

## No. 116

## AN ACT

## SB 1166

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," defining a term, providing a service increment and option benefits and changing certain retirement ages and years of service.

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

Section 1. Section 1701, act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," amended June 1, 1973 (P.L.37, No.19), is amended by adding a definition to read:

Section 1701. Definitions.—The following words and phrases as used in this article shall be construed to have the following meaning:

\* \* \*

***"Service Increment," the amount a county employe is eligible to receive in addition to his or her retirement allowance by reason of his or her extra years of service.***

Section 2. Subsection (a) of section 1711 of the act, amended June 1, 1973 (P.L.37, No.19), is amended to read:

Section 1711. Exceptions in Favor of Employes Totally and Permanently Disabled.—(a) Any present or future county employe, except persons who are employed in accordance with the provisions of subsection (c) of this section and persons who are reemployed in accordance with the provisions of subsection (b) of section 1715, who has been in employ for a period of not less than twelve years, upon application to the board, may receive a retirement allowance ***plus a service increment, if any***, in accordance with the provisions of section 1712, if he or she becomes mentally incapacitated or totally and permanently disabled physically, even though such county employe has not reached the age of sixty years, provided that proof of such mental incapacity or total and permanent physical disability shall be by the unanimous opinion and sworn statements of three practicing physicians of the county designated by the board. Application in behalf of a mentally incapacitated county employe for a retirement allowance ***plus a service increment, if any***, shall be made by a duly appointed guardian who shall be entitled to receive such retirement allowance ***plus a service increment, if any***, to which the mentally incapacitated county employe may be eligible to receive.

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Section 3. Subsections (a), (c) and (d) of section 1712, amended June 1, 1973 (P.L.37, No.19), are amended and a subsection is added to read:

Section 1712. Amount of Retirement Allowances.—(a) The retirement allowance paid under the provisions of this article shall equal fifty per

centum of the amount which would constitute the average monthly compensation as received by the county employe during the highest twenty-four months of the last four (4) years of his employment or two years on a bi-weekly pay basis in which period of time the said county employe made monthly or bi-weekly contributions into the retirement fund prior to his or her retirement. Such average monthly compensation shall include the compensation which any county employe would have been entitled to and would have received except for deduction from compensation due to time spent in serving as an elected State official: Provided, That the county and the employe shall make monthly contributions based on the last compensation equal to the amount the county and he or she would have paid into the retirement fund had such compensation been paid by the county. No retirement allowance shall be computed on a monthly compensation in excess of two thousand dollars (\$2,000) nor shall a retirement allowance be paid for a fraction of a service year.

**[Notwithstanding any other provisions of this act or of any provisions of this act prior to the effective date hereof, no benefit payable under this section shall exceed fifty per centum of the amount which would constitute the average monthly compensation as received by the county employe during the highest twenty-four months of the last four years of his or her employment or two years on a bi-weekly pay basis in which period of time the said county employe made monthly or bi-weekly contributions into the retirement fund prior to his or her retirement, but in no event shall any employe, a member of the fund prior to the effective date hereof, receive less than said employe would have been eligible to receive prior to the effective date hereof.]**

After the effective date of this amendment, certain former county employes who are now receiving a retirement allowance shall receive an increase of a certain per centum of such retirement allowance, which sum shall be computed on the average monthly retirement allowance as heretofore authorized by the board.

The per centum of increase in said monthly retirement allowance shall be a flat 10 per centum increase with the maximum amount not to exceed forty-five dollars (\$45.00) per month.

Any employe who earns in excess of ten thousand eight hundred dollars (\$10,800) per annum and shall retire during the period from January 1, 1973 to December 31, 1981 shall pay, as a condition to the payment of any benefits hereunder a lump sum contribution into the retirement fund, which contribution shall be computed as follows:

The difference between ten thousand eight hundred dollars (\$10,800) and the annual salary of the employe multiplied by the number of years during which he was not an employe of the county for the period aforesaid and upon that amount the sum of two per centum which shall be the lump sum contribution as required herein.

No person who is reemployed as a county employe shall be eligible to receive the benefit of a retirement allowance *plus a service increment, if*

*any*, until he or she shall have made at least twenty-four monthly or fifty-two bi-weekly contributions into the retirement fund subsequent to his or her reemployment. The foregoing provisions shall not have a retroactive application and shall apply only to present and future county employes. The rate required to be paid in accordance with this provision shall apply to present county employes notwithstanding the rate of contribution that the present county employe has made into the retirement fund.

*(b.1) In addition to the retirement allowance which is authorized by this article and notwithstanding the limitations therein placed upon retirement allowances, any present or future county employe who upon retirement shall be eligible to receive payment of a retirement allowance and who has been employed as such for twenty-one or more years during which period of time he or she shall have made monthly contributions into the retirement fund, shall also be eligible to the payment in addition to a retirement allowance a service increment of two per centum per year computed upon the annual retirement allowance to which he or she is entitled. Said service increment shall be the sum obtained by computing the number of years in excess of twenty years during which period of time he or she shall have made monthly or bi-weekly contributions into the retirement fund. No service increment shall be paid for more than ten (10) such excess service years nor shall a service increment be paid for a fraction of such service year.*

(c) Any person receiving a retirement allowance and is subsequently reemployed as a county employe, during the period of such reemployment his or her retirement allowance *plus a service increment, if any*, shall cease until subsequent retirement. The subsequent retirement allowance *and service increment, if any*, in the case of persons reemployed prior to the first day of June, one thousand nine hundred fifty-three, and retiring at any time after the first day of August, one thousand nine hundred fifty-three, shall be at the rate he or she would have received had there been no previous retirement. In the case of persons reemployed after the thirty-first day of May, one thousand nine hundred fifty-three, the subsequent retirement allowance, *plus a service increment, if any*, shall be the same as he or she received prior to his or her reemployment. *All present and future reemployed retired employes shall have the option to make bi-weekly contributions to the fund to qualify for an increased retirement allowance upon subsequent retirement: Provided, That he or she make retirement contributions to the fund with interest at the legal rate, for said period of time when no contributions were made from the earnings of said employe during the period of such reemployment. Upon subsequent retirement, the reemployed service credit, which shall equal one-twentieth for each full year's service, shall be added to the previous retirement allowance and in one amount, be paid monthly to the reemployed retiree. In no event shall increments be paid for any such reemployment service credit.*

(d) Retirement allowance *plus a service increment, if any*, shall be paid in monthly installments on warrants of the board. No retirement allowance

**plus a service increment, if any**, granted to any person who has heretofore retired or who shall hereafter retire shall be decreased or revoked during the life of any such person, except as the board may decide in accordance with the provisions of subsection (b) of section 1711, as well as a suspension thereof in accordance with the provisions of subsection (c) of this section.

\* \* \*

Section 4. Subsection (f) of section 1712 of the act, added November 30, 1967 (P.L.653, No.301) and amended December 10, 1970 (P.L.919, No.291), is amended to read:

Section 1712. Amount of Retirement Allowances.—\* \* \*

(f) The election by said county employe of the option as provided in subsection (e) of this section shall be final on attainment of age [**fifty-five**] **fifty** or on later election prior to retirement, and no further election shall be permitted: Provided, That the election shall automatically be cancelled if the county employe shall either be divorced or if his or her spouse shall die, in each case before retirement benefits under the option shall commence. ***In the event the designated spouse shall predecease, or if a legal separation occurs, while on retirement, the reduced retirement option benefit shall be reinstated to the full amount had there been no option exercised. Said reinstated amount to commence immediately upon the death of the spouse so designated or upon satisfactory proof of legal separation.***

***All present and future employes may elect to provide survivorship option benefits for a spouse in the following classifications if the following conditions are satisfied:***

***Class I. The deceased employe shall have attained the age of fifty years and had completed eight to nineteen years of service and dies before reaching the age of fifty-five years. The reduced retirement option benefit to commence to the survivor at the time the deceased employe would have attained the age of fifty-five years. Said benefits to be paid in accordance with the provisions set forth under subsection (d), Option II, of section 1713.***

***Class II. All present and future employes, who after completion of twenty or more years of service and shall die before reaching the age of fifty years, his or her spouse shall be eligible to receive the reduced retirement option immediately, in accordance with the provisions set forth under subsection (d), Option II of section 1713.***

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Section 5. Subsections (d) and (e) of section 1713, amended June 1, 1973 (P.L.37, No.19), are amended to read:

Section 1713. Retirement Allowances After Leaving Service.—

(d) Option I. Any person who, after twenty or more years' service as a county employe resigns from his or her office position or employment before reaching the age of sixty years when he or she attains the age of sixty years, when such former county employe shall be eligible to receive a retirement allowance which shall be computed on the average monthly compensation as received by the former county employe prior to his or her

separation from the service of the county or county institution district in accordance with the provisions of subsection (a) of section 1712. ***Such former county employe shall be eligible to receive, in addition to a retirement allowance, a service increment, if any, in accordance with the provisions of subsection (b) of section 1712 only to the time of his or her separation from the service of the county or county institution district.***

Option II. Employe may elect to receive immediate retirement allowance benefits under the age of sixty years provided that said retirement allowance be reduced by one-half of one per centum for each month under the age of sixty years. Option I or Option II election shall be final upon separation of his or her service from the county.

***Option III. Any employe under sixty years of age who has served twenty years or more and who was dismissed through no fault of his own may elect to receive immediate retirement allowance benefits equal to seventy per centum of the benefits he would be entitled to receive had he continued to be employed until age sixty.***

(e) The aforesaid retirement allowance ***plus a service increment, if any,*** as provided in subsection (d) of this section, shall be subject to a suspension thereof in accordance with the provisions of subsection (c) of section 1712.

Section 6. Section 1715 of the act, amended June 1, 1973 (P.L.37, No.19), is amended to read:

Section 1715. Reinstatement and Requirements for Credit for Previous Service.—(a) No county employe shall be permitted to withdraw his or her contributions as paid into the retirement fund upon transfer from one office, department or agency to another. Any person who has ceased to be a county employe and whose contributions as paid into the retirement fund, have been refunded by the board, if such person has been reemployed by the county or county institution district and desires to be given credit for previous service as a county employe, he or she shall, within two years of the effective date of **[January 1, 1973] January 1, 1975**, make payment in full of the amount refunded, with interest at the legal rate, the said interest to be computed from the date of the refund to the date of repayment. Upon application of the employe desiring to be given credit for previous service as a county employe at least sixty days prior to the expiration of the period of two years from the effective date above, such employe shall be permitted to make payment in full of the amount refunded, with interest at the legal rate, within an additional period of one year. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payment on monthly balances. Whenever the time for payment in full has been extended for an additional period of one year, the principal and interest may be paid in a total of not more than thirty-six equal monthly installments. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowance ***plus a service increment, if any.*** Such

county employe shall make monthly payments into the retirement fund in accordance with the provisions of section 1708.

If any person who hereafter becomes a county employe and thereafter ceases to be a county employe and his or her contributions as paid into the retirement fund are refunded by the board, is reemployed by the county or county institution district and he or she desires to be given credit for previous service as a county employe, he or she shall within two years of the date of reemployment, make payment in full of the amount refunded, with interest at the legal rate, the said interest to be computed from the date of refund to the date of repayment. Upon application of any person who hereafter becomes a county employe and desires to be given credit for previous service as a county employe, at least sixty days prior to completion of a period of two years from the date of reemployment, such employe shall be permitted to make payment in full of the amount refunded, with interest at the legal rate, within an additional period of one year. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payments on monthly balances. Whenever the time for payment in full has been extended for an additional period of one year the principal and interest may be paid in a total of not more than thirty-six equal monthly installments. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowance ***plus a service increment, if any***. Such county employe shall make monthly payments into the retirement fund in accordance with the provisions of section 1708. Any person who is a county employe on the effective date of this act may make payments into the retirement fund which shall cover a period of time within which such person was a county employe but was not a member of the retirement system because such membership was not compulsory.

(b) Any person who has heretofore or who hereafter ceases to be a county employe and whose contributions as paid into the retirement fund, have heretofore or shall hereafter be refunded by the board, if such person is reemployed by the county or county institution district and desires to be given credit for previous service as a county employe, except as hereinafter provided, he or she shall within two years from the date of such reemployment make payment in full of the amount refunded, with interest at the legal rate, the said interest to be computed from the date of the refund to the date of repayment. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payment on monthly balances. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowance ***plus a service increment, if any***. Such county employe shall make monthly payments into the retirement fund in accordance with

the provisions of section 1708. No person reemployed as a county employe in accordance with the provisions of this subsection shall be eligible to receive a retirement allowance by reason of total and permanent physical disability, in accordance with the provisions of section 1711, unless he or she shall be in employ for a period of not less than twenty years, which said period of employment shall include credit given for previous service, as herein provided. No person who is ineligible to become a member of the retirement system shall be eligible to receive credit for previous service as a county employe, as hereinbefore provided.

(c) Any county employe who desires to be given credit for previous service in the employ of the county as an elected or appointed employe or official, where such service subsequent to the first day of January, one thousand nine hundred forty, was rendered to the county at a time when such employe or official was not a member of the county employes' retirement system, shall, on or prior to **[January 1, 1975]** *January 1, 1977*, make application to the board, and upon approval thereof shall pay into the retirement fund a sum equal to twice the payment which such employe would have made had such person been a member thereof and had the payments been made in accordance with the provision of this article. In addition thereto, interest at the legal rate shall be paid from the date when the said monthly payment would have been made. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payment on monthly balances. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowances. Such county employe shall make monthly payments into the retirement fund in accordance with the provisions of section 1708.

(d) Any person employed by any county correctional institution at the date such person became eligible for membership in the county employes' retirement system, who desires to be given credit for previous service in the employ of such institution when such employe was not eligible for membership, shall, on or prior to **[January 1, 1975]** *January 1, 1976*, make application to the board, and upon approval thereof shall pay into the retirement fund a sum equal to twice the payment which such employe would have made had such person been a member thereof and had the payments been made in accordance with the provisions of this article. In addition thereto, interest at the legal rate shall be paid from the date when the said monthly payment would have been made. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payment on monthly balances. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowances. Such

county employe shall make monthly payment into the retirement fund in accordance with the provisions of section 1708.

(e) Any county employe who desires to be given credit for previous service in the employ of the county as an elected or appointed employe or official, where such service was ineligible service and was not permitted membership in the retirement system, shall on or before December 31, 1973 make application to the board, and upon approval thereof shall pay into the retirement fund a sum equal to the payment which such employe would have made in accordance with the provisions of this article. In addition, thereto, interest shall be paid at the rate of six per centum into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in full prior to January 1, 1974. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowances. Such county employe shall make monthly payments into the retirement fund in accordance with the provisions of section 1708.

Section 7. The provisions of this amendatory act do not apply and shall not be construed to apply to counties of the second class A.

Section 8. This act shall take effect immediately and be applicable to all persons retiring on or after January 1, 1973.

We certify that this bill, Senate Bill No. 1166, Printer's No. 1835, having passed both Houses, vetoed by the Governor, was returned to the Senate where the Senate reconsidered and passed the bill by a two-thirds majority of the members elected to the Senate, the objections of the Governor to the contrary notwithstanding. Upon notification by the Senate as to their action, the House of Representatives reconsidered and passed the bill on June 29, 1976 by a two-thirds majority of the members elected to the House of Representatives, the objections of the Governor to the contrary notwithstanding.

Given under our hand and seal this twenty-ninth day of June, one thousand nine hundred and seventy-six.

**ERNEST P. KLINE**  
President, Senate

**HERBERT FINEMAN**  
Speaker, House of Representatives

**MARK GRUELL, JR.**  
Secretary, Senate

**VINCENT F. SCARCELLI**  
Chief Clerk, House of Representatives