

No. 118

AN ACT

HB 1726

Amending the act of May 29, 1956 (P.L.1804), entitled "An act providing for the establishment of police pension funds or pension annuities in certain boroughs, towns and townships, and the regulation and maintenance thereof; providing for an actuary; continuance of existing funds or transfer thereof to funds herein established; prescribing rights of beneficiaries; contributions by members; providing for expenses of administration; continuation of existing authority to provide annuity contracts; credit for military service; refunds; exempting allowances from judicial process; and repealing certain acts," further regulating the effect of primary benefits under the Federal social security laws upon pensions.

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

Section 1. Section 5, act of May 29, 1956 (P.L.1804), entitled "An act providing for the establishment of police pension funds or pension annuities in certain boroughs, towns and townships, and the regulation and maintenance thereof; providing for an actuary; continuance of existing funds or transfer thereof to funds herein established; prescribing rights of beneficiaries; contributions by members; providing for expenses of administration; continuation of existing authority to provide annuity contracts; credit for military service; refunds; exempting allowances from judicial process; and repealing certain acts," amended June 8, 1961 (P.L.275), is amended to read:

Section 5. Payments made under the provisions of this act shall not be a charge on any other fund in the treasury of any borough, town or township, or under its control, save the police pension fund herein provided for. The basis for determining any pension payable under this act, following retirement of any member of the force meeting the service and age qualifications of the ordinance or resolution establishing a police pension fund, shall be as follows:

Monthly pension or retirement benefits shall be one-half the monthly average salary of such member during the last sixty months of employment. Such pension or retirement benefits for any month shall be computed as the sum of (i) any pension benefits from pension plans heretofore established by a private organization or association for the members of the police force but only to the extent that this Commonwealth or any of its municipalities shall have contributed to such pension plan moneys raised by taxation, (ii) *up to seventy-five per centum of the* primary benefits under Federal social security laws for which the officer may be eligible because of age, and (iii) benefits from the police pension fund established pursuant to this act to the extent necessary to bring the total benefits in any month up to one-half the aforesaid monthly average salary. If this Commonwealth or one of its municipalities shall

have contributed moneys raised by taxation to a pension plan established by a private organization or association for the members of the police force, the pension benefits to be taken into account under clause (i) of this paragraph shall be that proportion of the total pension benefits payable under clause (i) as the assets attributable to contributions of moneys raised by taxation bear to the total assets of the pension plan. In the case of the payment of pensions for permanent injuries incurred in service and to families of members killed in service, the amount and commencement of the payments shall be fixed by regulations of the governing body of the borough, town or township.

Section 2. Section 6 of the act, amended December 7, 1965 (P.L.1042), is amended to read:

Section 6. When a police pension fund is established under the provisions of this act, the governing body of the borough, town or township, may employ an actuary, and may fix his compensation. The actuary shall determine the present value of the liability on account of pensions payable under section five of this act to original members for service prior to the date of the establishment of the fund, and shall offset the value of any assets transferred to the fund from a previous pension fund to determine the unfunded liability. The unfunded liability shall be paid entirely by the borough, town or township: Provided, That it may be funded over a period not to exceed twenty-five years. The actuary shall also determine the amount which shall be contributed annually into the fund for the service of members subsequent to the establishment of the fund (to be known as "future service cost").

Members shall pay into the fund, monthly, an amount equal to not less than five per centum nor more than eight per centum of monthly compensation. Where positions covered by the fund are included in an agreement under the Federal Social Security Act, members shall pay into the fund, monthly, an **[amount equal to not less than two per centum of that portion of monthly compensation on which social security allowances are payable and five per centum of any monthly compensation in excess of that on which social security allowances are payable.]** *amount determined as follows: (1) if the pension plan established under the provisions of this act provides for no offset under subclause (ii) of the second paragraph of section 5, five per centum of total compensation or (2) if such pension plan provides for an offset under subclause (ii) of the second paragraph of section 5: (i) on compensation on which social security taxes are payable, at a rate calculated by subtracting from five per centum the product obtained by multiplying three per centum by such offset percentage; and (ii) on compensation in excess of that on which social security taxes are payable, if any, five per centum.* The remainder of the needed annual contributions, as determined by the actuary, shall become the obligation of the borough, town or township, and shall be paid by it to the pension fund by annual appropriations.

If an actuarial study shows that the condition of the police pension fund of any borough, town or township is such that payments into the fund by members may be reduced below the minimum percentages hereinbefore prescribed, or eliminated, and that if such payments are reduced or eliminated contributions by the borough, town or township will not be required to keep the fund actuarially sound, the governing body of the borough, town or township may, on an annual basis, by ordinance or resolution, reduce or eliminate payments into the fund by members.

The payments made by the State Treasurer to the municipal treasurer from the moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension retirement or disability benefits for policemen shall be used, as follows: (1) to reduce the unfunded liability or, after such liability has been funded, (2) to apply against the annual obligation of the borough, town or township for future service cost to or to the extent that the payment may be in excess of such obligation, (3) to reduce member contribution. Unless otherwise specifically provided, any other moneys paid into the police pension fund shall be applied equally against the member and the municipal portions of the future service cost.

It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

Section 3. This act shall take effect immediately and shall apply to all persons retiring and all contributions payable on or after April 1, 1972.

APPROVED—The 15th day of June, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 118.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large, prominent initial "C".

Secretary of the Commonwealth.