

PENNSYLVANIA STATUTES  
TITLE 53. MUNICIPAL AND QUASI-MUNICIPAL CORPORATIONS  
PART I. GENERAL MUNICIPAL LAW  
CHAPTER 8A. PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM  
ARTICLE I. GENERAL PROVISIONS

53 P.S. § 881.101 (2010)

§ 881.101. Short title

This act shall be known and may be cited as the "Pennsylvania Municipal Retirement Law."

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 101, approved Feb. 1, 1974, eff. in 90 days.

LexisNexis (R) Notes:

CASE NOTES

1. Reviewing court did not have jurisdiction over a claim by a union that the city violated the Pennsylvania Municipal Retirement Law, 53 P.S. § 881.101 et seq., because there was no final order of the Pennsylvania Municipal Retirement Board as required by 42 Pa. Cons. Stat. § 763. *Local 302, International Asso. of Fire Fighters v. Allentown*, 55 Pa. Commw. 599, 423 A.2d 1119, 1980 Pa. Commw. LEXIS 1962 (1980).

TREATISES AND ANALYTICAL MATERIALS

1. 34 P.L.E., MUNICIPAL CORPORATIONS § 156, Pennsylvania Law Encyclopedia, MUNICIPAL CORPORATIONS, § 156. -- Pensions and Benefits, Copyright 2007, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

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53 P.S. § 881.102 (2010)

§ 881.102. Definitions

As used in this act:

"ACCUMULATED DEDUCTIONS" means the total amount deducted from the salary or compensation of the contributor and paid over by the municipality or paid by the member or from any existing pension or retirement system directly into the retirement fund and credited to the member's account, together with regular interest thereon, unless interest is excluded in a contract for an optional retirement plan entered into under the provisions of clause (11) of section 104 of this act.

"ACTUARIALLY SOUND" means a plan which is being operated under supervision of an actuary and which is being funded annually at a level not lower than the normal cost of the plan plus a contribution towards the unfunded accrued liability sufficient to complete the funding thereof within thirty years of the effective date of the system. If the unfunded accrued liability is increased subsequent to the effective date of the system, such additional liability shall be funded within a period of thirty years from the effective date of the increase. If deemed advisable by the actuary, the initial liability and any increase thereof, may be combined and amortized over a period of years, not to exceed thirty.

"ACTUARY" means: (i) a member of the American Academy of Actuaries, or (ii) an individual who has demonstrated to the satisfaction of the Insurance Commissioner of Pennsylvania that he had the educational background necessary for the practice of actuarial science and has had at least seven years of actuarial experience, or (iii) a firm, partnership or corporation of which one or more members meets the requirements of subclauses (i) or (ii) above.

"ALTERNATE PAYEE" means a spouse, former spouse, child or dependent of a member, who is recognized by an approved domestic relations order as having a right to receive all or a portion of the money payable to the member under this act.

"ANNUITANT" means a member during the time period:

- (1) beginning with the effective date of the member's retirement; and
- (2) ending on the date of termination of the member's annuity.

"APPROVED DOMESTIC RELATIONS ORDER" means a domestic relations order which has been approved under this act.

"BENEFICIARY" means a person designated by a contributor or an annuitant to receive benefits after the death of such contributor or annuitant.

"BOARD" means the Pennsylvania Municipal Retirement Board created by this act.

"COMPENSATION" means remuneration actually received for services rendered as a municipal employee, municipal fire fighter or municipal police officer, excluding reimbursement for expenses incidental to employment. The following apply:

(1) Compensation shall be adjusted as appropriate to comply with the terms of any contract entered into between the board and the applicable municipality under Article IV.

(2) For members who are enrolled in a plan that has adopted the provisions of section 414(h) of the Internal Revenue Code (26 U.S.C. § 414(h)), the term includes a contribution designated as a pickup contribution.

(3) Notwithstanding any provision of this act to the contrary, a member's compensation shall not exceed the limitations under section 401(a)(17) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)), as adjusted in accordance with section 401(a)(17)(B) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)(B)).

(i) The adjustment in effect for a calendar year applies to a period:

(A) which begins in the calendar year;

(B) which does not exceed twelve months; and

(C) over which compensation is determined.

(ii) If a determination period consists of fewer than twelve months, the compensation limit shall be multiplied by a fraction:

(A) the numerator of which is the number of months in the determination period; and

(B) the denominator of which is twelve.

"CONTRIBUTOR" means a member who has accumulated deductions standing to his credit in the member's account of the fund created by this act.

"DATE OF TERMINATION OF SERVICE" means:

(1) for an active member, the last day of employment in a status covered by the eligibility requirements of the pension plan; and

(2) for an inactive member on leave without pay, the date of resignation or the date employment is formally discontinued by the municipality.

"DOMESTIC RELATIONS ORDER" means any judgment, decree or order, including approval of a property settlement agreement, entered on or after the effective date of this definition by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a member, including the right to receive all or a portion of the money payable to that member under this act, in furtherance of the equitable distribution of marital assets. The term includes an "order of support" under 23 Pa.C.S. § 4302 (relating to definitions) and an order for the enforcement of arrearages under 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

"DROP" means the Deferred Retirement Option Plan established by the board under this act and by a municipality under Chapter 11 of the act of December 18, 1984 (P.L. 1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

"DROP INTEREST" means the actual rate earned and credited by the board on the subsidiary DROP participant accounts, which shall not be less than zero percent nor more than four and one-half percent, annually.

"DROP PARTICIPANT" means an annuitant who has elected to participate in the DROP.

"EFFECTIVE DATE OF RETIREMENT" means one of the following:

(1) For a member who files an application for an annuity within ninety days after the date of termination of service, the first day following the date of termination of service.

(2) For a member who does not file an application for an annuity within ninety days after the date of termination of service, the later of:

(i) the date the application is filed; or

(ii) the date specified on the application.

(3) For a member who applies for a disability retirement, the date certified by the board as the effective date of disability.

(4) For a DROP participant, the day before the effective date of DROP participation as determined in accordance with the provisions of this act and Chapter 11 of the Municipal Pension Funding Standard and Recovery Act.

"EQUIVALENT ACTUARIAL VALUE" means benefits which have equal present value when computed on the basis of regular interest and the mortality tables adopted by the board and in use at the date the benefit becomes effective.

"EXCESS INTEREST" means the investment earnings on the fund in excess of that required for allocation to regular interest and expenses.

"FINAL SALARY" means the average annual salary or compensation earned by a member and paid by the municipality during the highest three, four, or five non-overlapping periods of twelve consecutive months as stipulated by the municipality, or if not so long employed, then the average annual salary or compensation earned and paid during the whole period of such employment; or, if applicable, the amount or formula stipulated between the municipality and the board in a contract for an optional retirement plan entered into under the provisions of clause (11) of section 104 of this act.

"FUND" means the Pennsylvania Municipal Retirement Fund created by this act.

"INTERNAL REVENUE CODE" means the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

"JOINT COVERAGE MEMBER" means a member who shall have become a member of the retirement system subsequent to the last date permitted by the municipality employing him for statement of preference concerning social security coverage, or who, having become a member on or before such date, shall have filed with the municipality a written statement that he elects social security coverage under an agreement with the Federal Secretary of Health, Education and Welfare entered into by the Commonwealth.

"MEMBER" means an individual that is:

- (1) a municipal officer, employe, fireman or policeman; or
- (2) an employe of a municipal government association who is an active member, inactive member, annuitant, disability annuitant or vested member.

"MEMBER'S ACCOUNT" means the account to which shall be credited the payroll deductions and other contributions, plus interest, if any, of the members.

"MEMBER'S ANNUITY" means that portion or component of the retirement allowance which is of equivalent actuarial value, at date of retirement, to the accumulated deductions of the member.

"MEMBER'S EXCESS INVESTMENT ACCOUNT" means the account maintained for each member, to which shall be credited such excess interest deemed to be earned on member contributions.

"MUNICIPAL ACCOUNT" means the account maintained for each municipality, to which shall be credited the contributions made by it toward the superannuation retirement and death benefits of members.

"MUNICIPAL ANNUITY" means that portion or component of the retirement allowance computed in accordance with the formula applicable to each municipality.

"MUNICIPAL EMPLOYEE" means a person holding an office or position, other than that of a municipal fireman or municipal policeman, under a municipality or a municipal government association and paid on a regular salary or per diem basis. The term shall not include officers and employees paid wholly on a fee basis.

"MUNICIPAL FIREMAN" means a person holding a full-time position in the fire department of a municipality and who works for a stated salary or compensation.

"MUNICIPAL PENSION FUNDING STANDARD AND RECOVERY ACT" means the act of December 18, 1984 (P.L. 1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

"MUNICIPAL POLICEMAN" means a person holding a full-time position in the police department of a municipality and who works for a stated salary or compensation.

"MUNICIPALITY" means a city, borough, town, township, county, institution district, or any newly created governmental unit, or an authority created by a city, borough, town, township, county or county institution district, or jointly by any such political subdivisions, or an institution supported and maintained by a municipality or a municipal government association, or an industrial development agency as defined by the act of May 31, 1956 (P.L. 1911, No. 635), known as the "Industrial Development Assistance Law," which has adopted bylaws and the governing body of which is organized and holds regular public meetings.

"NEW MEMBER" means a municipal officer, employee, fireman or policeman, or an employee of a municipal government association who first becomes a member after the date the municipality by which he is employed joined the retirement system created by this act.

"ORIGINAL MEMBER" means a municipal officer, employee, fireman or policeman, or an employee of a municipal government association who was employed by the municipality at the date the municipality joined the system.

"PRIOR SALARY" means the annual salary or compensation earned by a member and paid by the municipality during the year immediately preceding the date the municipality by which he is employed joined the system.

"PRIOR SERVICE" means all service as a municipal employee, municipal fireman or municipal policeman completed at the time the municipality by which he is or was employed elected to join the system or the same municipality under a prior name or classification, unless the municipality has elected to limit the period of such service for municipal employees enrolled in a plan under Article II or Article IV of this act.

"REGULAR INTEREST" means the rate fixed by the board, from time to time, on the basis of earnings on investments to be applied to the member's accounts, to the municipal accounts and to the retired member's reserve account.

"RETIRED MEMBER'S RESERVE ACCOUNT" means the account from which all retirement allowances shall be paid for superannuation and total disability retirement and voluntary and involuntary withdrawals.

"RETIREMENT ALLOWANCE" means the sum of the municipal annuity and the member's annuity and, if the member is entitled to a disability annuity under the provisions of this act, the disability annuity.

"SERVICE CONNECTED DISABILITY" means total and permanent disability of a member prior to eligibility for superannuation retirement resulting from a condition arising out of and incurred in the course of his employment, and which is compensable under the applicable provisions of the act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P.L. 566, No. 284), known as "The Pennsylvania Occupational Disease Act."

"SINGLE COVERAGE MEMBER" means a member who shall become a member of the retirement system on or before the last date permitted by the municipality employing him for statement of preference concerning social security coverage and who either shall have filed with the municipality a written statement that he does not elect social security coverage under any agreement with the Federal Secretary of Health, Education and Welfare entered into by the Commonwealth, or shall not have filed with the municipality any written statement.

"SUBSIDIARY DROP PARTICIPANT ACCOUNT" has the meaning given in section 1102 of the Municipal Pension Funding Standard and Recovery Act.

"SUBSIDIARY DROP PARTICIPANT RESERVE ACCOUNT" means the account maintained for each subsidiary DROP participant account.

"SUPERANNUATION RETIREMENT AGE" means sixty-five years of age for municipal employes, fifty-five years of age for municipal firemen and municipal police or such other age as may be stipulated between the municipality and the board in a contract for an optional retirement plan entered into under the provisions of clause (11) of section 104 of this act.

"SURVIVOR ANNUITANT" means any person who has been named by a member under a joint and survivor annuity option to receive an annuity upon the death of such member.

"SYSTEM" means the Pennsylvania Municipal Retirement System as established herein.

"TOTAL DISABILITY RESERVE ACCOUNT" means the account to which shall be credited the contributions made by municipalities toward the disability retirement of members.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 102, approved Feb. 1, 1974, eff. in 90 days; Act 1975-153 (S.B. 810) P.L. 520, § 1, approved Dec. 19, 1975, eff. immediately; Act 1980-50 (H.B. 373) P.L. 135, § 1, approved May 17, 1980, eff. in 60 days.

LexisNexis (R) Notes:

## CASE NOTES

1. Trial court erred by finding that an arbitrator exceeded his powers by awarding a police officer a disability pension as the arbitrator correctly found that the officer suffered a work-related disability and there was no requirement under the applicable Collective Bargaining Agreement that required an honorable discharge or eligibility for workers' compensation before being awarded benefits. Therefore, the arbitrator, did not exceed his powers in awarding the disability pension to the officer. *Borough of Mahanoy City v. Mahanoy City Police Dep't*, 948 A.2d 239, 2008 Pa. Commw. LEXIS 194 (Pa. Commw. Ct. 2008), appeal denied by 599 Pa. 683, 960 A.2d 456, 2008 Pa. LEXIS 1958 (2008).

2. Trial court erred by finding that an arbitrator exceeded his powers by awarding a police officer a disability pension as the arbitrator correctly found that the officer suffered a work-related disability and there was no requirement under the applicable Collective Bargaining Agreement that required an honorable discharge or eligibility for workers' compensation before being awarded benefits. Therefore, the arbitrator, did not exceed his powers in awarding the disability pension to the officer. *Borough of Mahanoy City v. Mahanoy City Police Dep't*, 948 A.2d 239, 2008 Pa. Commw. LEXIS 194 (Pa. Commw. Ct. 2008), appeal denied by 599 Pa. 683, 960 A.2d 456, 2008 Pa. LEXIS 1958 (2008).

3. Pennsylvania Municipal Retirement Board (Board) properly denied a borough's police pension fund's claim to "excess interest" under the Pennsylvania Municipal Retirement Law (Law), 53 P.S. § 881.110, upon the borough's withdrawal from participation in the system in July 1991; the borough was not entitled to interest on an additional payout allocable to a "retired member's reserve account" as defined in 53 P.S. § 881.102 because the Board's rule, limiting the crediting of interest to member accounts only once a year on December 31st, was a valid interpretive rule which tracked the legislative intent underlying the Law, particularly 53 P.S. § 881.412. *Borough of Pottstown v. Pennsylvania Mun. Retirement Bd.*, 551 Pa. 605, 712 A.2d 741, 1998 Pa. LEXIS 1062 (1998).

4. Municipality was not obligated to purchase its solicitor's prior service under an ordinance, even though he could have qualified as an "original member" under the Municipal Retirement Law, because the solicitor did not enroll in the system under the ordinance; the solicitor waived the right to participate because he was responsible for drafting the ordinance and knew that his name did not appear on the lists of employees that the municipality prepared for actuarial cost studies. *Green v. Pennsylvania Mun. Retirement Bd.*, 678 A.2d 432, 1996 Pa. Commw. LEXIS 278 (Pa. Commw. Ct. 1996).



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53 P.S. § 881.103 (2010)

§ 881.103. Pennsylvania Municipal Retirement Board

A Pennsylvania Municipal Retirement Board is hereby created, which shall consist of the State Treasurer, Secretary of the Commonwealth, six municipal elected officials or employes of different classes of municipalities which have joined the system, one retired member of the system who is receiving a retirement allowance, one municipal fireman employed by a municipality which has joined the system and one municipal policeman employed by a municipality which has joined the system. The nine latter members shall be appointed by the Governor from among nominations made by the County Commissioners Association, the Pennsylvania League of Cities, the Pennsylvania Association of Township Commissioners, the Pennsylvania State Association of Township Supervisors, the Pennsylvania State Association of Boroughs and the Pennsylvania Municipal Authorities Association, and associations representing municipal firemen and municipal police, to serve for a term of four years each and until their successors are appointed and qualified. Appointments of members made by the Governor shall not require the advice and consent of the Senate. The two municipal employe members of the Municipal Employes' Retirement Board, appointed by the Governor from among nominations made by various associations of county and municipal officers, who are serving on the effective date of this act, shall continue to serve as members of the Pennsylvania Municipal Retirement Board until the expiration of their respective terms.

A chairman and vice chairman of the board shall be elected by the board every year at the January meeting of the board and the chairman and vice-chairman may succeed themselves for the appointed term of four years.

Vacancies happening from among members appointed from among the nominations made by the associations shall be filled by the appointment of a successor for a full term of four years.

No appointed member shall serve more than two consecutive full terms.

Each member of the board shall take an oath of office that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or wilfully permit to be violated any of the provisions of this act.

A quorum of the board shall consist of six members.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 103, approved Feb. 1, 1974, eff. in 90 days; Act 1978-1 (S.B. 334) P.L. 1, § 1, approved Jan. 4, 1978, eff. immediately; Act 1980-50 (H.B. 373) P.L. 135, § 2, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.104 (2010)

§ 881.104. General powers of the Board

The board shall:

- (1) Appoint a secretary and an assistant secretary. The secretary, with the prior approval of the board, shall appoint the clerical and other employes of the board, whose positions, excluding the secretary's and assistant secretary's, shall be under the classified service provisions of the act of August 5, 1941 (P.L. 752, No. 286), as amended and the secretary shall fill future vacancies in accordance with such provisions. The compensation of all persons so appointed shall be fixed by the board and shall be consistent with the standards established by the Executive Board of this Commonwealth;
- (2) Contract for professional services, including but not limited to actuarial, investment and medical as it deems advisable;
- (3) Keep in convenient form such data as shall be deemed necessary for actuarial valuation purposes;
- (4) From time to time, through its actuary, make an actuarial investigation into the mortality and service experience of the contributors and annuitants and of the various accounts created by this act;
- (5) Adopt for the system one or more mortality tables and such other tables as shall be deemed necessary;
- (6) Deleted by amendment. 1980, May 17, P.L. 135, No. 50, § 3, eff. in 60 days.
- (7) Certify annually the amount of appropriation which each municipality shall pay into the retirement fund, which amounts shall be based on estimates furnished by the actuary, and shall be credited to the municipal account of the fund;
- (8) Prepare and publish annually a financial statement showing the condition of the fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Pennsylvania Municipal Retirement System, and furnish a copy thereof to each municipality which has joined the system, and to such persons as may request copies thereof;
- (9) Keep a record of all its proceedings, which will be open to inspection by the public;

(10) From time to time, with the advice of the Attorney General and the actuary, to adopt and promulgate such rules and regulations as may be required for the proper administration of the fund created by this act and the several accounts thereof; to establish procedures which would permit an eligible retired public safety officer to pay qualified accident, health or long-term care insurance premiums as permitted under section 402(l) of the Internal Revenue Code; and to provide for the transaction of the business of the board;

(11) Be authorized to approve any optional retirement plan for municipal employes, municipal firemen or municipal police, with any municipality as long as it is actuarially sound and benefits under the plan are not in excess of or member's minimum contribution rates are not less than those provided in other existing retirement laws pertaining to that class of municipality; except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law;

(12) Prepare and distribute annual statements of accounts to each of the active members of the system, showing the contributions made during the year, the interest earned and the total balance standing in the member's account at the end of the year;

(12.1) In accordance with the plan contract, provide cost-of-living increases from a plan's share of excess investment earnings to those members of such municipalities who have already retired. Such allocations shall be made, with the advice of the actuary, on a fully funded basis employing actuarial assumptions which reflect the nature of the liability. An award of excess interest shall not be made under this paragraph if the plan is less than 95% funded as of the plan's most recent filing of the actuarial report required under the Municipal Pension Funding Standard and Recovery Act.

(12.2) In accordance with the plan contract, the board shall allocate excess investment earnings for active members of such municipalities by applying such allocation to member contributions. To the extent that additional liabilities may accrue as a result of such allocation, the actuary shall employ actuarial assumptions, on a fully funded basis, to accurately reflect the nature of the liability generated therefrom. An award of excess interest shall not be made under this paragraph if the plan is less than 95% funded as of the plan's most recent filing of the actuarial report required under the Municipal Pension Funding Standard and Recovery Act.

(12.3) Promulgate regulations required for the proper administration of the DROP.

(12.4) Establish a subsidiary DROP participant account for each DROP participant, provide for the separate investment and funding of each account and establish a monthly rate of interest to credit the money deposited in each account.

(13) Perform such other functions as are required for the execution of the provisions of this act and of other Federal and State law and administer and interpret this act to ensure that the system is maintained as tax qualified under the Internal Revenue Code.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 104, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 3, approved May 17, 1980, eff. in 60 days; Act 1984-1 (S.B. 474) P.L. 1, § 1, approved Feb. 1, 1984, eff. immediately.

LexisNexis (R) Notes:

#### CASE NOTES

1. Allocation of excess pension interest to the various accounts within the Pennsylvania Municipal Retirement Fund, as ordered by an arbitration panel, was an aspect of the Pennsylvania Municipal Retirement Board's administration, or "management," within the meaning of the Pennsylvania Municipal Retirement Law, specifically 53 P.S. §§ 881.104(12.1), 881.104(12.2), and 881.110. *Borough of Morrisville v. Morrisville Borough Police Benevolent Ass'n*, 756 A.2d 709, 2000 Pa. Commw. LEXIS 408, 165 L.R.R.M. (BNA) 2255 (Pa. Commw. Ct. 2000), appeal denied by 564 Pa. 738, 766 A.2d 1251, 2001 Pa. LEXIS 72 (2001).
2. Allocation of excess pension interest to the various accounts within the Pennsylvania Municipal Retirement Fund, as ordered by an arbitration panel, was an aspect of the Pennsylvania Municipal Retirement Board's administration, or "management," within the meaning of the Pennsylvania Municipal Retirement Law, specifically 53 P.S. §§ 881.104(12.1), 881.104(12.2), and 881.110. *Borough of Morrisville v. Morrisville Borough Police Benevolent Ass'n*, 756 A.2d 709, 2000 Pa. Commw. LEXIS 408, 165 L.R.R.M. (BNA) 2255 (Pa. Commw. Ct. 2000), appeal denied by 564 Pa. 738, 766 A.2d 1251, 2001 Pa. LEXIS 72 (2001).

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§ 881.105. Preliminary actuarial investigation tables and rates

As soon as may be after the passage of this act, the actuary shall make an investigation of the mortality, service and salary experience of municipal employes, municipal firemen and municipal police as he shall deem necessary, for the purpose of determining upon tentative tables and municipal contributions. On the basis of such investigation and recommendation, the board shall adopt such tentative tables and certify such tentative rates for the purpose of giving municipalities and municipal employes, municipal firemen and municipal police estimates of the cost involved in electing to join the retirement system established by this act. The actuary shall make subsequent investigations at least once every five years in order to enable the board to change such tables when necessary.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 105, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 3, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.106 (2010)

§ 881.106. Information to municipalities

The board shall, with the aid of its actuary, prepare a circular of information relative to the system, showing estimates of the costs thereof to municipalities and members, including costs of administration, the benefits to be derived therefrom, the methods of administration by the board and the municipality, and such other information as may be deemed appropriate. Such circular of information shall be furnished to municipalities upon request.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 106, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.107 (2010)

§ 881.107. Election by municipalities to join retirement system

Any municipality may elect, by ordinance or resolution adopted by the tax levying body, or in the case of municipal authorities by the board of such municipal authority to join the system: Provided, however, That any municipality electing coverage under the provisions of Article II of this act must have first placed its municipal employees in so far as they are eligible under the Federal Social Security Act.

Any municipality, by action of its tax levying body, may and upon petition of electors equal to at least five per cent of the registered electors of the municipality, shall, submit the question of joining such system to the voters of the municipality at any municipal or general election, in the same manner as other questions are submitted to the electors under the election code of the Commonwealth. If the majority of the electors voting on the question vote in favor thereof, the tax levying body shall adopt an ordinance or resolution electing to join such system. If the electors vote against joining the system, then no further action shall be taken in the municipality for a period of two years.

A duly certified copy of any such ordinance or resolution electing to join the system shall be filed with the board.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 107, approved Feb. 1, 1974, eff. in 90 days.



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53 P.S. § 881.108 (2010)

§ 881.108. Retirement funds and accounts

The Pennsylvania Municipal Retirement Fund shall consist of the money received from municipalities arising from contributions by municipalities, from payroll deductions from salary or compensation of members, and other contributions made by members through the municipality to the system, from DROP participants and from transfers made from municipal retirement or pension systems and credited as provided in this act, and investment earnings thereon.

The fund shall be a trust and the assets of the system shall be held in trust. No part of the assets of the system shall be used for or diverted to purposes other than for the exclusive benefit of the members, their spouses or the members' beneficiaries prior to the satisfaction of all liabilities of the system with respect to them. The assets of the fund shall only be used to pay:

- (1) Benefits to members in accordance with this act.
- (2) Necessary expenses of the system as established in this act.

Contributions made by municipalities toward superannuation retirement and death benefits of members shall be credited to the municipal account of said fund, contributions made by municipalities toward disability retirement of members shall be credited to the total disability reserve account of said fund, retirement benefits paid to DROP participants shall be credited to the subsidiary DROP reserve account and payroll deductions and other contributions of members shall be credited to the member's account of said fund. Transfers made from existing municipal retirement or pension systems shall be credited as provided in this act.

The board shall keep separate accounts of each municipality and for each separate class of employes enrolled by that municipality under the several articles of this act, except the total disability reserve account and the retired member's reserve account which shall be maintained as pooled accounts. Each municipality and the members thereof shall be liable to the board for the amount of contributions required to cover the cost of the retirement allowance and other benefits payable to such members.

Upon the granting of a superannuation or voluntary or involuntary withdrawal retirement allowance to any contributor, the amount of such contributor's accumulated deductions in the member's account shall lose their status as accumulated deductions and shall be transferred to the

retired member's reserve account and the actuarial equivalent of the municipal annuity shall be similarly transferred from the municipal account to the retired member's reserve account.

Upon the granting of a superannuation retirement allowance to any DROP participant, the full amount of the DROP participant's monthly retirement benefit shall be deposited monthly to a subsidiary DROP participant account in the subsidiary DROP participant reserve account until the DROP participant terminates employment.

Upon the granting of a disability retirement allowance to any contributor, there shall be transferred to the retired member's reserve account the amount of the contributor's accumulated deductions in the member's account, the amount of the equivalent actuarial value to the municipal annuity, and such additional amount from the total disability reserve account as is needed in addition thereto to provide the actuarial equivalent of the total disability allowance to which the contributor is entitled.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 108, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.109 (2010)

§ 881.109. Custody of and payments from fund

All moneys and securities in the fund shall be placed in the custody of the State Treasurer for safekeeping, and all payments on account of retirement allowances shall be made on requisition signed by the chairman and secretary of the board.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 109, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.110 (2010)

§ 881.110. Management and investment of fund; interest credits

(a) The members of the board shall be trustees of the fund, and shall have the exclusive management of said fund, with full power to invest the moneys therein, subject to the terms, conditions, limitations and restrictions imposed by law upon fiduciaries. The said trustees shall have power to hold, purchase, sell, assign, transfer and dispose of any securities and investments in said fund, as well as the proceeds of such investments, and of the money belonging to such fund.

(b) The board shall annually allow regular interest to the credit on each contributor's account, municipal account, the retired members reserve account and the total disability reserve account. The board shall monthly credit DROP interest to the subsidiary DROP participant accounts in accordance with established procedures.

(c) The board shall, after deducting money to pay for the appropriate expenses, allow excess interest as each contract provides to the credit of the municipal accounts, member's accounts, the member's excess investment accounts and retired members reserve accounts. Except as provided in a contract, the board shall credit the excess interest to the plan's municipal account.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 110, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 3, approved May 17, 1980, eff. in 60 days.

LexisNexis (R) Notes:

#### CASE NOTES

1. Pennsylvania Municipal Retirement Board (Board) properly denied a borough's police pension fund's claim to "excess interest" under the Pennsylvania Municipal Retirement Law (Law), 53 P.S. § 881.110, upon the borough's withdrawal from participation in the system in July 1991; the borough was not entitled to interest on an additional payout allocable to a "retired member's reserve account" as defined in 53 P.S. § 881.102 because the Board's rule, limiting the crediting of interest to member accounts only once a year on December 31st, was a valid interpretive rule which tracked the legislative intent underlying the Law, particularly 53 P.S. § 881.412. *Borough of Pottstown v. Pennsylvania Mun. Retirement Bd.*, 551 Pa. 605, 712 A.2d 741, 1998 Pa. LEXIS 1062 (1998).

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53 P.S. § 881.110.1 (2010)

§ 881.110.1. Solicitation of political contributions

(a) This section applies to a person or an affiliated entity that does any of the following:

(1) Enters into a professional services contract with the system or any municipal pension system in this Commonwealth.

(2) Submits an offer for or bids on a professional services contract with the system or any municipal pension system in this Commonwealth.

(3) Responds to a request for proposal on a professional services contract with the system or any municipal pension system in this Commonwealth.

(4) Otherwise solicits a professional services contract with the system or any municipal pension system in this Commonwealth.

(b) A person or an affiliated entity subject to subsection (a) may not solicit a contribution to a municipal official or candidate for municipal office where the municipal pension system is organized or to the political committee of that official or candidate. The prohibition under this subsection applies to any agent, officer, director or employee of the person or affiliated entity.

(c) DEFINITIONS. --As used in this section:

"Affiliated entity" has the meaning given in section 701-A of the Municipal Pension Funding Standard and Recovery Act.

"Professional services contract" has the meaning given in section 701-A of the Municipal Pension Funding Standard and Recovery Act.

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53 P.S. § 881.111 (2010)

§ 881.111. Municipal guarantee

The regular interest charges payable, the DROP interest charges payable and the creation and maintenance of the necessary reserves for the payment of the municipal and member's annuities, as to any municipality in accordance with this act, are hereby made the obligation of that municipality.

In the case of the failure of a municipality to make payments as required by this act, the Commonwealth shall withhold payment to the municipality of any funds to which the municipality may be entitled for pension purposes. The board may recover any sums due to the fund by suit at law, or other appropriate remedy.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 111, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.112 (2010)

§ 881.112. Annual estimates to municipalities; administrative expenses

The board shall prepare and submit to each municipality, on or before the first day of the third month preceding the commencing of each municipality's fiscal year, an itemized estimate of the amounts necessary to be appropriated by the municipality to complete the payments of the obligations of the municipality to the fund during its next fiscal year.

The board shall annually prepare and approve a budget covering the administrative expenses of this act. Such expenses as approved by the board shall be paid from receipts from assessments made against each municipality for administrative expenses. This assessment shall be based on the number of members in each municipality and shall not exceed the sum of twenty dollars (\$ 20) per member per year. If, in any calendar year, the amount received from such assessments, when imposed at the maximum rate, is not sufficient to cover the administrative expenses, then the balance of such expenses shall be paid from interest earnings on the fund in excess of the regular interest credited to the municipal, members' and retired members' reserve accounts and DROP interest credited to the subsidiary DROP participant reserve account and shall not, in any year, exceed six-tenths of one per cent of the total asset value of the fund as of the beginning of the calendar year. The administration of the Pennsylvania Municipal Retirement System shall be audited annually and a report of this audit shall be made annually to the General Assembly.

The secretary of the board shall submit a proposed budget for the following fiscal year to the Senate and House Local Government Committees no later than November 1 of the year preceding that for which the budget is being prepared. The respective committees shall meet and review such budget document. If the committees take no action within sixty days of said November 1, the budget for the following calendar year shall be deemed approved.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 112, approved Feb. 1, 1974, eff. in 90 days; Act 1975-153 (S.B. 810) P.L. 520, § 1, approved Dec. 19, 1975, eff. immediately; Act 1978-1 (S.B. 334) P.L. 1, § 2, approved Jan. 4, 1978, eff. immediately; Act 1980-50 (H.B. 373) P.L. 135, § 4, approved May 17, 1980, eff. in 60 days; Act 1982-131 (H.B. 349) P.L. 446, § 1, approved June 10, 1982, eff. immediately; Act 1984-1 (S.B. 474) P.L. 1, § 2, approved Feb. 1, 1984, See section of this act for effective date information; Act 1985-94 (H.B. 1335) P.L. 338, § 1, approved Dec. 18, 1985, eff. immediately; Act 1988-70 (H.B. 1571), P.L. 411, § 1, approved May 26, 1988, eff. immediately; Act 1992-12 (S.B. 752), P.L. 42, § 1, approved Apr. 3, 1992, eff. immediately; Act 2000-15 (H.B. 164), P.L. 42, § 1, approved May 10, 2000, See section of this act for effective date information; Act 2005-16 (H.B. 279), P.L. 50, § 1, approved July 5, 2005, See section of this act for effective date information..

NOTES:

LexisNexis (R) Notes:

Editor's Notes.--Section 3 of Act 1984-1 provides that "[t]he provisions relating to the usage of excess interest for administrative expenses shall be retroactive to January 1, 1983."

Amendment Notes.--The 2005 amendment substituted "calendar years 1995 through 2005" for "calendar years 1995, 1996, 1997, 1998, 1999 and 2000" in the fifth sentence.



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53 P.S. § 881.113 (2010)

§ 881.113. Existing local retirement systems

Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The

request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or to any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 113, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 5, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.114 (2010)

§ 881.114. Monthly payments

(a)(1) Except as provided under clause (2), any retirement allowance created under the provisions of this act shall be paid in equal monthly installments and shall not be increased, decreased, revoked or repealed, except where specifically otherwise provided by this act.

(2) Notwithstanding clause (1), if the annuitant is a DROP participant, the equal monthly installment shall be deposited to the subsidiary DROP participant account and paid out in accordance with the DROP program.

(b) The annual retirement benefit payable to a member shall not exceed the annual dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code as may be adjusted under section 415(d) of the Internal Revenue Code. If an adjustment is required due to the Internal Revenue Code, regulations or other publications issued by the Internal Revenue Service, the adjustment shall only apply to the dollar limitation specified in this section.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 114, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.115 (2010)

§ 881.115. Exemption of retirement allowance

(a) The retirement allowance and the contributions of members to the fund, all contributions returned to contributors under the provisions of this act and the moneys in the fund created by this act, shall be exempt from any State or municipal tax and shall be unassignable except to a beneficiary.

(b) Rights under this act shall be subject to all of the following:

(1) Attachment in favor of an alternate payee as set forth in an approved domestic relations order.

(2) Forfeiture as provided by the act of July 8, 1978 (P.L. 752, No. 140), known as the "Public Employee Pension Forfeiture Act." Forfeitures under this clause or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this act.

(c) Notwithstanding any other provision of this section, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan utilizing a direct rollover.

(d) For purposes of this section, the following words shall have the following meanings:

"Distributee." A member, a member's surviving spouse or a member's former spouse who is an alternate payee under an approved domestic relations order.

"Eligible retirement plan." (1) Except as provided under clause (2), the term shall have the meaning given to it in section 402(c)(8)(B) of the Internal Revenue Code.

(2) The term shall include a qualified trust in section 402(c)(8)(B)(iii) of the Internal Revenue Code only if the qualified trust accepts the distributee's eligible rollover distribution. If the eligible rollover distribution is made to a nonspousal beneficiary, an eligible retirement plan shall be deemed an "individual retirement account" or an "individual retirement annuity" as defined in section 408(a) and (b) of the Internal Revenue Code.

"Eligible rollover distribution." The term shall have the meaning given to it in section 402(f)(2)(A) of the Internal Revenue Code.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 115, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.116 (2010)

§ 881.116. Source of municipal funds

The amounts to be paid by municipalities under the provisions of this act shall be paid out of moneys raised annually by general taxation, or in the case of townships of the second class, out of taxes levied for road, bridge and general township purposes and out of moneys received from the State which are designated for pension purposes.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 116, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.117 (2010)

§ 881.117. Part-time employes

(a) (1) All existing part-time employes not enrolled in the pension plan shall have the right to elect to participate in the pension plan. A member's election to participate in the pension plan under this subsection must be made in writing and received by the municipality before July 1, 2005, and shall be irrevocable.

(2) Existing part-time employes not enrolled in the pension plan who elect to participate in the pension plan under this subsection must pay into the system all member contributions plus the regular interest that would have been credited to those contributions had they participated in the system from their date of hire. Failure of the part-time employe to make such contributions and regular interest payments as determined by the administrator of the system shall be considered the same as if the part-time employe had chosen not to participate in the system. All other amounts required to be contributed to the pension plan as a result of their election to participate shall be paid by the municipality.

(b) Where a municipality determines to change the membership requirements to prohibit part-time employes from participating in the system established by this act, all existing part-time employes enrolled in the pension plan shall remain members of the pension plan unless they elect to withdraw from the pension plan. A member election to withdraw from the pension plan under this subsection must be made in writing and received by the municipality before July 1, 2005, and shall be irrevocable.

HISTORY: Act 2004-169 (H.B. 2748), P.L. 1331, § 1, 2, approved Nov. 29, 2004, eff. immediately.

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53 P.S. § 881.118 (2010)

§ 881.118. Approval of domestic relations orders

(a) A domestic relations order shall be certified as an approved domestic relations order by the secretary of the board or the secretary's designated representative only if the order meets all of the following:

(1) Requires the system to provide a type or form of benefit or an option already provided under this act.

(2) Requires the system to provide no more than the total amount of benefits that the member would otherwise receive, determined on the basis of actuarial value, unless increased benefits are paid to the member or, if the order provides, to the alternate payee based upon cost-of-living increases or increases based on other than actuarial value.

(3) Specifies the amount or percentage of the member's benefits to be paid by the system to each alternate payee or the manner in which the amount or percentage is to be determined.

(4) Specifies the retirement option to be selected by the member upon retirement or states that the member may select any retirement option offered by this act upon retirement.

(5) Specifies the name and last known mailing address of the member and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the system.

(6) Does not grant an alternate payee any of the rights, options or privileges of a member under this act.

(7) Requires the member to execute an authorization allowing each alternate payee to monitor the member's compliance with the terms of the domestic relations order through access to information concerning the member maintained by the system.

(b) The following apply:

(1) Upon receipt of a proposed domestic relations order, the secretary of the board or the secretary's designated representative shall determine whether the proposed order shall be deemed an approved domestic relations order and shall notify the member and each alternate payee of this determination.



(2) Notwithstanding any other provision of law, the exclusive remedy of any member or alternate payee aggrieved by a decision of the secretary of the board or the secretary's designated representative shall be the right to an adjudication by the board under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) with appeal to the Commonwealth Court under 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action) and 42 Pa.C.S. § 763(a)(1)(relating to direct appeals from government agencies).

(c) The following apply:

(1) The requirements for approval under subsection (a) shall not apply to any domestic relations order which is an "order of support" under 23 Pa. C.S. § 4302 (relating to definitions) or an order for the enforcement of arrearages under 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

(2) Orders under clause (1) shall be approved to the extent that they do not attach money in excess of the limits on attachments as established by the Federal or State law.

(d) Only the requirements of this section and regulations promulgated under this act shall be used to govern the approval or disapproval of a domestic relations order. If the secretary of the board or the secretary's designated representative acts in accordance with this act and regulations promulgated under this act in approving or disapproving a domestic relations order, the obligations of the system with respect to the approval or disapproval shall be discharged.

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53 P.S. § 881.119 (2010)

§ 881.119. Amendment of approved domestic relations orders

(a) If an alternate payee of an approved domestic relations order predeceases the member and there are benefits payable to the alternate payee, the court may amend the approved domestic relations order to substitute a person for the deceased alternate payee to receive benefits payable to the deceased alternate payee.

(b) If a court amends an approved domestic relations order, the amended order must be submitted for recertification as an approved domestic relations order as provided in this act.

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53 P.S. § 881.120 (2010)

§ 881.120. Irrevocable beneficiary

Notwithstanding any other provision of this act, a domestic relations order may provide for an irrevocable beneficiary. A domestic relations order requiring the nomination of an irrevocable beneficiary shall be deemed to be one that requires a member to nominate an alternate payee as a beneficiary and that prohibits the removal or change of that beneficiary without approval of a court of competent jurisdiction, except by operation of law. A domestic relations order subject to this section may be certified as an approved domestic relations order by the secretary of the board or the secretary's designated representative after the member makes the nomination, in which case the irrevocable beneficiary ordered by the court may not be changed by the member without approval of the court.

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53 P.S. § 881.121 (2010)

§ 881.121. Irrevocable survivor annuitant

Notwithstanding any other provision of this act, a domestic relations order may provide for an irrevocable survivor annuitant. A domestic relations order requiring the designation of an irrevocable survivor annuitant shall be deemed to be one that requires a member to designate an alternate payee as a survivor annuitant and that prohibits the removal or change of that survivor annuitant without approval of a court of competent jurisdiction, except by operation of law. A domestic relations order subject to this section may be certified as an approved domestic relations order by the secretary of the board or the secretary's designated representative, in which case the irrevocable survivor annuitant ordered by the court may not be changed by the member without approval of the court. A person ineligible to be designated as a survivor annuitant may not be designated an irrevocable survivor annuitant.

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53 P.S. § 881.201 (2010)

§ 881.201. Purpose

This article shall provide for the uninterrupted continuation of retirement plans established under the act of June 4, 1943 (P.L. 886, No. 371), known as the "Municipal Employes' Retirement Law." It shall also provide for the enrollment of municipal employes of new municipalities joining the system, at the contribution rates and benefit rates outlined in this article of the act.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 201, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.202 (2010)

§ 881.202. Transfer of the Municipal Employees' Retirement Fund to the Pennsylvania Municipal Retirement Fund

On the effective date of this act all of the assets and liabilities of the Municipal Employees' Retirement Fund shall be transferred intact to the Pennsylvania Municipal Retirement Fund. The rights and benefits of the members and of the municipalities which have joined the Municipal Employees' Retirement System shall not be impaired in any way as a result of this transfer. Likewise, the obligations and responsibilities of both the members and the member municipalities which have joined the system shall not be changed and the contractual arrangements as they existed at the time the municipalities joined the Municipal Employees' Retirement System shall continue in force. Prior service credits for any members so transferred shall be computed from the date on which the municipality joined the Municipal Employees' Retirement System.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 202, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.203 (2010)

§ 881.203. Existing local retirement systems and compulsory and optional membership

Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to join the system under the provisions of this Article II, then each officer other than elected officers, and each municipal employe employed on a full-time basis, except one who is not eligible for Federal Social Security coverage and except one who is covered by an

existing retirement or pension system and is exempted as outlined above, shall be required to become a member of the system. Each municipality shall determine whether membership in said system for elected officials and employes hired on a temporary, seasonal or part-time basis shall be compulsory, optional or prohibited. Where membership may be optional with an elected officer or an employe hired on a temporary, seasonal or part-time basis, an election to join the system must be made within one year after the municipality elected to join the system or within one year after the officer or temporary, seasonal or part-time employe first entered the service of the municipality. Officers and employes paid only on a fee basis shall not be eligible to join the system.

When a municipality has established a policy of placing new employes on a probationary status it may elect to refrain from enrolling such employes into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment.

Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 203, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 5, approved May 17, 1980, eff. in 60 days.



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53 P.S. § 881.204 (2010)

§ 881.204. Service allowance; change of employment; military service

In computing the length of service of a contributor for retirement purposes, full credit shall be given to each original member for each year of service rendered to the municipality prior to the time the municipality joined the system, whether or not such service was continuous.

As soon as practicable, the board shall issue to each original member a certificate certifying the aggregate length of service rendered to the municipality prior to the time it joined the system. Such certificate shall be final and conclusive as to his prior service unless thereafter modified by the board, upon application of the member.

The time during which a member was absent from service without pay shall not be counted in computing the service of a contributor in his certificate, or upon retirement, unless specifically allowed by the municipality, with the approval of the board.

When a contributor leaves the employ of a municipality which has joined the system, and enters into the employ of another municipality which has also joined the system, his service credits shall remain unimpaired, but in such cases the unpaid municipal liability for prior service shall be prorated by the board between the municipalities on an equitable basis. Such basis will be determined, with the advice of the actuary, according to the number of years of service performed by the contributor for each municipality.

A contributor who has been employed by a municipality for a period of at least six months and is an active member of the system and who thereafter, heretofore, or hereafter, shall be inducted into the military service of the United States in times of war, armed conflict, or National emergency, so proclaimed by the President 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 during the continuance of such war, armed conflict, or National emergency if such person returns or has heretofore returned to his employment within six months after his separation from the service. The municipality shall, during the period of the member's intervening military service, continue to make current service contributions toward the municipal annuity of the member. An active member may file an application with the board for permission to purchase credit toward his member's share of the annuity for intervening military service. These contributions shall be computed by applying the member's contribution rate to his annual rate of compensation at the time of entry of the member into active military service, and multiplying the result by the number of years and fractional part of year of creditable intervening military service, together with interest from date of return to

employment to date of purchase. The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid by (1) regular monthly payments during active military service, or (2) a lump sum payment within thirty days or (3) it may be amortized with additional interest through salary deductions in amounts agreed upon by the member of the board.

An active member may also purchase credit for other than intervening military service performed for the United States in times of war, armed conflict or National emergency, so proclaimed by the President of the United States, for a period not to exceed five years: Provided, That the member has completed five years of service to the municipality subsequent to such military service. An active member may file an application with the board for permission to purchase credit for nonintervening military service upon completion of five years of subsequent service to the municipality. The type of service credit for such service shall be determined by the date of entry of the municipality into the system. If the date of the member's separation from military service is prior to the date on which the municipality joined the system, then the credit purchased shall be considered as prior service credit. In this case the amount due from the member shall be computed by applying the member's basic contribution rate plus the rate of contribution the municipality paid for current service during its first year of entry into the system to his prior salary and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service, plus interest from the date of the member's employment by the municipality to the date of purchase. If, on the other hand, the date of the member's separation from military service is later than the date of entry of the municipality into the system, then the credit purchased shall be considered as current service credit. In this case the amount due from the member shall be computed by applying the member's basic contribution rate plus the municipality's normal contribution rate for current service which was in effect on the date of the member's entry into employment with the municipality to his average annual rate of compensation over the first five years of his subsequent employment and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased, plus interest from the date of employment by the municipality to date of purchase.

The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid in a lump sum within thirty days or it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the board.

The rate of interest to be charged to members on their purchase of credit for intervening or nonintervening military service shall be the rate being credited by the system to member's contribution accounts in effect on the date of the member's application, compounded annually.

A member may purchase credit for intervening or nonintervening military service only if his discharge or separation from the service was granted under other than dishonorable conditions.

A member may not purchase credit for any military service for which he is 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, or private employer.

Applications for permission to purchase credit for military service must be accompanied by proof of the nature of his discharge or separation from the military service.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 204, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 5, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.205 (2010)

§ 881.205. Determination of municipal liability

The board shall as soon as may be, determine the present value of the liability of each municipality for the prior service credits to its original members, and shall establish an amount payable annually over a period not exceeding thirty years, through which payments such prior service liability may be funded. Each municipality shall have the option to spread the payment of such prior service liability over such period of years.

The municipal liability shall be based upon credit for all years of prior service toward the municipal annuity of each original member, subject to such of the following options as the municipality may elect:

- (1) The municipality may limit to ten years the credit for prior service toward the municipal annuity of each original member;
- (2) The municipality may assume the liability for payment of the member's contributions for the prior service or any portion thereof of each original member.

The board shall also determine, from time to time, the amount which shall be contributed annually by each municipality for service credits of original and new members subsequent to the time the municipality joined the system, and the additional amount which shall be contributed annually by each municipality toward a reserve account for disability allowances payable to original or new members, in order that all future service liability may be fully funded on an actuarial basis.

The amounts so determined by the board may be expressed in a percentage of the payroll of the municipality covering its contributing members.

The cost of making the valuations required by this section and in the transfer of any existing pension system of any municipality, shall be part of the costs of administration of this act.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 205, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 5, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.206 (2010)

§ 881.206. Contributions by members; consolidation of credits; change of employment

Each member of the system shall be required to contribute to the fund three per cent of that portion of their actual salary or compensation, including fees where paid in part on a fee basis, on which social security benefits are payable, and six per cent of any salary, compensation or fees in excess of the amount on which social security benefits are payable. However, in the event of a contributor who became a member prior to January 1, 1979, the required rate of contribution shall be the lesser of the rate herein provided and the rate applicable to said member upon his entry into the system.

In order to increase his member's annuity, each member shall also have the option to make contributions for his prior service. Such contributions for prior service may be anticipated in whole or in part at the time the municipality joins the system, or payment thereof or such part thereof as is not anticipated may be spread over a period of time by increasing the payroll deduction of the member by at least one-third. When a member elects to contribute on account of all of his unpaid prior service, his rate of contribution shall be calculated as of his age at the time he first entered the service of the municipality: Provided, however, That any municipality may, at the time it elects to join the system, or at any time thereafter, agree with the board to pay into the fund as part of its liability under and in accordance with section 205 hereof , the moneys necessary to provide the member's contributions for prior service, and in such case no contributions for prior service shall be made by the members.

Member's contributions shall be paid into the fund by the municipality through payroll deductions in such manner and at such time as the board may by rule and regulation determine.

When a municipal employe is employed by more than one municipality, he shall be required to make contributions on account of his salary paid by each municipality. In such cases the board shall provide for the consolidation of credits of the contributor and, upon his retirement, for a consolidated retirement allowance.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 206, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 5, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.207 (2010)

§ 881.207. Withdrawal; return to service; death in service

(a) Should a contributor, before reaching superannuation retirement age, for any reason cease to be a municipal employe, he shall be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account, unless he is entitled to vesting rights or to a retirement allowance for retirement not voluntarily, and elects to exercise such vesting rights or take such retirement allowance. Should such former contributor thereafter return to the service of the same municipality and restore to the fund, in such manner as may be agreed upon by such person and the board, his withdrawn accumulated deductions as they were at the time of his separation from service, his annuity rights as they existed at the time of separation from service shall be restored and his obligations as a member shall begin again. The rate of contribution of such returning member shall be the same as it was at the time he separated from service.

(b) Should a contributor, having attained or passed superannuation age, elect, upon leaving the service of the municipality, not to claim the retirement allowance to which he is entitled, he shall, upon written application, be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account and the balance in the member's excess investment account.

(c)(1) Should a person who has been retired on a retirement under this act, return to employment on a regular full-time basis in the same municipality, his retirement allowance shall cease, and in the case of an annuity, other than a disability annuity, the present value of such annuity shall be frozen as of the date such annuity ceases. Upon subsequent discontinuance of service, such member, other than a former disability annuitant, shall be entitled to an annuity which is actuarially equivalent to the sum of the present value of the annuity previously being paid and the present value of the annuity earned by further service and further deductions added upon reemployment.

(2) For the purposes of this section if a person is reemployed following commencement of his retirement allowance, he shall not be entitled to receive his retirement allowance for that month or any subsequent month in which he continues in service.

(3) Notwithstanding clause (2), if the person is otherwise eligible to receive an in-service distribution of his retirement benefit by attainment of normal retirement age as defined in section 411(a)(8) of the Internal Revenue Code, operation of section 401(a)(36) of the Internal Revenue Code or operation of any other provision as may be adopted by the board and consistent with the

tax-qualification provisions of the Internal Revenue Code, the person's retirement allowance shall continue to be paid through the period of reemployment.

(4) The municipality is required to notify the board immediately of the reemployment status of any retired former employe and file separate monthly reports of his gross earnings as prescribed by the board.

(d) Should a contributor die while in service, prior to becoming eligible for a retirement allowance, his accumulated deductions shall be paid to his estate, or to such person, if living, as he shall have designated in writing, filed with the board as his beneficiary. In case any contributor has failed to designate a beneficiary, or if the named beneficiary has predeceased the member and no such successor beneficiary has been named, and upon the death in service shall have less than one hundred dollars (\$ 100) in accumulated deductions standing to his credit, the board may, if letters testamentary or of administration have not been taken out on his estate within six months after death, pay such accumulated deductions on the claim of the undertaker, or to any person or municipality which shall have paid the claim of the undertaker.

(e) If a member dies while performing qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code, the survivors of the member shall be entitled to receive any additional benefits, other than benefit accruals relating to the period of qualified military service, as though the member had returned to service and then terminated employment on account of death.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 207, approved Feb. 1, 1974, eff. in 90 days; Act 1975-153 (S.B. 810) P.L. 520, § 1, approved Dec. 19, 1975, eff. immediately; Act 1980-50 (H.B. 373) P.L. 135, § 6, approved May 17, 1980, eff. in 60 days; Act 1982-131 (H.B. 349) P.L. 446, § 1, approved June 10, 1982, eff. immediately; Act 2004-169 (H.B. 2748), P.L. 1331, § 3, approved Nov. 29, 2004, eff. immediately.

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53 P.S. § 881.208 (2010)

§ 881.208. Superannuation retirement

Retirement for superannuation shall be as follows:

(a) Any contributor who has reached superannuation retirement age may retire for superannuation by filing with the board a written statement, duly attested, setting forth on what date he desires to be retired. Said application shall make the superannuation retirement allowance effective on the date so specified, if such application was filed in the office of the board or deposited in the United States mail, addressed to the board, before the date specified in the application and before the death of the contributor, but the date so specified in the application shall not be more than ninety days after the date of filing, or the date the application was deposited in the mail.

(b) On retirement for superannuation, a contributor shall be entitled to a retirement allowance throughout his life, which shall consist of:

(1) A member's annuity of equivalent actuarial value of his accumulated deductions; and

(2) A municipal annuity which shall be equal to (i) for current service, one two-hundred-fiftieth of that portion of his final salary on which social security benefits are payable plus one one-hundred-twenty-fifth of any portion of his final salary in excess of the amount on which social security benefits are payable for each year of service while a member, and in addition thereto, (ii) for prior service in case of an original member, one two-hundred-fiftieth of that portion of his prior salary on which social security benefits are payable plus one one-hundred-twenty-fifth of any portion of his prior salary in excess of the amount on which social security benefits are payable for each year of prior service or for a maximum of ten years if the municipality has so limited the period of prior service, and in addition thereto, one two-hundred-fiftieth of his prior salary on which social security benefits are payable plus one one-hundred-twenty-fifth of any portion of his prior salary in excess of the amount on which social security benefits are payable for each year of prior service for which the municipality has paid or has obligated itself to pay the member's contributions. For the purposes of calculating the current



service benefit, an average of the social security wage base will be determined for the period of time over which final salary is taken, and this average will be the basis for calculating the amount of salary on which social security benefits are payable. For the purposes of calculating the prior service benefit, the social security wage base in effect on the date of the municipality's entry into the system will be used as the basis for calculating the amount of prior salary on which social security benefits are payable.

(c) In no event shall the municipal annuity at the time of retirement exceed fifty per cent of the final salary.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 208, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 7, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.209 (2010)

§ 881.209. Death benefits

(a) The provisions of subsections (b) and (c) of this section shall not apply to any member unless the municipality by which he is employed has elected by ordinance or resolution, to extend the provisions of this section to its employes. A duly certified copy of such ordinance or resolution shall be filed with the board.

(b) A contributor to the system who is entitled to a superannuation retirement allowance by reason of having reached superannuation retirement age or who is entitled to a withdrawal allowance by reason of having completed twenty-four years of total service, may file with the board a written application for retirement, in the form required for such application, but requesting that such retirement shall become effective as of the time of his death, electing one of the options provided in section 211 and nominating a person having an insurable interest in his life under said option as required in said section. In all such cases, the application shall be held by the board until the contributor shall file a later application in the usual manner for a superannuation retirement allowance or until the death of the contributor occurring while in municipal service, at which time his retirement shall become effective with the same benefits to the person designated as if the contributor had retired on the day immediately preceding his death.

(c) A contributor to the system who is entitled to a superannuation retirement allowance by reason of having reached superannuation retirement age or who is entitled to a withdrawal allowance by reason of having completed twenty-four years of total service and who has died in municipal service before filing with the board a written application for a superannuation retirement allowance as provided in subsection (b) of this section shall be considered as having elected Option 1 as provided in section 211 as of the date of his death. In such event, payment under Option 1 shall be made to the beneficiary designated in the nomination of beneficiary form on file with the board, or if said beneficiary has predeceased the contributor, to the legal representative of said contributor.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 209, approved Feb. 1, 1974, eff. in 90 days.

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## 53 P.S. § 881.210 (2010)

## § 881.210. Early retirement

Should a contributor be discontinued from service not voluntarily, after having completed eight years of total service, or voluntarily after having completed twenty-four years of total service, but in either event before reaching superannuation retirement age, he shall be paid as he may elect, as follows:

(1) The full amount of the accumulated deductions plus the balance in the member's excess investment account standing to his credit in the member's account of the fund; or

(2) Upon the filing of an application in the manner outlined in subsection (a) of section 208, a retirement allowance which shall consist of (i) a member's annuity of equivalent actuarial value to his accumulated deductions plus the balance in the member's excess investment account; and (ii) a municipal annuity of equivalent actuarial value to the present value of a municipal annuity, beginning at superannuation retirement age, calculated in accordance with the provisions of section 208; or

(3) If qualified, a deferred retirement allowance as provided in section 213.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 210, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 7, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.211 (2010)

§ 881.211. Options on superannuation or early retirement

(a) At the time of his superannuation or early retirement, a contributor may elect to receive his benefits in a retirement allowance payable throughout his life, which shall be known as a single life annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he has received in annuity payments the full amount of the total accumulated deductions standing to his credit on the effective date of retirement, the balance shall be paid to his designated beneficiary, or instead, he may elect to receive the equivalent actuarial value at that time of his retirement allowance in a lesser allowance, payable throughout life with provisions that:

(1) Option 1. If he shall die before receiving in payments the present value of his retirement allowance as it was at the time of his retirement, the balance, if less than five thousand dollars (\$ 5,000), shall be paid in a lump sum to his legal representative, or to or in trust for his beneficiary. If the balance is five thousand dollars (\$ 5,000) or more, the beneficiary may elect by application duly acknowledged and filed with the board to receive payment of such balance according to any one of the following provisions: (i) a lump sum payment; (ii) an annuity having a present value equal to the balance payable; (iii) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount of the lump sum payment specified by the beneficiary.

(2) Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(3) Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(b) A member or beneficiary shall not be entitled to a form of benefit which commences or is payable over a period which fails to satisfy the required distributions of section 401(a)(9) of the Internal Revenue Code.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 211, approved Feb. 1, 1974, eff. in 90 days; Act 1982-131 (H.B. 349) P.L. 446, § 2, approved June 10, 1982, eff. immediately.

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53 P.S. § 881.212 (2010)

§ 881.212. Disability retirement

(a) After a contributor has had ten or more years of total service, he may, upon application or on the application of one acting in his behalf, or upon application of a head of the department of the municipality by which he is employed, be retired by the board on a disability allowance if he is under superannuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the board, after medical examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the board that the contributor is unable to engage in any gainful employment and that said contributor ought to be retired. When the disability of a contributor is determined to be service-connected, as defined in this act, no minimum period of service shall be required for eligibility. Application filing requirements shall be identical to those outlined in subsection (a) of section 208.

(b) On retirement for disability a member shall receive a retirement allowance which shall consist of:

- (1) A member's annuity of the equivalent actuarial value to his accumulated deductions, plus the balance in the member's excess investment account;
- (2) A municipal annuity of the equivalent actuarial value to the present value of a municipal annuity, beginning at superannuation retirement age, calculated in accordance with the provision of section 208; and
- (3) A disability annuity payable from the total disability reserve account which, together with the member's annuity and the municipal annuity, shall be sufficient to produce a retirement allowance of thirty per cent of the final salary. Where the disability of the member is determined to be service-connected, as defined in this act, the retirement allowance shall equal fifty per cent of his final salary. The disability annuity shall be reduced by the amount of any payments for which the member shall be eligible under the act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P.L. 566, No. 284), known as "The Pennsylvania Occupational Disease Act."

(c) Once every year the board may require any disability annuitant, while still under superannuation retirement age, to undergo medical examination by a physician designated by the board. Such examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should the physician report and certify to the board that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then his disability retirement allowance shall be discontinued, and in lieu thereof an early involuntary retirement allowance shall at that time be granted as if such person had been retired not voluntarily, if such person shall have had eight or more years of total service.

(d) Should a disability annuitant, while under superannuation retirement age, refuse to submit to at least one medical examination in any year by a physician designated by the board, his disability retirement allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, then all his rights in and to any disability retirement allowance or for early involuntary retirement allowance provided for by this act, shall be forfeited.

(e) Any contributor entitled to retire for disability may, in lieu of such retirement, if he has eight or more years of total service, elect to retire not voluntarily under the provisions of this act.

(f) Should a disability annuitant die before the total disability retirement allowance received shall be at least equal to the amount of his accumulated deductions plus the balance in the member's excess investment account at the time of disability retirement, then the board shall pay to the named beneficiary, if living, or if the beneficiary predeceased the annuitant, or no beneficiary was named, then to the annuitant's estate, an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions plus excess interest, and if such difference is less than one hundred dollars (\$ 100) and no letters have been taken out on the estate within six months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 212, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 7, approved May 17, 1980, eff. in 60 days; Act 1982-131 (H.B. 349) P.L. 446, § 3, approved June 10, 1982, eff. immediately.

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53 P.S. § 881.213 (2010)

§ 881.213. Vesting

(a) Should a contributor, before reaching superannuation retirement age and after having completed twelve years of total service, for any reason cease to be a municipal employe, he shall be entitled to vest his retirement benefits until he attains superannuation retirement age, by filing with the board a written notice of his intentions to vest, within ninety days of the date of his termination of employment. Accumulated deductions will include interest from date of termination until the earlier of the date of the commencement of the annuity or the date of payment of member contributions.

(b) A contributor, who was terminated by the municipality not voluntarily, may elect, after he has vested, to be paid as follows:

(1) The full amount of the accumulated deductions, including interest;  
or

(2) An early retirement allowance as computed under the provisions of clause (2) of section 210; or

(3) Upon reaching superannuation retirement age, a superannuation retirement allowance as computed under the provisions of section 208.

(c) A contributor, who voluntarily terminated his employment, may elect, after he has vested, to be paid as follows:

(1) The full amount of the accumulated deductions, including interest;  
or

(2) If the contributor has completed twenty-four years or more of total service, a voluntary withdrawal allowance computed in accordance with the provisions of section 210; or

(3) Upon reaching superannuation retirement age, a superannuation retirement allowance as computed under the provisions of section 208.

(d) Should a contributor, who has vested, die before he becomes eligible for a retirement allowance, the full amount of the accumulated deductions plus the balance in the member's excess investment account, including interest to the date of his death, standing to his credit in the member's account of the fund shall be paid to his estate or to his named beneficiary in accordance with the provisions of subsection (d) of section 207.

(e) Upon the termination of the retirement plan, all members, regardless of credited service, shall be deemed fully vested in their accrued benefit to the extent the benefits provided under the plan are funded as of the date of termination.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 213, approved Feb. 1, 1974, eff. in 90 days; Act 1978-1 (S.B. 334) P.L. 1, § 3, approved Jan. 4, 1978, eff. immediately; Act 1980-50 (H.B. 373) P.L. 135, § 8, approved May 17, 1980, eff. in 60 days.



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53 P.S. § 881.214 (2010)

§ 881.214. Withdrawal provisions

A municipality which has joined the retirement system created or continued under this Article II may, for good and stated cause, file an application with the board for permission to withdraw from the system if it meets all of the following requirements:

- (1) The municipality has been enrolled in the system for a period of at least five years.
- (2) The municipality has met all of its financial obligations to the system.
- (3) The legislative body of the municipality has passed an ordinance or resolution signifying its intention to withdraw from the system.
- (4) The municipality has certified to the board that an affirmative vote approving withdrawal from the system had been obtained from at least seventy-five per cent of all of the municipal employes affected by the ordinance or resolution.

The board shall within ninety days of its receipt, take action on an application filed by a municipality for permission to withdraw from the system. If the application is approved the withdrawing municipality shall be entitled to receive a net refund of the amounts then standing to the credit of the municipality in the member's account, the member's excess investment account, the municipal account and the retired member's reserve accounts of the system. In no event shall the total amount of the net refund to the municipality exceed the pro rata interest of the withdrawing municipality in the net assets of the entire fund based on the market value of the investments of the fund as of the date of receipt of the application for permission to withdraw. The liability for the continuation of retirement or disability allowances being paid from the fund shall attach against the withdrawing municipality and be paid from funds transferred to a retirement system established subsequent to its withdrawal from the system or from moneys appropriated annually from tax revenues sufficient to pay the same. If the board disapproves the application of the municipality for permission to withdraw from the system the board shall promptly notify the municipality of its decision and advise the municipality of the board's reason or reasons for disapproval. The board shall establish rules and regulations, in accordance with the provisions of clause (10) of section 104 of this act , governing the details of the procedures to be followed in the withdrawal of municipalities from the system.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 214, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.215 (2010)

§ 881.215. Procedures for amending contracts

Any municipality which has joined the system under the provisions of this Article II may, with the approval of the board, enter into a contract with the board as outlined in Article IV of this act, to increase any of the benefits enumerated in Article IV. The board shall not enter into any contract with any municipality which decreases benefits, nor shall it enter into any contract with a municipality which provides for benefits in excess of or minimum member's contribution rates less than those available to it under any other existing law pertaining to the establishment of retirement systems for that class of municipality, except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law. Before the board approves any such contract it shall first determine, through its actuary, that the plan outlined in the contract is actuarially sound. Any municipality which elects to enter into a contract for increased benefits which would result in an increase in its employees contribution rates shall first obtain the written consent of at least seventy-five per cent of its then member employees. Additional costs for contracted increases in benefits shall become the responsibility of the municipality and/or the members as specified in the contract.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 215, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.301 (2010)

§ 881.301. Purpose

This article shall provide for the uninterrupted continuation of retirement plans established under the act of July 31, 1968 (P.L. 944, No. 291), known as the "Municipal Police Retirement Law." It shall also provide for the enrollment of municipal firemen and municipal police of new municipalities joining the system at the contribution rates and benefit rates outlined in this article of the act.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 301, approved Feb. 1, 1974, eff. in 90 days.

LexisNexis (R) Notes:

TREATISES AND ANALYTICAL MATERIALS

1. 34 P.L.E., MUNICIPAL CORPORATIONS § 212, Pennsylvania Law Encyclopedia, MUNICIPAL CORPORATIONS, § 212. -- Pensions and Benefit Funds, Copyright 2007, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

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53 P.S. § 881.302 (2010)

§ 881.302. Transfer of the Municipal Police Retirement Fund to the Pennsylvania Municipal Retirement Fund

On the effective date of this act all of the assets and liabilities of the Municipal Police Retirement Fund shall be transferred intact to the Pennsylvania Municipal Retirement Fund. The rights and benefits of the members and of the municipalities which have joined the Municipal Police Retirement System shall not be impaired in any way as a result of this transfer. Likewise, the obligations and responsibilities of both the members and the municipalities which have joined the system shall not be changed and the contractual arrangements as they existed at the time the municipalities joined the Municipal Police Retirement System shall continue in force. Prior service credits for any members so transferred shall be computed from the date on which the municipality joined the Municipal Police Retirement System.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 302, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.303 (2010)

§ 881.303. Existing local retirement systems and compulsory membership

Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employees in whole or in part, those employees so covered, and employees thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to cover its municipal firemen under the provisions of the system created by this Article III, then each municipal fireman shall be required to become a member of the system.

If a municipality elects to cover its municipal police under the provisions of the system created by this Article III, then each municipal policeman shall be required to become a member of the system.

When a municipality has established a policy of placing new employes on a probationary status it may elect to refrain from enrolling such employes into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment. Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 303, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days.

LexisNexis (R) Notes:

#### CASE NOTES

1. 53 P.S. § 881.303 permits a municipality to require enrollment of one group of police or firemen in the Municipal Retirement System while permitting those enrolled in an existing pension fund to decide whether or not to join the retirement system. *Allentown v. Local 302, International Asso. of Fire Fighters*, 511 Pa. 275, 512 A.2d 1175, 1986 Pa. LEXIS 830, 124 L.R.R.M. (BNA) 2046 (1986).

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53 P.S. § 881.304 (2010)

§ 881.304. Separate ordinances or resolutions; separate accounts

Any municipality electing to cover both its municipal firemen and municipal police under the system created by this Article III shall be required to pass separate ordinances or resolutions covering each class of employes.

The board shall maintain separate accounting records for municipal firemen and for municipal police. However, in the interest of good investment practice, the board may, in its discretion, commingle moneys received from municipalities, municipal employes, municipal firemen and municipal police.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 304, approved Feb. 1, 1974, eff. in 90 days.



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53 P.S. § 881.305 (2010)

§ 881.305. Service allowance; change of employment; military service

In computing the length of service of a contributor for retirement purposes, full credit shall be given to each original member for each year of service rendered to the municipality prior to the time the municipality joined the system.

As soon as practicable, the board shall issue to each original member a certificate certifying the aggregate length of service rendered to the municipality prior to the time it joined the system. Such certificate shall be final and conclusive as to his prior service unless thereafter modified by the board, upon application of the member.

The time during which a member was absent from service without pay, except for military service, shall not be counted in computing the service of a contributor in his certificate, or upon retirement unless specially allowed by the municipality, with the approval of the board.

When a contributor leaves the employ of a municipality which has joined the system, and enters into the employ of another municipality which has also joined the system, his service credits shall remain unimpaired, but in such cases the unpaid municipal liability for prior service shall be prorated by the board between the municipalities on an equitable basis. The basis will be determined, with the advice of the actuary, according to the number of years of service performed by the contributor for each municipality.

Any municipal fireman or municipal policeman employed by a municipality who has been a regularly appointed fireman or policeman for a period of at least six months and is an active member of the system and who thereafter, heretofore, or hereafter, shall be inducted into the military service of the United States in times of war, armed conflict, or National emergency, so proclaimed by the President 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 during the continuance of such war, armed conflict, or National emergency if such person returns or has heretofore returned to his employment within six months after his separation from the service. The municipality shall, during the period of the member's intervening military service, continue to make current service contributions toward the municipal annuity of the member. An active member may file an application with the board for permission to purchase credit toward his member's share of the annuity for intervening military service. These contributions shall be computed by applying the

member's contribution rate to his annual rate of compensation at the time of entry of the member into active military service, and multiplying the result by the number of years and fractional part of a year of creditable intervening military service, together with interest from date of return to employment to date of purchase. The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid by (1) regular monthly payments during active military service, or (2) a lump sum payment within thirty days, or (3) it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the board.

An active member may also purchase credit for other than intervening military service performed for the United States in times of war, armed conflict or National emergency, so proclaimed by the President of the United States, for a period not to exceed five years: Provided, That the member has completed five years of service to the municipality subsequent to such military service. An active member may file an application with the board for permission to purchase credit for nonintervening military service upon completion of five years of subsequent service to the municipality. The type of service credit for such service shall be determined by the date of entry of the municipality into the system. If the date of the member's separation from military service is prior to the date on which the municipality joined the system, then the credit purchased shall be considered as prior service credit. In this case the amount due from the member shall be computed by applying the member's basic contribution rate plus the rate of contribution the municipality paid for current service during its first year of entry into the system to his prior salary and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service, plus interest from the later of the date of entry into the system and the date of the member's employment by the municipality to the date of purchase. The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid in a lump sum within thirty days or it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the board. If, on the other hand, the date of the member's separation from military service is later than the date of entry of the municipality into the system, then the credit purchased shall be considered as current service credit. In this case the amount due from the member shall be computed by applying the member's basic contribution rate plus the municipality's normal contribution rate of current service which was in effect on the date of the member's entry into employment with the municipality to his average annual rate of compensation over the first five years of his subsequent employment and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased, plus interest from the date of employment of the municipality to date of purchase.

The amount due from the member shall be certified by the board in accordance with methods approved by the actuary, and may be paid in a lump sum within thirty days or it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the board.

The rate of interest to be charged to members on their purchase of credit for intervening or nonintervening military service shall be the rate being credited by the system to member's contribution accounts in effect on the date of the member's application, compounded annually.

A member may purchase credit for intervening or nonintervening military service only if his discharge or separation from the service was granted under other than dishonorable conditions.

A member may not purchase credit for any military service for which he is entitled to receive a retirement allowance from the United States Government.

Applications for permission to purchase credit for military service must be accompanied by proof of the nature of his discharge or separation from the military service.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 305, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.306 (2010)

§ 881.306. Determination of municipal liability

The board shall, as soon as may be, determine the present value of the liability of each municipality for the prior service credits to its original members, and shall establish an amount payable annually over a period not exceeding thirty years, through which payments such prior service liability may be funded. Each municipality shall have the option to spread the payment of such prior service liability over such period of years.

The municipal liability shall be based upon credit for all years of prior service toward the municipal annuity of each original member.

The board shall also determine, from time to time, the amount which shall be contributed annually by each municipality, for service credits of original and new members subsequent to the time the municipality joined the system, and the additional amount which shall be contributed annually by each municipality toward a reserve account for disability allowances payable to original and new members, in order that all future service liability may be fully funded on an actuarial basis.

The amounts so determined by the board may be expressed in a percentage of payroll of the municipality covering its contributing members.

The payments made by the State Treasurer to the treasurer of the municipality from moneys received from taxes paid upon premiums by foreign fire insurance companies for purposes of pension, retirement or disability benefits for municipal firemen shall be used as follows: (i) to reduce the unfunded liability or, after such liability has been funded, (ii) to apply against the annual obligation of the municipality for future service and disability reserve costs. It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

The payments made by the State Treasurer to the treasurer of the municipality from the moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension, retirement or disability benefits for municipal policemen shall be used as follows: (i) to reduce the unfunded liability or, after such liability has been funded, (ii) to apply against the annual obligation of the municipality for future service and disability reserve costs. It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

The cost of making the valuations required by this section and in the transfer of any existing pension system of any municipality, shall be part of the costs of administration of this act.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 306, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.307 (2010)

§ 881.307. Contributions by members; consolidation of credits

Each single coverage member of the system created under this Article III, shall be required to contribute no more than eight per cent of his salary or compensation to the fund based on a uniform contribution rate as determined by the actuary to provide the benefit under this article.

The amount of contribution by each joint coverage member shall be computed in the manner described above for a single coverage member, except that the amount of such deductions from salary or compensation shall be reduced with respect to wages (as defined in the Federal Insurance Contributions Act ) by forty per cent of the tax on employes prescribed by the Federal Insurance Contributions Act exclusive of that portion of such tax attributable to disability coverage.

Members' contributions shall be paid into the fund by the municipality through payroll deductions in such manner and at such time as the board may by rule and regulation determine.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 307, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.308 (2010)

§ 881.308. Withdrawal; return to service; death in service

(a) Should a contributor, before reaching superannuation retirement age, for any reason cease to be a municipal fireman or a municipal policeman, he shall be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account, unless he is entitled to vesting rights or to a retirement allowance for retirement not voluntarily, and elects to exercise such vesting rights or take such retirement allowance. Should such former contributor thereafter return to the service of the same municipality and restore to the fund, in such manner as may be agreed upon by such person and the board, his withdrawn accumulated deductions as they were at the time of his separation from service, his annuity rights as they existed at the time of separation from service shall be restored and his obligations as a member shall begin again.

(b) Should a contributor, having attained or passed superannuation age, elect, upon leaving the service of the municipality, not to claim the retirement allowance to which he is entitled, he shall, upon written application, be paid by the board the full amount of the accumulated deductions standing to his credit in the member's account, and the balance in the member's excess investment account.

(c)(1) Should a person who has been retired on a retirement allowance under this act, return to employment on a regular full-time basis in the same municipality, his retirement allowance shall cease, and in the case of an annuity, other than a disability annuity, the present value of such annuity shall be frozen as of the date such annuity ceases. Upon subsequent discontinuance of service, such member, other than a former disability annuitant, shall be entitled to an annuity which is actuarially equivalent to the sum of the present value of the annuity previously being paid and the present value of the annuity earned by further service and further deductions added upon reemployment.

(2) For the purposes of this section if a person is reemployed following commencement of his retirement allowance in a capacity other than as a DROP participant, the person shall not be entitled to receive his retirement allowance for that month or any subsequent month in which he continues in service.

(3) Notwithstanding clause (2), if the person is otherwise eligible to receive an in-service distribution of his retirement benefit by attainment of normal retirement age as defined in section

411(a)(8) of the Internal Revenue Code, operation of section 401(a)(36) of the Internal Revenue Code or operation of any other provision as may be adopted by the board and consistent with the tax-qualification provisions of the Internal Revenue Code, the person's retirement allowance shall continue to be paid through the period of reemployment. The municipality is required to notify the board immediately of the reemployment status of any retired former employe and file separate monthly reports of his gross earnings as prescribed by the board.

(d) Should a contributor die while in service, prior to becoming eligible for a retirement allowance, his accumulated deductions shall be paid to his estate, or to such person, if living, as he shall have designated, in writing, filed with the board as his beneficiary. In case any contributor has failed to designate a beneficiary, or if the named beneficiary has predeceased the member and no successor beneficiary has been named, and upon the death in service shall have less than one hundred dollars (\$ 100) in accumulated deductions standing to his credit, the board may, if letters testamentary or of administration have not been taken out on his estate within six months after his death, pay such accumulated deductions on the claim of the undertaker, or to such person or municipality which shall have paid the claim of the undertaker.

(e) If a member dies while performing qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code, the survivors of the member shall be entitled to receive any additional benefits, other than benefit accruals relating to the period of qualified military service, as though the member had returned to service and then terminated employment on account of death.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 308, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days; Act 1982-131 (H.B. 349) P.L. 446, § 3, approved June 10, 1982, eff. immediately.

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53 P.S. § 881.309 (2010)

§ 881.309. Superannuation retirement

Retirement for superannuation shall be as follows:

(1) Any contributor who has reached superannuation retirement age may retire for superannuation by filing with the board a written statement, duly attested, setting forth on what date he desires to be retired. Said application shall make the superannuation retirement allowance effective on the date so specified, if such application was filed in the office of the board or deposited in the United States mail, addressed to the board, before the date specified in the application and before the death of the contributor, but the date so specified in the application shall not be more than ninety days after the date of filing, or the date the application was deposited in the mail.

(2) On retirement for superannuation, a contributor shall be entitled to a retirement allowance throughout his life, which shall consist of (i) a member's annuity of equivalent actuarial value to his accumulated deductions, and the balance in the member's excess investment account, and (ii) a municipal annuity which shall be equal to, for current service, one one-hundredth of his final salary for each year of service while a member, and, in addition thereto for prior service in the case of an original member, one one-hundredth of his prior salary for each year of prior service.

(3) The superannuation retirement allowance provided in this section or the withdrawal allowance provided in section 311, as the case may be, payable to a joint coverage member after the age at which social security old age insurance benefits become payable shall be reduced by an amount equal to forty per cent of the primary insurance amount of social security paid or payable to him. Such reduction shall be subject to the following provisions: (i) the reduction in benefits in accordance with this clause (3) shall not be applied in the case of an annuitant until age sixty-five, unless such annuitant shall have elected to receive social security benefits prior to age sixty-five, (ii) the eligibility of such member for the old age insurance benefit (primary insurance amount) and the amount of such old age insurance benefit upon which the reduction in his allowance shall be based, shall be determined by the board in accordance with the provisions of the Federal Social Security Act, in effect on the effective date of superannuation retirement, or withdrawal, of the member, except that in determining such eligibility and such amount only wages or compensation for service covered by the system shall be included, (iii) the reduction in benefits in accordance with this clause (3) shall apply only to that portion of benefits based on wages as defined in the Federal Insurance Contribution Act, (iv) the reduction of benefits in accordance with this clause (3) shall be limited to



the municipal annuity calculated in accordance with clause (2) of this section, (v) the total sum including social security old age insurance benefits to be received upon superannuation retirement or withdrawal by a joint coverage member shall not be less than the allowance that he would be paid as a single coverage member, (vi) whenever the amount of the reduction from the superannuation retirement allowance or the withdrawal allowance shall have been once determined, it shall remain fixed for the duration of the allowance, except that any decrease in the old age insurance benefit under the Federal Social Security Act shall result in a corresponding decrease in the amount of the reduction in the allowance, (vii) the reduction provided for in this clause (3) shall not apply to disability allowances payable under section 313 of this act.

(4) In no event shall the municipal annuity at the time of retirement exceed fifty per cent of the contributor's final salary.

(5) Other provisions of this act notwithstanding, any member of a police force who was a member of a pension fund created under the provisions of the act of May 29, 1956 (P.L. 1804, No. 600), and who was entitled to retire at the age of fifty-five or sixty years after twenty years of total service, or at the age of fifty or fifty-five after twenty-five years of service, and to receive the pension provided by that act, shall have the same entitlement under the system created pursuant to this act. The municipal annuity, computed under subclause (ii) of clause (3) above, shall be increased as needed, in addition to the member's annuity, in order to pay any increased retirement allowance resulting from the provisions of the act.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 309, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days.

LexisNexis (R) Notes:

#### TREATISES AND ANALYTICAL MATERIALS

1. 34 P.L.E., MUNICIPAL CORPORATIONS § 212, Pennsylvania Law Encyclopedia, MUNICIPAL CORPORATIONS, § 212. -- Pensions and Benefit Funds, Copyright 2007, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

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53 P.S. § 881.310 (2010)

§ 881.310. Death benefits

(a) A contributor to the system who is entitled to a superannuation retirement allowance by reason of having reached superannuation retirement age or who is entitled to a withdrawal allowance by reason of having completed twenty-four years of total service, may file with the board a written application for retirement in the form required for such application, but requesting that such retirement shall become effective as of the time of his death, electing one of the options provided in section 312 of this act and nominating a person having an insurable interest in his life under said option as required in said section. In all such cases, the application shall be held by the board until the contributor shall file a later application in the usual manner for a superannuation retirement allowance or until the death of the contributor occurring while in the municipal service, at which time his retirement shall become effective with the same benefits to the person designated as if the contributor had retired on the day immediately preceding his death.

(b) A contributor to the system who is entitled to a superannuation retirement allowance by reason of having reached superannuation retirement age or who is entitled to a withdrawal allowance by reason of having completed twenty-four years of service and who has died in municipal service before filing with the board a written application for a superannuation retirement allowance as provided in subsection (a) of this section shall be considered as having elected Option 1 as provided in section 312 as of the date of his death. In such event, payment under Option 1 shall be made to the beneficiary designated in the nomination of beneficiary form on file with the board, or if said beneficiary has predeceased the contributor, to the legal representative of said contributor.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 310, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.311 (2010)

§ 881.311. Early retirement

Should a contributor be discontinued from service not voluntarily after having completed eight years of total service, or voluntarily after having completed twenty-four years of total service, but in either event before reaching superannuation retirement age, he shall be paid as he may elect, as follows:

(1) The full amount of his accumulated deductions plus the balance in the member's excess investment account standing to his credit in the member's account of the fund; or

(2) Upon the filing of an application in the manner outlined in section 309(1) a retirement allowance which shall consist of (i) a member's annuity of equivalent actuarial value to his accumulated deductions, plus the balance in the member's excess investment account, and (ii) a municipal annuity of equivalent actuarial value to the present value of a municipal annuity, beginning at superannuation retirement age, calculated in accordance with the provisions of section 309; or

(3) If qualified, a deferred retirement allowance as provided in section 314.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 311, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.312 (2010)

§ 881.312. Options on superannuation or early retirement

(a) At the time of his superannuation or early retirement, a contributor may elect to receive his benefits in a retirement allowance payable throughout his life, which shall be known as a single life annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he has received in annuity payments the full amount of the total accumulated deductions standing to his credit on the effective date of retirement, the balance shall be paid to his designated beneficiary, or instead, he may elect, to receive the actuarial equivalent value at that time of his retirement allowance in a lesser allowance, payable throughout life with provisions that:

(1) Option 1. If he shall die before receiving in payments the present value of his retirement allowance as it was at the time of his retirement, the balance, if less than five thousand dollars (\$ 5,000) shall be paid in a lump sum to his legal representative, or to or in trust for his beneficiary. If the balance is five thousand dollars (\$ 5,000) or more, the beneficiary may elect by application duly acknowledged and filed with the board to receive payment of such balance according to any of the following provisions: (i) a lump sum payment, (ii) an annuity having a present value equal to the balance payable, (iii) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount of the lump sum payment specified by the beneficiary.

(2) Option 2. Upon his death his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(3) Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(b) A member or beneficiary shall not be entitled to a form of benefit which commences or is payable over a period which fails to satisfy the required distributions of section 401(a)(9) of the Internal Revenue Code.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 312, approved Feb. 1, 1974, eff. in 90 days; Act 1982-131 (H.B. 349) P.L. 446, § 4, approved June 10, 1982, eff. immediately.

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53 P.S. § 881.313 (2010)

§ 881.313. Disability retirement

(a) After a contributor has had ten or more years of total service, he may, upon application or on application of one acting in his behalf, or upon application of a head of the department of the municipality by which he is employed, be retired by the board on a disability allowance if he is under superannuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the board, after medical examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the board that the contributor is unable to engage in any gainful employment and that said contributor ought to be retired. When the disability of a contributor is determined to be service-connected, as defined in this act, no minimum period of service shall be required for eligibility. Application filing requirements shall be identical to those outlined in clause (1) of section 309.

(b) On retirement for disability, a member shall receive a retirement allowance which shall consist of:

(1) A member's annuity of equivalent actuarial value to his accumulated deductions, plus the balance in the member's excess investment account;

(2) A municipal annuity of equivalent actuarial value to the present value of a municipal annuity, beginning at superannuation retirement age, calculated in accordance with the provisions of section 309; and

(3) A disability annuity payable from the total disability reserve account which, together with the member's annuity and the municipal annuity, shall be sufficient to produce a retirement allowance of thirty per cent of the contributor's final salary. Where the disability of the member is determined to be service-connected, as defined in this act, the retirement allowance shall equal fifty per cent of his final salary. The disability annuity shall be reduced by the amount of any payments for which the member shall be eligible under the act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Act", or the act of June 21, 1939 (P.L. 566, No. 284), known as "The Pennsylvania Occupational Disease Act".

(c) Once every year the board may require any disability annuitant, while still under superannuation retirement age, to undergo medical examination by a physician designated by the board, and such examination shall be made at the place of residence of the annuitant or other place mutually agreed upon. Should the physician report and certify to the board that such disabled annuitant is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then his disability retirement allowance shall be discontinued, and in lieu thereof an early involuntary retirement allowance shall at that time be granted as if such person had been retired not voluntarily, if such person shall have eight or more years of total service.

(d) Should a disability annuitant, while under superannuation retirement age, refuse to submit to at least one medical examination in any year by a physician designated by the board, his disability retirement allowance shall be discontinued until withdrawal of such refusal, and should such refusal continue for one year, then all his rights in and to any disability retirement allowance or for early involuntary retirement allowance provided by this act shall be forfeited.

(e) Any contributor entitled to retire for disability may, in lieu of such retirement, if he has eight or more years of total service, elect to retire not voluntarily under the provisions of this act.

(f) Should a disability annuitant die before the total disability retirement allowance received shall be at least equal to the amount of his accumulated deductions plus the balance in the member's excess investment account at the time of disability retirement, then the board shall pay to the named beneficiary, if living, or if the named beneficiary predeceased the annuitant, or no beneficiary was named, then to the annuitant's estate, an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions, and if such difference is less than one hundred dollars (\$ 100) and no letters have been taken out on the estate within six months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 313, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 9, approved May 17, 1980, eff. in 60 days; Act 1982-131 (H.B. 349) P.L. 446, § 5, approved June 10, 1982, eff. immediately.

LexisNexis (R) Notes:

#### CASE NOTES

1. Borough was not permitted under 53 P.S. §§ 767 and 769, 53 § 46190(1), and 53 P.S. § 881.313(a) to issue a regulation which would have rendered some police officers who were honorably discharged on account of a disability ineligible to receive a pension. *Ridley Park Police v. Ridley Park*, 105 Pa. Commw. 474, 524 A.2d 998, 1987 Pa. Commw. LEXIS 2104 (1987), appeal denied by 516 Pa. 644, 533 A.2d 714 (1987), appeal denied by 516 Pa. 644, 533 A.2d 714 (1987), appeal denied by 516 Pa. 645, 533 A.2d 715 (1987).

2. Borough was not permitted under 53 P.S. §§ 767 and 769, 53 § 46190(1), and 53 P.S. § 881.313(a) to issue a regulation which would have rendered some police officers who were honorably discharged on account of a disability ineligible to receive a pension. *Ridley Park Police v. Ridley Park*, 105 Pa. Commw. 474, 524 A.2d 998, 1987 Pa. Commw. LEXIS 2104 (1987), appeal denied by 516 Pa. 644, 533 A.2d 714 (1987), appeal denied by 516 Pa. 644, 533 A.2d 714 (1987), appeal denied by 516 Pa. 645, 533 A.2d 715 (1987).

3. Trial court did not err in dismissing the former employee's complaint seeking disability pension benefits; at the time the former employee was discharged from the former employee's position as a police officer with the borough because the former employee could not longer perform the work due to a work-related injury, the former employee was not entitled to a disability pension since no physician had certified that the former employee was unable to perform some form of gainful employment and it was the law in effect at the time of retirement or discharge that governed, and not later-enacted statutes that might have entitled the former employee to disability-related benefits. *Sassu v. Borough of W. Conshohocken*, 929 A.2d 258, 2007 Pa. Commw. LEXIS 382 (Pa. Commw. Ct. 2007).

4. Trial court did not err in dismissing the former employee's complaint seeking disability pension benefits; at the time the former employee was discharged from the former employee's position as a police officer with the borough because the former employee could not longer perform the work due to a work-related injury, the former employee was not entitled to a disability pension since no physician had certified that the former employee was unable to perform some form of gainful employment and it was the law in effect at the time of retirement or discharge that governed, and not later-enacted statutes that might have entitled the former employee to disability-related benefits. *Sassu v. Borough of W. Conshohocken*, 929 A.2d 258, 2007 Pa. Commw. LEXIS 382 (Pa. Commw. Ct. 2007).

#### TREATISES AND ANALYTICAL MATERIALS

1. 34 P.L.E., MUNICIPAL CORPORATIONS § 203, Pennsylvania Law Encyclopedia, MUNICIPAL CORPORATIONS, § 203. -- Pensions and Benefit Funds in General, Copyright 2007, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

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53 P.S. § 881.314 (2010)

§ 881.314. Vesting

(a) Should a contributor, before reaching superannuation retirement age and after having completed twelve years of total service, for any reason cease to be a municipal fireman or a municipal policeman, he shall be entitled to vest his retirement benefits until he attains superannuation retirement age, by filing with the board a written notice of his intentions to vest, within ninety days of the date of his termination of employment. Accumulated deductions will include interest from date of termination until the earlier of the date of the commencement of the annuity or the date of payment of member contributions.

(b) A contributor, who was terminated by the municipality not voluntarily, may elect, after he has vested, to be paid as follows:

(1) The full amount of the accumulated deductions plus the balance in the member's excess investment account, including interest; or

(2) An early retirement allowance as computed under the provisions of clause (2) of section 311; or

(3) Upon reaching superannuation retirement age, a superannuation retirement allowance as computed under the provisions of section 309.

(c) A contributor, who voluntarily terminated his employment, may elect, after he has vested, to be paid as follows:

(1) The full amount of the accumulated deductions plus the balance in the member's excess investment account, including interest; or

(2) If the contributor has completed twenty-four years or more of total service, a voluntary withdrawal allowance computed in accordance with the provisions of section 311; or

(3) Upon reaching superannuation retirement age, a superannuation retirement allowance as computed under the provisions of section 309.



(d) Should a contributor, who has vested, die before he becomes eligible for a retirement allowance, the full amount of the accumulated deductions plus the balance in the member's excess investment account including interest to the date of his death, standing to his credit in the member's account of the fund shall be paid to his estate or to his named beneficiary in accordance with the provisions of subsection (d) of section 308.

(e) Upon the termination of the retirement plan, all members, regardless of credited service, shall be deemed fully vested in their accrued benefit to the extent the benefits provided under the plan are funded as of the date of termination.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 314, approved Feb. 1, 1974, eff. in 90 days; Act 1978-1 (S.B. 334) P.L. 1, § 3, approved Jan. 4, 1978, eff. immediately; Act 1980-50 (H.B. 373) P.L. 135, § 10, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.315 (2010)

§ 881.315. Compliance

When a municipality joins the system, its action shall be construed as compliance with the provisions of the act of May 29, 1956 (P.L. 1804, No. 600), or any other statute requiring the creation of a pension or retirement system for firemen or police.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 315, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.316 (2010)

§ 881.316. Withdrawal provisions

A municipality which has joined the retirement system created or continued under this Article III may, for good and stated cause, file an application with the board for permission to withdraw from the system if it meets all of the following requirements:

- (1) The municipality has been enrolled in the system for a period of at least five years.
- (2) The municipality has met all of its financial obligations to the system.
- (3) The legislative body of the municipality has passed an ordinance or resolution signifying its intention to withdraw from the system.
- (4) The municipality has certified to the board that an affirmative vote approving withdrawal from the system had been obtained from at least seventy-five per cent of all of the municipal employees affected by the ordinance or resolution.

The board shall within ninety days of its receipt, take action on an application filed by a municipality for permission to withdraw from the system. If the application is approved the withdrawing municipality shall be entitled to receive a net refund of the amounts then standing to the credit of the municipality in the member's account, member's excess investment account, the municipal account and the retired member's reserve accounts of the system. In no event shall the total amount of the net refund to the municipality exceed the pro rata interest of the withdrawing municipality in the net assets of the entire fund based on the market value of the investments of the fund as of the date of receipt of the application for permission to withdraw. The liability for the continuation of retirement or disability allowances being paid from the fund shall attach against the withdrawing municipality and be paid from funds transferred to a retirement system established subsequent to its withdrawal from the system or from moneys appropriated annually from tax revenues sufficient to pay the same. If the board disapproves the application of the municipality for permission to withdraw from the system the board shall promptly notify the municipality of its decision and advise the municipality of the board's reason or reasons for disapproval. The board shall establish rules and regulations, in accordance with the provisions of clause (10) of section 104 of this act, governing the details of the procedures to be followed in the withdrawal of municipalities from the system.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 316, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.317 (2010)

§ 881.317. Procedures for amending contracts

Any municipality which has joined the system under the provisions of this Article III may, with the approval of the board, enter into a contract with the board as outlined in Article IV of this act, to increase any of the benefits enumerated in Article IV. The board shall not enter into any contract with any municipality which decreases benefits, nor shall it enter into any contract with a municipality which provides for benefits in excess of or minimum members contribution rates less than those available to it under any other existing law pertaining to the establishment of retirement systems for that class of municipality, except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law. Before the board approves any such contract it shall first determine, through its actuary, that the plan outlined in the contract is actuarially sound. Any member municipality which elects to enter into a contract for increased benefits which would result in an increase in its employees contribution rates shall first obtain the written consent of at least seventy-five per cent of its then member employees. Additional costs for contracted increases in benefits shall become the responsibility of the municipality and/or the members as specified in the contract.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 317, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.401 (2010)

§ 881.401. Purpose

This article shall provide for the enrollment of those municipalities in the Pennsylvania Municipal Retirement System which want to offer retirement benefits to their employes different from those available under Article II and Article III of this act. It shall also provide for increasing member benefits for municipalities formerly enrolled under the provisions of Article II and Article III of this act.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 401, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.402 (2010)

§ 881.402. Existing local retirement systems and compulsory and optional membership

Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to join the system under the provisions of this Article IV, it shall first negotiate a contract with the board, acceptable to both the municipality and the board, which shall set forth all the specific details of municipal and member contribution rates and benefits. The

municipality shall then pass an ordinance or resolution electing to join the system, and confirming the terms of the contract by reference thereto. Separate contracts and separate resolutions shall be executed for each class of employes, namely municipal employes, municipal firemen and municipal police in those cases where the municipality elects to bring more than one class of its employes into the system.

When a municipality elects to enroll its municipal employes into the system, then each officer other than elected officers, and each municipal employe thereof, employed on a full-time basis, shall be required to become a member of the system. Each municipality shall determine whether membership in said system for elected officials and employes hired on a temporary, seasonal or part-time basis shall be compulsory, optional or prohibited. Where membership may be optional with an elected officer or an employe hired on a temporary, seasonal or part-time basis, an election to join the system must be made within one year after the municipality elected to join the system or within one year after the officer or temporary, seasonal or part-time employe first entered the service of the municipality. Officers and employes paid only on a fee basis shall not be eligible to join the system.

When a municipality elects to enroll its municipal firemen or its municipal police into the system, then each municipal fireman or each municipal policeman, as defined in section 102 of this act, shall be required to become a member of the system.

When a municipality has established a policy of placing new employes on a probationary status it may elect to refrain from enrolling such employes into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment. Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employes who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employes not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 402, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days; Act 2004-169 (H.B. 2748), P.L. 1331, § 4, approved Nov. 29, 2004, eff. immediately.



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53 P.S. § 881.403 (2010)

NOTICE: As to repeal of this section where it is inconsistent with 1 Pa.C.S.A. § 2301(c), see § 9(b)(2) of act 1978, October 4, P.L. 909, No. 173.

§ 881.403. Contract provisions

Any contract for an optional retirement plan entered into between a municipality and the board shall not provide for any benefits in excess of or minimum member's contribution rates less than those available to that municipality for that class of employes under any existing law pertaining to the establishment of a retirement or pension system, except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law.

The contract shall specifically state the following terms and conditions:

(1) The superannuation retirement age at which a member shall become eligible for a full normal retirement allowance in accordance with the formula specified in the contract.

(2) Length of service requirements which must be met before a member becomes eligible for either a superannuation retirement allowance, an early retirement allowance and the method of determining any reduction factors involved in the computation of the amount of the allowance because of retirement prior to attaining superannuation age.

(3) Provisions for the refunding of accumulated deductions plus excess interest to employes who leave the service of the municipality before they become eligible for any type of retirement benefit and whether or not the employe shall be entitled to interest earned on contributions.

(4) Provisions relating to the types and amounts of disability retirement benefits for which a member may become eligible, and the qualifications therefore.

(5) The availability of any vesting or deferred benefits to which a member may become entitled.

(6) A description of the amount and the manner in which a member may qualify for any death benefits, both before and after retirement, including any prescribed payments to widows or children under eighteen years of age.

(7) The formula used to determine the amount of normal retirement benefits, including an explanation of the salary or compensation to be used in the computations, and a statement concerning any social security offset provisions included in the contract.

(8) A description of any optional methods of payment of retirement allowances available to a member, including the availability of the DROP.

(9) Any provisions for cost-of-living increases, and limitations thereon, which may be included.

(10) The manner in which the rate or rates of employe contributions shall be determined, together with any provisions for additional voluntary contributions.

(11) The manner in which the rates of contribution from the municipalities shall be determined.

(12) The manner in which costs for prior service for which the municipality is willing to assume liability shall be determined, with respect to both the municipality's share and the member's share, if any.

(13) The manner in which credit for any allowable military service shall be determined and the manner in which costs of service shall be paid.

(14) Any other information which might have a bearing on the costs or benefits of the retirement plan which might be required by the board in the administration of the plan, including whether the municipality will permit an eligible retired public safety officer to direct that a portion of his annuity be used to pay qualified accident, health or long-term care insurance premiums as remitted under section 402(l) of the Internal Revenue Code.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 403, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.404 (2010)

§ 881.404. Determination of municipal liability

The board shall, as soon as may be, determine the present value of the liability of each municipality for any prior service credits it has elected to extend to its original members, and shall establish an amount payable annually over a period not exceeding thirty years, through which payments such prior service liability may be funded. Each municipality shall have the option to spread the payment of such prior service liability over such period of years.

The municipal liability shall be based upon credit for those years of prior service toward the municipal annuity of each original member, for which the municipality has agreed to pay, plus any liability for payment of the member's contributions for the prior service or any portion thereof of each original member which the municipality has agreed to pay.

The board shall also determine, from time to time, the amount which shall be contributed annually by each municipality for service credits of original and new members subsequent to the time the municipality joined the system, and the additional amount which shall be contributed annually by each municipality toward a reserve account for disability allowance payable to original and new members, in order that all future service liability may be fully funded on an actuarial basis.

The amounts so determined by the board may be expressed in a percentage of the payroll of the municipality covering its contributing members.

The payments made by the State Treasurer to the treasurer of the municipality from moneys received from taxes paid upon premiums by foreign fire insurance companies for purposes of pension, retirement or disability benefits for municipal firemen shall be used as follows: (i) to reduce the unfunded liability or, after such liability has been funded, (ii) to apply against the annual obligation of the municipality for future service and disability reserve costs, and (iii) to reduce member contributions. It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

The payments made by the State Treasurer to the treasurer of the municipality from the moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension, retirement or disability benefits for municipal policemen shall be used as follows: (i) to reduce the unfunded liability or, after such liability has been funded, (ii) to apply against the annual obligation of the municipality for future service and disability reserve costs, and (iii) to reduce

member contributions. It shall be the duty of the governing body to apply such payments in accordance with the provisions of this act.

The cost of making the valuations required by this section and in the transfer of any existing pension system of any municipality, shall be part of the costs of administration of this act.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 404, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.405 (2010)

§ 881.405. Contributions by members; consolidation of credits; change of employment

Each member of the system shall be required to contribute to the fund such per cent of his actual salary or compensation, including fees where paid in part on a fee basis, as specified in the contract, which contributions shall be paid into the fund by the municipality through payroll deductions in such manner and at such time as the board may by rule and regulation determine.

If such provision is contained in the contract between the municipality and the board, each member may increase his member's annuity by electing to make such additional voluntary contributions as prescribed therein.

When a member is employed by more than one municipality, he shall be required to make contributions on account of his salary paid by each municipality. In such cases the board shall provide for the consolidation of credits of the contributor, and upon his retirement, for a consolidated retirement allowance.

When a contributor leaves the employ of a municipality which has joined the system, and enters into the employ of another municipality which has also joined the system, his service credits shall remain unimpaired, but in such cases any unpaid municipal liability for prior service shall be prorated by the board between the municipalities on an equitable basis.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 405, approved Feb. 1, 1974, eff. in 90 days.

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53 P.S. § 881.406 (2010)

§ 881.406. Withdrawal; return to service; death in service

(a) Should a contributor, before reaching superannuation retirement age, for any reason terminate his employment with the municipality, he shall receive a refund of his contributions in full, either with or without interest and excess interest earned as specified in the contract, unless he may be entitled to a retirement allowance for early retirement, and elects to take such retirement allowance. Should such former contributor thereafter return to the service of the same municipality and restore to the fund in such manner as may be agreed upon by such person and the board, his withdrawn contributions as they were at the time of his separation from service, his annuity rights as they existed at the time of separation from service, shall be restored and his obligations as a member shall begin again. The rate of contribution of such returning member shall be the same as it was at the time he separated from service.

(b) Should a contributor, having attained or passed superannuation age, elect, upon leaving the service of the member municipality, not to claim the retirement allowance to which he is entitled, he shall, upon written application, be paid by the board the full amount of his contributions standing to his credit in the member's account, either with or without interest earned and the amount in his excess investment account as stipulated in the contract.

(c)(1) Should a person who has been retired on a retirement allowance under this act and who is not a DROP participant, return to employment on a regular full-time basis in the same municipality, his retirement allowance shall cease, and in the case of an annuity, other than a disability annuity, the present value of such annuity shall be frozen as of the date such annuity ceases. Upon subsequent discontinuance of service, such member, other than a former disability annuitant, shall be entitled to an annuity which is actuarially equivalent to the sum of the present value of the annuity previously being paid and the present value of the annuity earned by further service and further deductions added upon reemployment.

(2) For the purposes of this section if a person, other than a DROP participant, is reemployed following commencement of his retirement allowance, the person shall not be entitled to receive the person's retirement allowance for that month or any subsequent month in which he continues in service.

(3) Notwithstanding clause (2), if the person is otherwise eligible to receive an in-service distribution of his retirement benefit by attainment of normal retirement age as defined in section 411(a)(8) of the Internal Revenue Code, operation of section 401(a)(36) of the Internal Revenue Code or operation of any other provision as may be adopted by the board and consistent with the tax-qualification provisions of the Internal Revenue Code, the person's retirement allowance shall continue to be paid through the period of reemployment. The municipality is required to notify the board immediately of the reemployment status of any retired former employe and file separate monthly reports of his gross earnings as prescribed by the board.

(d) Should a contributor die while in service, any death or survivor benefits for which he may be eligible under the provisions of the contract shall be paid in accordance with the terms of the contract.

(e) Should a contributor die while in service, and before becoming eligible for any other benefits contained in the contract, the full amount of his contributions, either with or without interest and excess interest earned as stipulated in the contract, shall be paid to his estate, or to such person, if living, as he shall have designated in writing, filed with the board as his beneficiary. In case any contributor has failed to designate a beneficiary, or if the named beneficiary has predeceased the member and no such successor beneficiary has been named, and upon the death in service shall have less than one hundred dollars (\$ 100) in accumulated deductions standing to his credit, the board may, if letters testamentary or of administration have not been taken out on his estate within six months after death, pay such accumulated deductions on the claim of the undertaker, or to any person or municipality which shall have paid the claim of the undertaker.

(f) If a member dies while performing qualified military service as defined in section 414(u)(5) of the Internal Revenue Code, the survivors of the member shall be entitled to receive any additional benefits, other than benefit accruals relating to the period of qualified military service, as though the member had returned to service and then terminated employment on account of death.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 406, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days; Act 1982-131 (H.B. 349) P.L. 446, § 5, approved June 10, 1982, eff. immediately; Act 2004-169 (H.B. 2748), P.L. 1331, § 5, approved Nov. 29, 2004, eff. immediately.

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53 P.S. § 881.407 (2010)

§ 881.407. Superannuation retirement

Retirement for superannuation shall be as follows:

(1) Any contributor who has reached superannuation retirement age may retire for superannuation by filing with the board a written statement, duly attested, setting forth on what date he desires to be retired. Said application shall make the superannuation retirement allowance effective on the date so specified, if such application was filed in the office of the board or deposited in the United States mail, addressed to the board, before the date specified in the application and before the death of the contributor, but the date so specified in the application shall not be more than ninety days after the date of filing, or the date the application was deposited in the mail.

(2) On retirement for superannuation, a contributor shall be entitled to a retirement allowance throughout his life, which shall consist of an amount computed in accordance with the formula specified in the contract.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 407, approved Feb. 1, 1974, eff. in 90 days.



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53 P.S. § 881.408 (2010)

§ 881.408. Early retirement

Should a member be discontinued from service not voluntarily, after having completed a required number of years of total service, or voluntarily after having completed a required number of years of total service, but in either event before reaching superannuation retirement age, he shall be paid, as he may elect, as follows:

- (1) The full amount of the accumulated deductions standing to his credit in the member's account of the fund, plus the balance in the member's excess investment account; or
- (2) The early retirement allowance, if any, specified in the contract.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 408, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.409 (2010)

§ 881.409. Options on superannuation or early retirement

(a) At the time of his superannuation or early retirement, a contributor may elect to receive his benefits in a retirement allowance payable throughout his life, which shall be known as a single life annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he has received in annuity payments the full amount of the total accumulated deductions standing to his credit on the effective date of retirement, the balance shall be paid to his designated beneficiary, or instead, he may elect to receive the actuarial equivalent at that time of his retirement allowance in a lesser allowance, payable throughout life with provisions that:

(1) Option 1. If he shall die before receiving in payments the present value of his retirement allowance as it was at the time of his retirement, the balance, if less than five thousand dollars (\$ 5,000), shall be paid in a lump sum to his legal representative, or to or in trust for his beneficiary. If the balance is five thousand dollars (\$ 5,000) or more, the beneficiary may elect by application duly acknowledged and filed with the board to receive payment of such balance according to any one of the following provisions: (i) a lump sum payment, (ii) an annuity having a present value equal to the balance payable, (iii) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount of the lump sum payment specified by the beneficiary.

(2) Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(3) Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(4) Option 4. Any other optional form of payment contained in the contract.

(b) A member or beneficiary shall not be entitled to a form of benefit which commences or is payable over a period which fails to satisfy the required distribution provisions of section 401(a)(9) of the Internal Revenue Code, including the incidental benefit distribution requirements.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 409, approved Feb. 1, 1974, eff. in 90 days; Act 1982-131 (H.B. 349) P.L. 446, § 6, approved June 10, 1982, eff. immediately.

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53 P.S. § 881.410 (2010)

§ 881.410. Vesting

(a) Provisions for vesting may be included in the contract between the municipality and the board. When such provision is made it shall mean that a contributor who terminates his employment with the municipality after a stipulated age or length of service, or both, may, if he so elects in writing, leave his contributions, plus interest, as credited to his account, in the fund, and, upon reaching superannuation retirement age, receive a superannuation retirement allowance and accumulated deductions would include interest from date of termination until the earlier of the date of commencement of the annuity or the date of payment of member contributions.

(b) Upon the termination of the retirement plan, all members, regardless of credited service, shall be deemed fully vested in their accrued benefit to the extent the benefits provided under the plan are funded as of the date of termination.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 410, approved Feb. 1, 1974, eff. in 90 days; Act 1978-1 (S.B. 334) P.L. 1, § 3, approved Jan. 4, 1978, eff. immediately.

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53 P.S. § 881.411 (2010)

§ 881.411. Disability retirement

(a) After a member has had the required number of years of total service as stated in the contract, he may, upon application or on the application of one acting in his behalf, or upon application of a head of the department of the municipality by which he is employed, be retired by the board on a disability allowance if he is under superannuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the board, after medical examination of the member made at the place of residence of the member or at a place mutually agreed upon, shall certify to the board that the member is unable to engage in any gainful employment and that said member ought to be retired. Where the disability of a member is determined to be service-connected, as defined in this act, no minimum period of service shall be required for eligibility. Requirements for filing applications shall be identical to those outlined in clause (1) of section 407.

(b) On retirement for disability a member shall receive a retirement allowance which shall consist of an amount computed in accordance with the formula specified in the contract.

(c) Once every year the board may require any disability annuitant, while still under superannuation retirement age, to undergo medical examination by a physician designated by the board. Such examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should the physician report and certify to the board that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then his disability retirement allowance shall be discontinued, and in lieu thereof an early involuntary retirement allowance shall at that time be granted as if such person had been retired not voluntarily, if such a provision is included in the contract and if such person shall have had the required number of years of total service as stated in the contract.

(d) Should a disability annuitant, while under superannuation retirement age, refuse to submit to at least one medical examination in any year by a physician designated by the board, his disability retirement allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, then all his right in and to any disability retirement allowance or for early involuntary retirement allowance provided for by this act, shall be forfeited.

(e) Any contributor entitled to retire for disability may, in lieu of such retirement, if he has a required number of years of total service, elect to retire not voluntarily under the provisions of this act if such provisions are included in the contract.

(f) Should a disability annuitant die before the total disability retirement allowance received shall be at least equal to the amount of the credit in his member's account plus the balance in the member's excess investment account at the time of disability retirement, then the board shall pay to the named beneficiary, if living, or if the beneficiary predeceased the annuitant, or no beneficiary was named, then to the annuitant's estate, an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions plus excess interest, and if such difference is less than one hundred dollars (\$ 100) and no letters have been taken out on the estate within six months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker. If the contract between the municipality and the board provides that upon the death of a disability annuitant payments in a specific amount shall be continued to certain beneficiaries, then the provisions of subsection (f) shall not apply and payments shall be made in accordance with the terms of the contract.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 411, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days.

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53 P.S. § 881.412 (2010)

§ 881.412. Withdrawal provisions

A municipality which has joined the retirement system created or continued under this Article IV may, for good and stated cause, file an application with the board for permission to withdraw from the system if it meets all of the following requirements:

- (1) The municipality has been enrolled in the system for a period of at least five years.
- (2) The municipality has met all of its financial obligations to the system.
- (3) The legislative body of the municipality has passed an ordinance or resolution signifying its intention to withdraw from the system.
- (4) The municipality has certified to the board that an affirmative vote approving withdrawal from the system had been obtained from at least seventy-five per cent of all of the municipal employees affected by the ordinance or resolution.

The board shall within ninety days of its receipt, take action on an application filed by a municipality for permission to withdraw from the system. If the application is approved the withdrawing municipality shall be entitled to receive a net refund of the amounts then standing to the credit of the municipality in the member's account, the member's excess investment account, the municipal account, the subsidiary DROP participant reserve account and the retired member's reserve accounts of the system. In no event shall the total amount of the net refund to the municipality exceed the pro rata interest of the withdrawing municipality in the net assets of the entire fund based on the market value of the investments of the fund as of the date of receipt of the application for permission to withdraw. The liability for the continuation of retirement or disability allowances being paid from the fund shall attach against the withdrawing municipality and be paid from funds transferred to a retirement system established subsequent to its withdrawal from the system or from moneys appropriated annually from tax revenues sufficient to pay the same. If the board disapproves the application of the municipality for permission to withdraw from the system the board shall promptly notify the municipality of its decision and advise the municipality of the board's reason or reasons for disapproval. The board shall establish rules and regulations, in accordance with the provisions of clause (10) of section 104 of this act, governing the details of the procedures to be followed in the withdrawal of municipalities from the system.

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 412, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days.

LexisNexis (R) Notes:

#### CASE NOTES

1. Pennsylvania Municipal Retirement Board (Board) properly denied a borough's police pension fund's claim to "excess interest" under the Pennsylvania Municipal Retirement Law (Law), 53 P.S. § 881.110, upon the borough's withdrawal from participation in the system in July 1991; the borough was not entitled to interest on an additional payout allocable to a "retired member's reserve account" as defined in 53 P.S. § 881.102 because the Board's rule, limiting the crediting of interest to member accounts only once a year on December 31st, was a valid interpretive rule which tracked the legislative intent underlying the Law, particularly 53 P.S. § 881.412. *Borough of Pottstown v. Pennsylvania Mun. Retirement Bd.*, 551 Pa. 605, 712 A.2d 741, 1998 Pa. LEXIS 1062 (1998).

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53 P.S. § 881.413 (2010)

§ 881.413. Procedures for amending contracts

Any municipality which has joined the system under the provisions of this Article IV may, with the approval of the board, amend the contract with the board to increase any of the benefits enumerated in Article IV to its members. The board shall not enter into any amended contract with any municipality which decreases benefits, nor shall it enter into any amended contract with a municipality which provides for benefits in excess of or minimum member's contribution rates less than those available to it under any other existing law pertaining to the establishment of retirement systems for that class of municipality except to the extent that excess investment earnings are allocated to provide for additional pension benefits or members accruals as otherwise provided in this law. Before the board approves any such amended contract it shall first determine, through its actuary, that the plan outlined is actuarially sound. Any member municipality which elects to enter into an amended contract for increased benefits which would result in an increase in its employees contribution rates shall first obtain the written consent of at least seventy-five per cent of its then member employees. Additional costs for increases in benefits shall become the responsibility of the municipality and/or the member as specified in the contract.

**HISTORY:** Act 1974-15 (S.B. 471) P.L. 34, § 413, approved Feb. 1, 1974, eff. in 90 days; Act 1980-50 (H.B. 373) P.L. 135, § 11, approved May 17, 1980, eff. in 60 days.



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ARTICLE V. REPEALS AND EFFECTIVE DATE

53 P.S. § 881.501 (2010)

§ 881.501. Repeals

The following acts are repealed absolutely:

(1) The act of June 4, 1943 (P.L. 886, No. 371), known as the "Municipal Employes' Retirement Law."

(2) The act of July 31, 1968 (P.L. 944, No. 291), known as the "Municipal Police Retirement Law."

HISTORY: Act 1974-15 (S.B. 471) P.L. 34, § 501, approved Feb. 1, 1974, eff. in 90 days.