

No. 1996-150

AN ACT

HB 2579

Amending the act of December 18, 1984 (P.L.1005, No.205), entitled "An act mandating actuarial funding standards for all municipal pension systems; establishing a recovery program for municipal pension systems determined to be financially distressed; providing for the distribution of the tax on the premiums of foreign fire insurance companies; and making repeals," further providing for municipal obligations.

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

Section 1. Section 404(b) and (c) of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, added December 28, 1994 (P.L.1433, No.168), are amended and the section is amended by adding subsections to read:

Section 404. Municipalities issuing bonds or notes for pension plan funding.

* * *

(b) Additions to actuarial valuation report.—The actuarial valuation report prepared under sections 201 and 202 shall include, in addition to the exhibits required by section 202:

(1) an exhibit stating the amount and date of each contribution to the pension plan comprised of the proceeds of bonds and notes and disclosing the initial and remaining aggregated amortization periods for each contribution calculated as of the date of the initial actuarial valuation report filed after the contribution using the total unfunded actuarial accrued liability of the pension plan and the aggregated additional funding requirements, as determined under paragraph (2); [and]

(2) an exhibit prepared in conformance with section 202(b)(3) and (4), except that the actuarial value of assets subtracted from the actuarial accrued liability shall not take into account contributions comprised of proceeds of bonds and notes and earnings on such contributions for the duration of the aggregated amortization period established under paragraph (1)[.]; and

(3) *for each series of bonds or notes issued to fund an unfunded actuarial accrued liability and for each series of bonds or notes issued to refund such bonds or notes, an exhibit of the debt and debt service requirements that shall disclose the original principal amount of the bonds or notes issued, the date and amount of each required principal and interest payment, the amortization of premium or discount, if applicable, and the remaining amount of bond or note principal upon application of each payment.*

(c) Determination of general municipal pension system State aid and supplemental State assistance.—Solely for the purposes of determining the amount of general municipal pension system State aid allocable to such a municipality under section 402 and the amount of supplemental State assistance allocable to such municipality under [sections 602 and 607] *sections 607(j) and 608*, the actual financial requirements certified for the pension plan for each plan year shall be determined based upon the exhibits prepared under subsection (b) so that the amount of general municipal pension system State aid and supplemental State assistance to the municipality shall not be reduced or increased as a result of any contributions to the pension plan comprised of the proceeds of bonds and notes for which the remaining aggregated amortization period, as disclosed in the exhibit required in subsection (a), is one or more years. *In making these determinations, the commission may adjust the data used to calculate the actuarial indicators or municipal finance indicators, or both, defined in Chapter 5 to insure that the amount of supplemental State assistance to the municipality shall not be reduced or increased as a result of any debt issued to fund an unfunded actuarial accrued liability and the debt service on that debt.*

* * *

(h) *Modification of the determination of minimum municipal obligations.—Any unpaid portion of the amortization contribution requirement component of the minimum municipal obligation determined under section 302 for any municipality that issues bonds or notes to fund an unfunded actuarial accrued liability shall be canceled until deposit of the bond or note proceeds can be reflected in the minimum municipal obligation adopted by the governing body of the municipality. Cancellation of the amortization contribution requirement component of a minimum municipal obligation under this subsection shall be in proportion to the reduction in the unfunded actuarial accrued liability of the pension fund, as determined in the last actuarial valuation report submitted to the commission under Chapter 2, that results from the deposit of the proceeds from the bonds or notes.*

(1) *In the case of municipalities submitting annual actuarial valuation reports pursuant to section 201, the cancellation of the amortization contribution requirement component of the minimum municipal obligation shall be effective for the year following the valuation date of the first actuarial valuation report prepared under Chapter 2 reflecting the deposit of the bond or note proceeds. The cancellation of the amortization contribution requirement component of the minimum municipal obligation shall also be effective for the year preceding the valuation date of the first actuarial valuation report prepared under Chapter 2 reflecting the deposit of the bond or note proceeds if the effective date of the deposit of the bond or note proceeds is not January 1.*

(2) In the case of municipalities submitting biennial actuarial valuation reports pursuant to section 201, the cancellation of the amortization contribution requirement component of the minimum municipal obligation shall be effective as follows:

(i) if the effective date of the deposit of the bond or note proceeds is January 1 of an odd-numbered year, the cancellation shall be effective for the year following the valuation date of the first actuarial valuation report prepared under Chapter 2 reflecting the deposit of the bond or note proceeds;

(ii) if the effective date of the deposit of the bond or note proceeds is in an odd-numbered year but not on January 1, the cancellation shall be effective for the two years preceding and the year following the valuation date of the first actuarial valuation report prepared under Chapter 2 reflecting the deposit of the bond or note proceeds;

(iii) if the effective date of the deposit of the bond or note proceeds is in an even-numbered year, the cancellation shall be effective for the year preceding and the year following the valuation date of the first actuarial valuation report prepared under Chapter 2 reflecting the deposit of the bond or note proceeds.

(i) Deposit and use of bond or note proceeds.—The total net proceeds from the issuance of bonds or notes shall be deposited into the pension fund of the municipality within 30 days of receipt by the municipality or the effective date of this act, shall be treated as an amortization contribution for the purposes of reporting under Chapter 2 and shall not be used to pay any portion of the municipality's minimum municipal obligation determined under section 302.

Section 2. Section 503(c) of the act is amended to read:
Section 503. Determination procedure.

* * *

(c) Municipal finance indicators.—The municipal finance indicators shall be based on the most recent financial report or reports filed by the applicable municipality with the Department of Community Affairs and certified by the secretary or by the designee of the secretary. Before certification for a municipality that has issued bonds or notes to fund an unfunded actuarial accrued liability under the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, or under the laws applicable to the municipality, the municipal finance data extracted from the most recent financial report or reports shall be adjusted as directed by the commission to hold harmless the municipality under section 404(c) by excluding the municipal debt issued to fund an unfunded actuarial accrued liability and the debt service on that debt. The municipal finance indicators and the associated scoring system for each shall be as follows:

(1) The total amount of taxes collected by the municipality for the current year are divided by the population of the municipality as of the last

Federal census, and the percentage increase in the amount of municipal taxes collected per capita in the most recent five-year period:

Taxes Collected		Gross Percentage Increase in Taxes	
Per Capita	Scoring	Per Capita	Scoring
\$ 0.00 - 79.99	0	0.00 - 19.99%	0
80.00 - 84.99	5	20.00 - 29.99%	3
85.00 - 89.99	10	30.00 - 34.99%	6
90.00 - 99.99	15	35.00 - 39.99%	9
100.00 - 109.99	20	40.00 - 44.99%	12
110.00 - 124.99	25	45.00 - 49.99%	15
125.00 - 139.99	30	50.00 - 54.99%	18
140.00 - 159.99	35	55.00 - 59.99%	21
160.00 - 179.99	40	60.00 - 64.99%	24
180.00 - 199.99	45	65.00 - 69.99%	27
200.00 or greater	50	70.00% or greater	30

(2) The municipal tax rate on the market value of real property (adjusted mill rate) in the municipality for the most recent year and the percentage increase in the amount of that adjusted mill rate in the most recent five-year period:

Adjusted Mill Rate		Gross Percentage Increase in Adjusted Mill Rate	
Adjusted Mill Rate	Scoring	Adjusted Mill Rate	Scoring
0.00 - 5.99	0	0.00 - 3.99%	0
6.00 - 7.99	5	4.00 - 6.99%	3
8.00 - 9.99	10	7.00 - 9.99%	6
10.00 - 11.99	15	10.00 - 12.99%	9
12.00 - 12.99	20	13.00 - 15.99%	12
13.00 - 13.99	25	16.00 - 18.99%	15
14.00 - 14.99	30	19.00 - 21.99%	18
15.00 - 15.99	35	22.00 - 24.99%	21
16.00 - 16.99	40	25.00 - 27.99%	24
17.00 - 17.99	45	28.00 - 30.99%	27
18.00 or greater	50	31.00% or greater	30

(3) For the most recent year, the result of the total municipal bonded debt plus the total municipal floating debt less the total municipal credits against municipal debt is divided by the population of the municipality as of the last Federal census:

Net Debt Per Capita	Scoring
\$ 0.00 - 9.99	0
10.00 - 19.99	8
20.00 - 29.99	16
30.00 - 39.99	24
40.00 - 49.99	32
50.00 - 59.99	40
60.00 - 69.99	48
70.00 - 79.99	56
80.00 - 89.99	64
90.00 - 99.99	72
100.00 or greater	80

(4) For the most recent year, the result of the total municipal bonded debt plus the total municipal floating debt less the total municipal credits against municipal debt is computed as a percentage of the assessed value of real property in the municipality:

Municipal Debt as Percentage of Municipal Property Tax Base	Scoring
0.00 - 0.49%	0
0.50 - 0.99%	6
1.00 - 1.99%	12
2.00 - 2.99%	18
3.00 - 4.49%	24
4.50 - 5.99%	30
6.00 - 6.99%	36
7.00 - 7.99%	42
8.00 - 8.99%	48
9.00 - 9.99%	54
10.00% or greater	60

(5) For the most recent year, the result of the total municipal bonded debt plus the total municipal floating debt less the total municipal credits against municipal debt is computed as a percentage of the market value of real property in the municipality:

Municipal Debt as Percentage of Potential Municipal Property Tax Base	Scoring
0.00 - 0.24%	0
0.25 - 0.49%	6
0.50 - 0.99%	12
1.00 - 1.49%	18
1.50 - 1.99%	24
2.00 - 2.99%	30
3.00 - 3.49%	36
3.50 - 3.99%	42
4.00 - 4.49%	48
4.50 - 4.99%	54
5.00% or greater	60

(6) For the most recent year, the municipal bonded debt retired during the preceding 12 months plus the interest paid during the preceding 12 months on all municipal debt is computed as a percentage of the total taxes collected by the municipality for the same period:

Debt Service as Percentage of Municipal Tax Revenue	Scoring
0.00 - 4.49%	0
4.50 - 5.49%	8
5.50 - 6.49%	16
6.50 - 7.49%	24
7.50 - 8.49%	32
8.50 - 9.49%	40
9.50 - 10.49%	48
10.50 - 11.49%	56
11.50 - 12.49%	64
12.50 - 13.49%	72
13.50% or greater	80

(7) The market value of real property in the municipality for the current year is divided by the population of the municipality as of the last Federal census, and the percentage increase in the amount of market value per capita in the most recent year over the amount of market value per capita in the most recent five-year period:

Market Value Per Capita	Scoring	Gross Percentage Increase in Market Value Per Capita	Scoring
\$8,000 or greater	0	41.00% or greater	0
7,500 - 7,999	5	39.00 - 40.99%	3
7,000 - 7,499	10	35.00 - 38.99%	6
6,500 - 6,999	15	31.00 - 34.99%	9
6,000 - 6,499	20	27.00 - 30.99%	12
5,500 - 5,999	25	23.00 - 26.99%	15
5,000 - 5,499	30	19.00 - 22.99%	18
4,500 - 4,999	35	15.00 - 18.99%	21
4,000 - 4,499	40	11.00 - 14.99%	24
3,500 - 3,999	45	7.00 - 10.99%	27
0 - 3,499	50	0.00 - 6.99%	30

(8) For the most recent year, adjusted total municipal expenditures (total municipal expenditures less any municipal urban renewal expenditures and less any municipal enterprise expenditures) divided by the population of the municipality as of the last Federal census and the percentage increase in the amount of adjusted total municipal expenditures per capita in the most recent year over the amount of adjusted total municipal expenditures per capita in the most recent five-year period:

Adjusted Total Municipal Expenditures Per Capita	Scoring	Gross Percentage Increase in Adjusted Total Municipal Expenditures Per Capita	Scoring
\$ 0.00 - 149.99	0	0.00 - 13.99%	0
150.00 - 164.99	5	14.00 - 17.99%	3
165.00 - 179.99	10	18.00 - 21.99%	6
180.00 - 194.99	15	22.00 - 25.99%	9
195.00 - 209.99	20	26.00 - 29.99%	12
210.00 - 224.99	25	30.00 - 33.99%	15
225.00 - 239.99	30	34.00 - 37.99%	18
240.00 - 254.99	35	38.00 - 41.99%	21
255.00 - 269.99	40	42.00 - 45.99%	24
270.00 - 284.99	45	46.00 - 48.99%	27
285.00 or greater	50	49.00% or greater	30

* * *

Section 3. Section 602 of the act is amended by adding a subsection to read:

Section 602. Application.

* * *

(e) Continuation of elected remedies.—In the event that the extent of financial distress of a municipal pension system determined by the commission subsequent to the initial determination is lower than the minimum prescribed in section 503(d) for a recovery program level previously elected by a municipality, the municipality may continue to utilize any of the remedies elected and implemented while it was eligible to participate in a higher recovery program level, provided that the municipality continues to comply with the preconditions for participation in the higher recovery program level and to utilize the mandatory remedies applicable to the higher recovery program level.

Section 4. Section 607(f) and (j) of the act are amended to read:

Section 607. Remedies applicable to various recovery program levels.

* * *

(f) Special municipal taxing authority.—If the tax rates set by the municipality on earned income or on real property are at the maximum provided by applicable law, the municipality may increase its tax on either earned income or real property above those maximum rates. The proceeds of this special municipal tax increase shall be used solely to defray the additional costs required to be paid pursuant to this act which are directly related to the pension plans of the municipality. The municipality utilizing this special municipal taxing authority shall not reduce the level of municipal contributions to the pension plans prior to the implementation of the special municipal taxing authority. The average level of municipal contributions to the pension plans from all revenue sources for the three years immediately prior to the implementation of the special municipal taxing authority shall be expressed as a percentage of the average covered payroll for that same three-year period: Provided, however, That any supplemental contributions made to the plans pursuant to any pension recovery legislation enacted by the municipalities shall be excluded for purposes of determining the level of municipal contribution to the pension plans prior to the implementation of the special municipal taxing authority. In each year subsequent to the implementation of the special municipal taxing authority, the municipal contributions to the pension plan from all revenue sources existing prior to the implementation of the special existing municipal taxing authority, reduced by any supplemental pension recovery contributions, shall equal or exceed this average percentage of the current covered payroll. A municipality utilizing the provisions of section 404 may levy or continue to levy the special municipal tax increase under this subsection provided that the municipality does not reduce the level of municipal contributions to the pension plans prior to the implementation of the special municipal taxing authority. In executing the procedure prescribed in this subsection to determine the level of municipal contributions, the debt service payments

for bonds or notes issued under section 404 shall be considered municipal contributions.

* * *

(j) Supplemental State assistance.—If every pension plan of the municipality which is a defined benefit plan and which is self-insured in whole or in part has filed an actuarial valuation report utilizing the standardized actuarial cost method and economic actuarial assumptions within the range of actuarial assumptions specified in section 202(b) and if the municipality has implemented the aggregation of trust funds pursuant to subsection (b), the municipality may receive supplemental State assistance from the Supplemental State Assistance Fund established pursuant to section 608. The amount of the supplemental State assistance to which the municipality is entitled shall be determined annually based on the determination scoring which the municipality received from the commission pursuant to section 503, as follows:

(1) The determination score of the municipality shall be reduced by an amount equal to 25% of the maximum possible determination score.

(2) The result calculated pursuant to paragraph (1) shall be expressed as a percentage of the maximum possible determination score.

(3) The percentage calculated pursuant to paragraph (2) shall be applied to the dollar amount of difference between the amount of the municipal contribution to all municipal pension plans in aggregate and the full minimum municipal obligation with respect to the pension plan pursuant to section 302 or 303, whichever is applicable, to determine the amount of supplemental State assistance for the municipality. *For the purposes of this paragraph, the municipal contribution of a municipality that has issued bonds or notes to fund an unfunded actuarial accrued liability under the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, or under other laws applicable to the municipality, shall include debt service on the bonds or notes, or both, issued to fund an unfunded actuarial accrued liability.*

In the event that the total amount of supplemental State assistance determined as payable to all municipalities entitled to receive supplemental State assistance exceeds the maximum appropriation provided for in section 608(b), the amount of supplemental State assistance which shall be payable to each municipality shall be proportionately reduced. The supplemental State assistance shall be distributed annually on the first business day occurring in December.

* * *

Section 5. This act shall take effect immediately.

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

THOMAS J. RIDGE