

No. 1995-22

AN ACT

HB 1095

Amending the act of May 29, 1956 (1955 P.L.1804, No.600), 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 providing for the return of contributions.

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

Section 1. Section 6 of the act of May 29, 1956 (1955 P.L.1804, No.600), referred to as the Municipal Police Pension Law, amended June 15, 1972 (P.L.396, No.118), is amended to read:

Section 6. (a) 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").

(b) 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 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.

(c) 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. *Except as otherwise provided in this subsection, reduction or elimination of member contributions shall not permit the return of contributions or any interest or fund earnings to be made to members while actively employed as a police officer by any borough, town or township subject to this act. Where an agreement, collectively bargained or otherwise, arbitration award or court decision was agreed to, issued or rendered on or prior to February 23, 1994, which provided for a return of contributions, with or without interest, or fund earnings to members, a return of contributions, with or without interest, or fund earnings shall be made to members and any such return of contributions shall reduce or eliminate any entitlement to refunds pursuant to section 9. No borough, town or township making such return or member receiving such return shall be required to restore to the fund any such contributions, interest or fund earnings.*

(d) 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.

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

Section 2. Section 9 of the act, amended September 9, 1971 (P.L.435, No.104), is amended to read:

Section 9. Any member of a police force of a borough, town or township, who for any reason whatsoever, shall be ineligible to receive a pension after having contributed any charges to a police pension fund established pursuant to the provisions of this act, or to a police pension fund existing on the effective date of this act supplanted by a police pension fund established pursuant to the provisions of this act, shall be entitled to a refund of all such moneys paid by him into such funds plus all interest earned by such moneys

while in the police pension fund, *less any return of contributions and interest made to members pursuant to section 6*, as determined by regulations of the governing body immediately upon discontinuance of his employment with the police force. If such discontinuance is due to death, such moneys shall be paid to his designated beneficiary or, in the absence thereof, to his estate.

Section 3. This act shall take effect immediately.

APPROVED—The 30th day of June, A.D. 1995.

THOMAS J. RIDGE