

No. 1992-159

AN ACT

HB 1224

Amending the act of June 24, 1931 (P.L.1206, No.331), entitled "An act concerning townships of the first class; amending, revising, consolidating, and changing the law relating thereto," further providing for police pensions and annuities and insurance for township commissioners.

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

Section 1. Section 605 of the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, reenacted and amended May 27, 1949 (P.L.1955, No.569), is amended to read:

Section 605. *Annuities in Lieu of Joining Pension or Retirement System.*—A township may, by ordinance, provide as compensation to employes of not less than ten years of satisfactory service who are not less than sixty years of age *upon termination of active employment with the township* a proportion of the compensation last paid to them but not in excess of fifty per centum thereof, as fixed in said ordinance or amendment thereto. *Any arrangement to provide post retirement compensation to aged appointees and employes pursuant to this section shall be a pension plan within the meaning of that term pursuant to the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," and the township establishing that plan shall provide funding of that pension plan in an amount sufficient to meet the minimum obligation of the municipality with respect to the pension plan pursuant to that act.* Nothing herein shall preclude any employe of the township from joining any pension system or municipal retirement system that the township may establish or adopt. The intent and purpose of this section is to permit townships, without levying any special tax or exceeding the existing tax limitation for general revenue purposes, to pay to their employes who are too old to advantageously join any pensioning or retirement system a reasonable annuity in lieu of joining a pension or retirement system, and who are not and cannot now be socially protected by any Federal social security system.

Section 2. Section 1409 of the act, amended May 14, 1949 (P.L.1341, No.401), is amended to read:

Section 1409. Establishment of Police Pension Fund; Management.—Townships shall, unless there is a private organization or association constituting and managing an existing pension fund for the members of the police force in any such township, by ordinance, establish a police pension fund to be maintained by *member contributions of an equal percentage charge against each member of the police force, [not exceeding] which, except to the extent that subsection (c) of section 607 of the act of December 18, 1984*

(P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," applies, shall not exceed annually four per centum of the pay of such member. All pension funds established under the provisions of this section shall be under the direction of the township commissioners or such committee as they may designate, and shall be applied, under such regulations as the commissioners may by ordinance prescribe, for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age or disability and the families of such as may be injured or killed in the service. Any allowances made to those who are retired by reason of disability or age shall be in conformity with a uniform scale.

Section 3. Section 1413 of the act is amended to read:

Section 1413. Township Appropriations; Gifts; Management.—Any township [may] *shall* make contributions to the police pension fund *in an amount sufficient to meet the minimum obligation of the municipality with respect to the pension plan pursuant to the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act,"* and may take, by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of such police pension fund. The care, management, investment, and disposal of such trust funds or property shall be vested in such officers as the township commissioners shall, by ordinance, direct, and shall be governed by such officers, subject to any directions not inconsistent therewith, as the donors of such funds and property may prescribe. Any township may also make contributions to any incorporated police pension fund extending retirement benefits to police officers of the township, subject to such conditions as the township commissioners may impose[.] *and in conformance with any applicable provisions of the "Municipal Pension Plan Funding Standard and Recovery Act."*

Section 4. Clause LXIII of section 1502 of the act, amended November 29, 1985 (P.L.318, No.82), is amended to read:

Section 1502. The corporate power of a township of the first class shall be vested in the board of township commissioners. The board shall have power—

* * *

LXIII. Insurance. To expend out of the general township fund such amount as may be necessary to secure workmen's compensation insurance for its employes, including volunteer firemen of companies duly recognized by the township by motion or resolution killed or injured while going to, returning from or attending fires, or while performing any other duties authorized by the township; to make contracts of insurance with any fire insurance company, duly authorized by law to transact business in the Commonwealth of Pennsylvania, on any building or property owned by such township, to make contracts with any insurance company, so authorized, insuring any public liability of the township, and to make contracts of insurance with any insurance company, or nonprofit hospitalization corporation, or nonprofit medical service corporation, authorized to transact business

within the Commonwealth, insuring its employes *or commissioners*, or any class or classes thereof, or their dependents, under a policy or policies of group insurance covering life, health, hospitalization, medical and surgical service, or accident insurance, and may contract with any such company, granting annuities or pensions, for the pensioning of such employes, or any class or classes thereof, and for such purposes, may agree to pay part or all of the premiums or charges for carrying such contracts, premiums, or charges, or portions thereof. The commissioners are hereby authorized, enabled and permitted to deduct from the employe's *or commissioner's* pay, salary or compensation such part of the premium or charge, as is payable by the employe *or commissioner*, and as may be so authorized by the employe *or commissioner* in writing. **[As used in this clause, the terms "employe" and "employes" shall include township commissioners, if the commissioner works on a full-time basis in his capacity as superintendent, road master, laborer or secretary for the township. Such commissioners eligible for inclusion in such plans must meet the same requirements, including hours of employment, as other full-time employes of the township. Other commissioners shall be eligible for inclusion under a policy or policies of group insurance covering life, health, hospitalization, medical and surgical service or accident insurance only if they pay their pro rata share of the premiums.]** Such insurance shall be uniformly applicable to those covered and shall not give eligibility preference to, or improperly discriminate in favor of, commissioners. As used in this clause, the terms "employe" and "employes" exclude independent contractors and all township engineers and solicitors. Any life, health, hospitalization, medical service or accident insurance coverage contract entered into by a township between January 1, 1959, and December 31, 1984, that includes or provides coverage for commissioners shall not be void or unlawful solely because of such inclusion of commissioners; nor shall any penalty, assessment, surcharge or disciplinary action of any kind occur as a result of such participation by such commissioners; and insurance benefits payable to insureds or their beneficiaries arising out of or on account of deaths, injuries, accidents or illnesses occurring prior to the effective date of this amendatory act shall remain the property of the insureds or their beneficiaries.

Any pension or annuity contract entered into by a township between January 1, 1959, and December 31, 1984, that includes or provides for benefits for commissioners at township expense shall not be void or unlawful solely because of such inclusion of such commissioners; nor shall any penalty, assessment, surcharge or disciplinary action of any kind occur as a result of such participation by commissioners: Provided, however, That anyone entitled to benefit coverage under a pension paid for, in whole or in part, by any township without lawful authority shall deliver, surrender and assign to the township all benefits paid thereunder after December 31, 1984.

Where any official personally contributed toward such a pension plan or a purchase of such an annuity, he shall be refunded his total contributions thereto, plus any interest accumulated thereon, less any amount already paid to him under the annuity or pension plan, when the annuity or pension bene-

fits are delivered, surrendered or assigned to the township, or when the annuity becomes the property of the township by operation of this section. In lieu of a refund of total contributions plus accumulated interest, an official who personally contributed toward the pension plan or toward the purchase of the annuity may elect to purchase from the township its interest in that pension plan or annuity program. The election option shall be exercised within sixty (60) days of the effective date of this act. The value of the interest of the township in the pension plan or annuity program with respect to the official shall be determined by the actuary who prepared the 1983 municipal pension report for the township pension plan or annuity program pursuant to the act of December 6, 1972 (P.L.1383, No.293), entitled "An act requiring municipal pension systems to have an actuarial investigation of the fund made by an actuary who shall report his findings to the Department of Community Affairs," using the same applicable actuarial assumptions as used in that report or, if no actuary was retained for the 1983 report or no 1983 report was filed, by an actuary retained for the purpose of valuing the township interest. The cost of the actuarial valuation of the township interest and any future administrative costs of the pension plan or the annuity program attributable to the official shall be payable by the official in a manner to be established by agreement with the township auditors.

No elected or appointed township official included in a township-paid pension or annuity plan entered into prior to December 31, 1984, shall be subject to any penalty, assessment, surcharge or disciplinary action of any kind as a result of said participation. Any residual interest, value, refund of premium or benefits payable on or after December 31, 1984, arising out of the township-paid interest of the elected or appointed township officials shall become the exclusive property of the township.

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Section 5. This act shall take effect immediately.

APPROVED—The 16th day of December, A. D. 1992.

ROBERT P. CASEY