

No. 1996-33

AN ACT

SB 633

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," providing for the establishment of police pension funds or pension annuities by regional police departments and the transfer and retransfer of service credits and certain pension assets; providing for the transfer of service credits and certain pension assets in the case of disbanded police forces; further providing for employment of an actuary and for payments by the State Treasurer; and making editorial changes.

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

Section 1. The title of the act of May 29, 1956 (1955 P.L.1804, No.600), referred to as the Municipal Police Pension Law, is amended to read:

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**]; **authorizing the establishment of police pension funds or pension annuities by regional police departments; providing for the regulation and maintenance of police pension funds or pension annuities**; 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.

Section 2. Section 1 of the act, amended June 23, 1970 (P.L.417, No.139), is amended to read:

Section 1. (a) Each borough, town and township of this Commonwealth maintaining a police force of three or more full-time members **and each regional police department** shall, and all other boroughs, towns or townships may, establish, by ordinance or resolution, a police pension fund or pension annuity to be maintained by a charge against each member of the police force, by annual appropriations made by the borough, town [or], township **or regional police department**, by 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 for policemen, and by gifts, grants, devises or bequests granted to the pension fund pursuant to section two of this act. Such fund shall be under the direction of the governing body of the borough, town [or], township *or regional police department*, and applied under such regulations as such governing body, by ordinance or resolution, may prescribe for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age and service, or disability, and may prescribe for the benefit (i) of widows, and if no widow survives or if she survives and subsequently dies or remarries, then (ii) of child or children under the age of eighteen years, of members of the police force or of members retired on pension. All such pensions as shall be allowed to those who are retired by reason of disabilities shall be in conformity with a uniform scale. The widow of a member of the police force or a member who retires on pension who dies or if no widow survives or if she survives and subsequently dies or remarries, then the child or children under the age of eighteen years of a member of the police force or a member who retires on pension who dies on or after the effective date of this amendment, may, during her lifetime or so long as she does not remarry in the case of a widow or until reaching the age of eighteen years in the case of a child or children, be entitled to receive a pension calculated at the rate of fifty per centum of the pension the member was receiving or would have been receiving had he been retired at the time of his death.

(b) For purposes of this act, the term "regional police department" shall mean a municipal police force organized and operated in combination by two or more municipalities through an intermunicipal agreement under the act of July 12, 1972 (P.L.762, No.180), referred to as the Intergovernmental Cooperation Law.

Section 3. Section 2 of the act is amended to read:

Section 2. Any borough, town [or], township *or regional* police pension fund shall be authorized to take by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust, for the benefit of such fund and the care, management, investment and disposal of such trust funds or property shall be vested in the person or persons having the management of such police pension fund, and the said trust funds shall be governed thereby subject to such directions not inconsistent therewith as the donors of such funds and property may prescribe.

Section 4. Section 3 of the act, amended October 21, 1965 (P.L.643, No.317), is amended to read:

Section 3. Each ordinance or resolution establishing a police pension fund shall prescribe a minimum period of total service in the aggregate of twenty-five years in the same borough, town [or], township *or regional police department* and shall fix the age of the members of the force at fifty-five years, or, if an actuarial study of the cost shows that such reduction in age is feasible, may fix the age of the members of the force at fifty years, after which they may retire from active duty, and such members as are retired shall

be subject to service, from time to time, as a police reserve, in cases of riot, tumult or preservation of the public peace until unfitted for such service, when they may be finally discharged by reason of age or disability.

Section 5. Section 4 of the act, amended December 19, 1990 (P.L.1238, No.205), is amended to read:

Section 4. (a) Any member of the police force employed by a borough, town [or], township *or regional police department*, who has been a regularly appointed employe of any such political subdivision *or regional police department* for a period of at least six months and who thereafter shall enter into the military service of the United States, shall have credited to his employment record for pension or retirement benefits all of the time spent by him in such military service, if such person returns or has heretofore returned to his employment within six months after his separation from the service.

(b) The ordinance or resolution establishing the police pension fund may provide full service credit for each year of military service or fraction thereof, not to exceed five years, to any member of the police force who was not employed by the political subdivision *or regional police department* prior to such military service. The amount due for the purchase of credit for military service other than intervening military service shall be computed by applying the average normal cost rate for borough [and], town, township *and regional* police pension plans as certified by the Public Employee Retirement [Study] Commission, but not to exceed ten per centum, to the member's average annual rate of compensation over the first three years of municipal service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with interest at the rate of four and three-quarters per centum compounded annually from the date of initial entry into municipal service to the date of payment.

(c) Any member of the police force shall be eligible to receive service credit for intervening or nonintervening military service as provided in subsections (a) and (b) provided that he is not entitled to receive, eligible to receive now or in the future or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency with the exception of a member eligible to receive or receiving military retirement pay earned by a combination of active duty and nonactive duty with a reserve or national guard component of the armed forces which retirement pay is payable only upon the attainment of a specified age and period of service under 10 U.S.C. Ch. 67 (relating to retired pay for non-regular service).

(d) *Whenever two or more boroughs, cities, towns or townships establish a regional police department through an intermunicipal agreement under the act of July 12, 1972 (P.L.762, No.180), referred to as the Intergovernmental Cooperation Law, the participating boroughs, cities, towns or townships shall individually adopt ordinances establishing the regional police pension fund which shall have a uniform benefit structure*

consistent with this act. Any member of the police force of any of the boroughs, cities, towns or townships establishing the regional police department who is appointed as a member of the regional police force within six months of its establishment shall have credited to his employment record for pension or retirement benefit purposes all of the time spent by him as a full-time member of the police pension fund of the municipality. Prior to the adoption of the pension plan for the regional police department, the municipalities shall obtain an actuarial valuation report on the proposed pension plan. The actuarial valuation report shall be prepared under Chapter 2 of the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act."

(e) If a borough, town or township disbands its police force and enters into an intermunicipal agreement with another borough, town or township for the provision of police services under the Intergovernmental Cooperation Law, the intermunicipal agreement may provide for the transfer of service credits for any active member of the disbanded police force who is employed on or after January 1, 1995, as a member of the police force providing police services to the borough, town or township that disbanded its police force, provided that the member is employed within six months of the effective date of the disbandment. If authorized in an intermunicipal agreement, the service credits transferred for each eligible member shall be equal to the total time spent by the member as a full-time member of the disbanded police force. The intermunicipal agreement providing for the transfer of service credits may provide for the transfer of assets from the police pension fund of the disbanded police force to the police pension fund of the police force of the borough, town or township providing the police services, provided that the amount of the assets transferred does not exceed the actuarial accrued liability of the transferred members as calculated by the actuary of the police pension fund of the police force of the borough, town or township providing the police services. The actuarial valuation prepared by the actuary shall be prepared under Chapter 2 of the "Municipal Pension Plan Funding Standard and Recovery Act."

(f) If a borough, town or township: (1) executes an intermunicipal agreement to provide police services under subsection (e); (2) subsequently re-establishes a police force; and (3) re-employs one or more members of the police force of the other borough, town or township signing the intermunicipal agreement, that borough, town or township shall be entitled to receive from the police pension fund of the other borough, town or township the assets transferred under subsection (e) to the police pension fund of the other borough, town or township for each re-employed member. The borough, town or township may provide for the transfer of service credits for each re-employed member equal to the time spent as a full-time member of the police force of the other borough, town or township.

Section 6. Section 5 of the act, amended December 7, 1979 (P.L.475, No.99), is amended to read:

Section 5. (a) 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 regional police department*, or under its control, save the police pension fund herein provided for.

(b) 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:] *provided in subsections (c) and (d)*.

(c) Monthly pension or retirement benefits other than length of service increments shall be computed at one-half the monthly average salary of such member during not more than the last sixty nor less than the last thirty-six months of employment. Such pension or retirement benefits for any month shall be computed as the sum of [(i)] (1) 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)]; (2) if positions covered by the fund are included in an agreement under the Federal Social Security Act, up to seventy-five per centum of his full social security old-age insurance benefit calculated in accordance with the provisions of the Federal Social Security Act in effect on the date of his termination of employment, except that such amount shall be included only upon attainment of the age at which the officer would be eligible to receive full social security old-age insurance benefits and in determining such eligibility and such amount only compensation for services actually rendered by the officer and covered by the police pension fund shall be included[,]; and [(iii)] (3) 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: **Provided, however, That** *except that* any officer who receives pension or retirement benefits from any plan established at any time pursuant to this act and who is also entitled to receive social security old-age insurance benefits shall not regardless of when the officer retired from active service have his pension or retirement benefits offset or reduced by more than seventy-five per centum of the social security old-age insurance benefits which he receives.

(d) 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)] (1) of [this paragraph] *subsection (c)* shall be that proportion of the total pension benefits payable under clause [(i)] (1) as the assets attributable to contributions of moneys raised by taxation bear to the total assets of the pension plan.

(e) 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 *or regional police department*.

(f) Any borough, town [or], township *or regional police department* may establish and pay length of service increments for years of service beyond twenty-five years for each completed year of service in excess of twenty-five years, not to exceed one hundred dollars (\$100). Such length of service increments may be paid in addition to other monthly pension or retirement allowances.

(g) (1) The ordinance or resolution establishing the police pension fund may provide for a cost of living increase for members of the police force receiving retirement benefits[: **Provided, however, That such**]. *The* cost of living increase shall not exceed the percentage increase in the Consumer Price Index from the year in which the police member last worked[: **Provided further, That in no case**], shall *not cause* the total police pension benefits *to* exceed seventy-five per centum of the salary for computing retirement benefits[: **And provided further, That**] *and shall not cause* the total cost of living increase [shall not] *to* exceed thirty per centum. No cost of living increase shall be granted which would impair the actuarial soundness of the pension fund.

(2) (i) *Subject to the limitations in clause (ii), if the assets of the police pension fund exceed the present value of future benefits as reported in the last actuarial valuation report filed with the Public Employee Retirement Commission under the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," a cost of living increase for members of the police force receiving retirement benefits for twenty or more years may be provided in excess of the limits herein prescribed.*

(ii) *If the total benefits to be paid to a retired member from the police pension fund exceed ten thousand dollars (\$10,000) a year, then the police pension fund shall not pay benefits to a retired member in excess of one hundred per centum of the retired member's average compensation as defined in section 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415) or in any successor statute.*

(h) The ordinance or resolution establishing the police pension fund may provide for a vested benefit provided that such would not impair the actuarial soundness of the pension fund. Under the provisions of such benefit, should a police officer, before completing superannuation retirement age and service requirements but after having completed twelve years of total service, for any reason cease to be employed as a full-time police officer by the municipality *or regional police department* in whose pension fund he has been a member, he shall be entitled to vest his retirement benefits by filing with the governing body within ninety days of the date he ceases to be a full-time police officer

a written notice of his intention to vest. Upon reaching the date which would have been his superannuation retirement date if he had continued to be employed as a full-time police officer he shall be paid a partial superannuation retirement allowance determined by applying the percentage his years of service bears to the years of service which he would have rendered had he continued to work until his superannuation retirement date to the gross pension, using however the monthly average salary during the appropriate period prior to his termination of employment. Such pension or retirement benefits for any month shall be the sum of clauses [(i), (ii) and (iii)] (1), (2) and (3) of subsection (c) of such 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 his partial superannuation retirement allowance outlined above.

Section 7. Section 6 of the act, amended June 15, 1972 (P.L.396, No.118), 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").]

(a) 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] clause (2) of subsection (c) 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] clause (2) of subsection (c) 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.

(b) The remainder of the needed annual contributions, as determined by the actuary, shall become the obligation of the borough, town [or], township

or regional police department, 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 *or regional police department* 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 *or regional police department* will not be required to keep the fund actuarially sound, the governing body of the borough, town [or], township *or regional police department* 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 8. 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 *or regional police department*, 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 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 9. Section 11 of the act is amended to read:

Section 11. The expense of the administration of this act, including the compensation of an actuary and the custodian of the fund, exclusive of the payments of retirement allowances, shall be paid by the borough, town [or], township *or regional police department* by appropriations made by the governing bodies thereof.

Section 10. The act is amended by adding a section to read:

Section 11.1. Notwithstanding any provision of this act, a regional police department retirement system established prior to the effective date of this amendatory act may retain the eligibility and benefit provisions specified in the retirement system's pension plan on the effective date of this amendatory act. Any subsequent modification of the eligibility or benefit provisions of the regional police department retirement system's pension plan shall be made under the provisions of this amendatory act.

Section 11. This act shall take effect immediately.

APPROVED—The 10th day of May, A.D. 1996.

THOMAS J. RIDGE