipality.

(b) Additions to actuarial valuation report.—The actuarial valuation report prepared under sections 201 and 202 shall include, in addition to the exhibits required by section 202:

(1) an exhibit stating the amount and date of each contribution to the pension plan comprised of the proceeds of bonds and notes and disclosing the initial and remaining aggregated amortization periods for each contribution calculated as of the date of the initial actuarial valuation report filed after the contribution using the total unfunded actuarial accrued liability of the pension plan and the aggregated additional funding requirements, as determined under paragraph (2); and

(2) an exhibit prepared in conformance with section 202(b)(3) and (4), except that the actuarial value of assets subtracted from the actuarial accrued liability shall not take into account contributions comprised of proceeds of bonds and notes and earnings on such

contributions for the duration of the aggregated amortization period established under paragraph (1).

(c) Determination of general municipal pension system State aid and supplemental State assistance.—Solely for the purposes of determining the amount of general municipal pension system State aid allocable to such a municipality under section 402 and the amount of supplemental State assistance allocable to such municipality under sections 602 and 607, the actual financial requirements certified for the pension plan for each plan year shall be determined based upon the exhibits prepared under subsection (b) so that the amount of general municipal pension system State aid and supplemental State assistance to the municipality shall not be reduced or increased as a result of any contributions to the pension plan comprised of the proceeds of bonds and notes for which the remaining aggregated amortization period, as disclosed in the exhibit required in subsection (a), is one or more years.

(d) Application of general municipal pension system State aid and supplemental State assistance.—In addition to the expenditures authorized in section 402(g), general municipal pension system State aid or supplemental State assistance, or both, may be used by a municipality to pay debt service on bonds or notes, or both, issued to fund an unfunded actuarial accrued liability.

(e) Pledge of general municipal pension system State aid and supplemental State assistance authorized.—A municipality may pledge to the holders of its bonds or notes issued to fund an unfunded actuarial accrued liability or to a trustee or paying agent acting on behalf of the holders, as security for the payment of the bonds or notes, all of the municipality's right, title and interest in and to any general municipal pension system State aid or supplemental State assistance that the municipality is entitled to receive under this act. The pledge shall be valid and binding from the time the pledge is made, and the lien of the pledge is valid and binding as against all persons having claims of any kind in tort, contract or otherwise against the municipality, whether or not the persons have notice. Except as provided in the Local Government Unit Debt Act, neither the proceedings of the municipality relating to the bonds or notes nor any other instrument by which a pledge is made nor any financing statement in respect thereof need be recorded or filed.

(f) Withholding remedy provided.—If, in accordance with subsection (e), a municipality has pledged, as security for its bonds or notes issued to fund an unfunded actuarial accrued liability, its right, title and interest in and to any general municipal pension system State aid or supplemental State assistance that the municipality is entitled to receive under this act and it fails to pay or provide for payment of debt service on the bonds or notes in accordance with the terms thereof, the trustee or paying agent for the bonds or notes may certify in writing to the State Treasurer that a pledge

has been made and that a failure to pay has occurred, and, upon receipt of the certification, the State Treasurer shall:

(1) notify the municipality of the withholding provisions of this section;

(2) withhold, out of any general municipal pension system State aid or supplemental State assistance payable to the municipality, an amount equal to the unpaid debt service; and

(3) notify the Auditor General of these actions and request the Auditor General to issue a warrant for payment to the trustee or paying agent of the amount so withheld.

Upon receipt of a notice from the State Treasurer, the Auditor General shall issue a warrant to the State Treasurer for payment to the trustee or paying agent, and the State Treasurer immediately shall pay over the amount so withheld to the trustee or paying agent. The trustee or paying agent shall apply the amount to the debt service due from the municipality.

(g) State Treasurer authorized to enter into certain agreements.—The State Treasurer is authorized to enter into an agreement with a municipality that has issued its bonds or notes to fund an unfunded actuarial accrued liability providing for the payment directly to the trustee or paying agent for the bonds or notes of any general municipal pension system State aid or supplemental State assistance that the municipality is entitled to receive under this act, regardless of whether the municipality has failed to pay or provide for payment of debt service on the bonds or notes in accordance with the terms thereof.

Section 2. This act shall take effect immediately.

APPROVED—The 28th day of December, A.D. 1994.

ROBERT P. CASEY